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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 Byculla.*

Bombay, 5th April 1848. J. G. LUMSDEN, *Secy. to Govt.*

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.

Preamble.

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 :—

Laws repealed.

I. Chapters V. VI. VII. and VIII. of Regulation XXI. 1827 of the Bombay Code, and Act XXIV. of 1850, are hereby repealed, but not so as to revive any other Regulation or Act thereby repealed.

Municipal Duty on Tobacco intended for consumption in Bombay.

II. All Tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the Town of Bombay, and intended for consumption therein, shall be liable to a duty of 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.

Municipal Duty when payable.

III. The said Municipal Duty may be paid at the option of the importer, either on the importation of the Tobacco, or after it has been warehoused as hereinafter provided.

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

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

Bombay a warehousing port for Tobacco.

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

Powers for collection and enforcing payment of the Municipal Duty.

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

Tobacco not to be imported otherwise than by Sea.

VII. It shall not be lawful, without the permission of the Commissioner of Customs, Salt, and Opium, or other Officer empowered

by Government to grant such permission, to bring any Tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government of Bombay.

Landing-places to be prescribed.

VIII. The foregoing provisions of this Act shall 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.

Exemptions from Duty.

IX. *It shall not be lawful to remove any Tobacco from one place to another within the said Town, nor to carry or convey the same on any thoroughfare in the said Town, nor to carry the same in any vessel or boat of less than forty candies 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, 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.*

Permit necessary for removal of Tobacco.

Proviso.

X. No Permit shall be granted for the removal from warehouse of any quantity of Tobacco less than an entire bale or package. Provided that, when Tobacco is to be removed for consumption in the said Town, the Commissioner of Customs, Salt, and Opium, may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste; and the said refuse or waste may be re-exported, under the rules for the re-export of Tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

No Permit for removal of less than a bale from warehouse.

Proviso.

XI. It shall not be lawful for any person to sell or offer for sale by retail any Tobacco in the said Town without a license from the Commissioner of Customs, Salt, and Opium, or other Officer duly empowered by 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.

License for retail sale of Tobacco.

XII. Any sale of Tobacco not exceeding in weight fourteen seers, of eighty tolas to the seer, shall be deemed to be a retail sale within the meaning of this Act.

What to be deemed a retail sale.

XIII. It shall not be lawful for any licensed retail dealer in Tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license; and the name of every retail dealer in Tobacco, together with the number of his license, shall be written or painted in English, 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.

Retail sale to be only at the place mentioned in the license.

Name of licensed dealer to be affixed to shop.

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

Monthly returns of stock to be made by retail dealers.

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.

Retail dealer to make entry in a book of weight, &c. of all Tobacco received.

Inspection of book.

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.

Search Warrant.

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.

Power to arrest and detain.

To search vehicles, &c.

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.

Confiscation of Tobacco illegally imported, removed, &c.

Mitigation of penalty.

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

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

Revocation of license.

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.

Levy of fines, and adjudication and sale of confiscations.

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:—

Interpretation.

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 Kalbadevie 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.

21*st February* 1857.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honorable the Governor General on the 13th February 1857, and is hereby promulgated for general information:—

ACT No. V. OF 1857.

An Act to confer certain Powers on the Oriental Gas Company, Limited.

Whereas a Joint Stock Company has been lately formed for the purpose of introducing Gas-works into India, which Company having been completely registered in England under the Act of Parliament of the Eighth year of the Reign of her present Majesty, Cap. 110, has since been registered in England under "The Joint Stock Companies' Act, 1856," with limited liability, and has duly obtained a certificate of Incorporation under the name of the Oriental Gas Company, Limited; and whereas the said Company has erected Gas-works on land granted for that purpose by Government in the vicinity of the Town of Calcutta, and is engaged in the preparation of apparatus and materials for the manufacture and supply of Gas for lighting the said Town; and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with Gas the said Town of Calcutta, which powers and facilities may hereafter be extended to the operations of the said Company in other Towns and places; It is enacted as follows:—

Preamble.

I. In the Town of Calcutta and its environs, and in any other Town or place to which the provisions of this Act may hereafter be extended, by a law to be passed for that purpose, the Oriental Gas Company, Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place, within the same limits, pipes, conduits, service-pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the Gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges; and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the said Company shall from time to time deem necessary for supplying Gas to the inhabitants of the said Town of Calcutta and its environs, or other Town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Power to break up streets, &c. under superintendence, and to open drains.

II. Provided always, that nothing herein shall authorise or empower the said Company to lay down or place any pipe or other works into, through, or against any building or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that the said Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe, in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Not to enter on private land without consent.

III. Before the said Company proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Municipal Commissioners for the Town of Calcutta, or other persons under whose control or management the same may be, or to their Clerk, Surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Notice to be served on persons having control, &c. before breaking up streets or opening drains.

IV. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened, or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or, in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and such Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain. Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said Company's intention as afore-

Streets or drains not be broken up, except under superintendence of persons having control of the same.

If persons having the control, &c. fail to superintend, Company may proceed with the work.

said, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be reinstated without delay.

V. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in reinstating streets.

VI. If the said Company open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorised to perform such works without any superintendence or notice; or if the said Company make any delay in completing any such work, or in filling in the ground or reinstating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, other parties may reinstate, and recover the expenses.

VII. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed; and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall, in case of any dispute about the same, be ascertained and recovered, in Calcutta, and in any other Town or place subject to the jurisdiction of any of Her Majesty's Courts of Judicature, in the manner in which expenses are ascertained and recovered under Act XIV. of 1856, and in any Town or place not within the jurisdiction of any of Her Majesty's Courts, in the same manner as damages are recoverable under this Act.

Expense how to be ascertained and recovered.

Power to enter buildings for ascertaining quantity of Gas consumed.

VIII. The Clerk, Engineer, or other Officer duly appointed for the purpose by the said Company, may, at all reasonable times, enter any buildings or place lighted with Gas supplied by the said Company, in order to inspect the meters, fittings, and works for regulating the supply of Gas, and for the purpose of ascertaining the quantity of Gas consumed or supplied; and if any person hinder such Officer as aforesaid from entering and making such inspection as aforesaid, at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty rupees.

Recovery of rents due for Gas.

IX. If any person supplied with Gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the Gas from entering the premises of such person, by cutting off the service-pipes, or by such means as the said Company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the Gas, by action in any Court of competent jurisdiction.

Power to take away pipes when supply of Gas discontinued.

X. In all cases in which the said Company are authorised to cut off and take away the supply of Gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the said Company.

Meters not liable to distraint for rent, &c.

XI. Any meter or fitting let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a Court of law or equity, or any proceeding in Insolvency against the person in whose possession the same may be.

Penalty for fraudulently using Gas.

XII. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said Company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the Gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the Gas, or shall supply any other person with any part of the Gas supplied to him by the said Company, shall forfeit to the said Company the sum of fifty rupees for every such offence, and also the sum of twenty rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the said Company may take off the Gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for wilfully damaging pipes.

XIII. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said Company for supplying Gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the Gas supplied by the said Company, shall, for each such offence, forfeit to the said Company any sum not exceeding fifty rupees, in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

XIV. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said Company, or under their control, shall pay such sum

of money by way of satisfaction to the said Company for the damage done, not exceeding fifty rupees, as any Magistrate shall think reasonable.

Penalty for causing water to be corrupted.

XV. If the said Company shall at any time cause or suffer to be brought, or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying Gas, or shall wilfully do any act connected with the making or supplying of Gas, whereby the water in any such stream, reservoir, aqueduct, pond, or place for water, shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees; and they shall forfeit an additional sum not exceeding five hundred rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company, by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby; and such penalties shall be paid to such lastmentioned person.

Daily penalty during the continuance of the offence.

Daily penalty during escape of Gas after notice.

XVI. Whenever any Gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall, immediately after receiving notice thereof in writing, prevent such Gas from escaping; and in case the said Company shall not, within twenty-four hours next after service of such notice, effectually prevent the Gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty rupees for each day during which the Gas shall be suffered to escape, after the expiration of twenty-four hours from the service of such notice.

Penalty if water be fouled by Gas.

XVII. Whenever any water shall be fouled by the Gas of the said Company, they shall forfeit to the person whose water shall be so fouled, for every such offence, a sum not exceeding two hundred rupees, and a further sum, not exceeding one hundred rupees, for each day during which the offence shall continue, after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine Gas-pipes to ascertain cause of water being fouled.

XVII. For the purpose of ascertaining whether such water be fouled by the Gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground, and examine the pipes, conduits, and works of the said Company; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company for the purpose of laying their pipes.

Expenses to abide result of examination.

XIX. If, upon any such examination, it appear that such water has been fouled by any Gas belonging to the said Company, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said Company; but if, upon such examination, it appear that the water has not been fouled by the Gas of the said Company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination.

How expenses to be ascertained.

XX. The amount of the expenses of every such examination and repair, and of any injury done to the said Company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in Section VII. of this Act.

Liability to indictments for nuisance.

XXI. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying Gas.

Copies of the original Deed of Association, and of all Rules, &c. to be kept for inspection at the Office of the Company in Calcutta, and in the Office of the Registrar of Joint Stock Companies or the Keeper of the Records of the Supreme Court at Fort William.

XXXII. A copy of the original Deed of Association of the said Company, and of every other instrument registered under the said "Joint Stock Companies' Act, 1856," as constituting the Regulations of the said Company, and a copy of every special resolution of a General Meeting whereby any change shall have been, or at any time shall be made in the Regulations of the said Company, shall be kept at the Office of the said Company in Calcutta, and shall there be open to the inspection of all persons during the usual hours of business of the said Office; and a copy of such original Deed of Association, and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the Office of the Registrar of Joint Stock Companies, or, if there be no such Officer, in the Office of the Keeper of the Records of the Supreme Court of Judicature at Fort William, and shall there be filed; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the Keeper of the Records of the said Supreme Court, shall be good and sufficient evidence of each such original Deed, instrument, or special resolution, in all actions, suits, and proceedings whatsoever, whether Civil or Criminal, to be had in any Court of Justice, or before any Magistrate or Revenue or other Officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry, throughout the Territories of the East India Company.

Service of process.

XXIII. All services of mesne or other process, and all notices whatsoever, which, by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given in addition to all ways and means by which the same may otherwise be legally made, served, and given, by leaving the same addressed to the Managing Agent of the said Company at the Office in Calcutta of the said Company.

Recovery of penalties, &c.

XXIV. All penalties and forfeitures imposed by this Act, and all damages and expenses the recovery of which is not specially provided for, may be recovered by summary proceeding before a Magistrate.

Levy by distress.

XXV. All penalties, forfeitures, damages, and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from such goods and

chattels, after satisfying such amount, and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained; or, instead of proceeding by distress and sale, or in case of failure to realise by distress the whole or any part of any penalties, forfeitures, damages, or expenses imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage, or expenses may sue the person liable to pay the same in any Court of competent jurisdiction.

No distress unlawful for want of form, &c.

XXVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Interpretation.

XXVII. The following words and expressions used in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

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

Words importing the masculine gender shall include females.

The word "person" shall include a corporation, whether aggregate or sole.

The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place.

The word "Magistrate" shall include any Magistrate of Police, and any Joint Magistrate or other person lawfully exercising the powers of Magistrate, acting at or for the place or district where the matter requiring the cognisance of any such Magistrate arises.

W. MORGAN,
Clerk of the Council.

Legislative Council.

21*st February* 1857.

The following Bill was read a second time in the Legislative Council on the 21st February 1857, and was referred to a Select Committee, who are to report thereon after the 25th of April next:—

A Bill to amend the Law regarding the Provision of Carriage and Supplies for Troops and Travellers, and to Punish unlawful Impressment.

Preamble.

Whereas the habitual impressment by the Civil Power, under the Regulations in force in the Presidency of Fort William in Bengal, of carts, cattle, boats, boatmen, and bearers, in order to facilitate the passage of troops through the Districts of that Presidency, is unnecessary and oppressive; and whereas such impressment is always liable to abuse, and therefore should never be resorted to except on occasions of emergency, when it may be impossible, even by the offer of more than the common rates of hire, to procure sufficient carriage in time to meet the emergency; and whereas it is unnecessary to authorise travellers to require the assistance of Officers of Police in procuring means of transport, or supplies of provisions or of other articles during their journeys, and such assistance, when given, is oppressive, and liable to abuse; It is enacted as follows:—

Laws repealed and modified.

I. Sections II. and VIII. and Clause 7 Section IX. of Regulation XI. of 1806 of the Bengal Code are repealed. Sections III. IV. VI. and VII. of the said Regulation, and Regulation VI. of 1825, of the same Code, are modified, and their operation restricted in the manner following.

Collectors, Magistrates, &c., prohibited from impressing all means of transport, except as hereinafter provided.

II. Except as hereinafter provided, all Collectors and Magistrates, and all Officers subordinate to them, are prohibited from impressing any carts, cattle, boats, boatmen, bearers, or any other means of transport whatsoever, for any purpose whatsoever; anything in Regulation XI. of 1806, or Regulation VI. of 1825, of the Bengal Code, to the contrary notwithstanding.

Punishment for subordinate Revenue or Police Officers impressing means of transport or workmen, and for enforcing delivery of provisions, &c. to travellers.

III. Whoever, being an Officer of Revenue or Police subordinate to a Collector or Magistrate, impresses or attempts to impress any cart, cattle, boat, boatman, bearer, cooly, or other means of transport, contrary to the provisions of this Act, or otherwise without authority of law; or impresses or attempts to impress any workman, labourer, or cooly, without authority of law; or enforces or attempts to enforce the delivery of supplies of provisions or other articles to travellers or others, without authority of law,—shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, and shall also be liable to fine. And the conviction of an offender under this Section shall not bar the right of any person, directly or indirectly injured by any such illegal act, to redress by Civil action.

In cases of emergency, Military Officers in command of troops may, by an order, be authorised to require Collectors and Magistrates to aid in procuring carriage, supplies, &c.

IV. It shall be lawful for the Governor General of India in Council, and for any Lieutenant Governor, and for any Chief Civil Officer of any province under the immediate jurisdiction of the Government of India, within their respective jurisdictions, by an order stating that a case of emergency has arisen, and that it is impossible, even by the offer of double the common rates of hire and prices, to obtain the carriage, and to arrange for the provision of supplies for the troops required to meet the emergency, to authorise any Military Officer commanding a body or detachment of troops to call upon the Collectors and the Magistrates of Districts or places from, through, or near to which such troops are ordered to march, to aid in procuring all necessary carriage, whether by land or water, and supplies, and to facilitate the progress of the troops through his jurisdiction by the preparation of boats, or temporary bridges instead of boats, when necessary for crossing streams upon the line of march. Upon the receipt of such requisition, made in accordance with such order, all Collectors so called upon shall proceed in the manner prescribed by Section III. Regulation XI. of 1806 of the Bengal Code; and all Magistrates so called upon shall proceed in the manner prescribed in Section VI. of the same Regulation; and thereupon the provisions of Sections III. IV. VI. and VII. of the same Regulation, and the provisions of Regulation VI. of 1825 of the aforesaid Code, shall apply to all Revenue and Police Officers, Landholders, Farmers, Tehsildars, or others having the management of land, and to all other persons concerned, in the same manner as if this Act had not been passed. Provided that no carriage shall be impressed, and no provision of supplies shall be made under this Section, other than or in excess of the quantity and description of carriage and supplies now or hereafter to be authorised by the General Orders of Government, according to the number and description of the troops moving.

On receipt of requisition, Collectors and Magistrates how to act.

Carriage and supplies not to be impressed and provided other than or in excess of the quantity and description authorised by the General Orders of Government.

V. Whenever it is certified to any Collector or Magistrate as aforesaid, by a Commanding Officer as aforesaid, that a body or detachment of troops under such Officer's command has been ordered suddenly to take the field, or to proceed to some place in order to preserve the peace of the country, and that it is impossible, even by the offer of double the common rates of hire and prices, to obtain the carringe, or to arrange for the provision of the supplies, or to make the preparations for facilitating the movement required to meet the emergency, and that there is not time to apply for the order described in Section IV. of this Act, such Collector or Magistrate shall proceed in the manner prescribed in the said Section, in order to the obtaining of carriage, or the provision of supplies, or the preparations for facilitating the march, or any or all of these objects, as the case may be; and thereupon the provisions aforesaid of the Regulations aforesaid shall apply in the same manner as is in Section IV. of this Act provided.

Collectors and Magistrates may act, in like manner as provided in the preceding Section, in cases of public disturbance, when troops are suddenly ordered to take the field, and there is no time for applying for an order of Government.

VI. Except in the cases provided for by Sections IV. and V. of this Act, the provisions of Sections III. IV. VI. and VII. of Regulation XI. of 1806, and of Regulation VI. of 1825 of the aforesaid Code, shall cease to have any force or effect.

Operation of certain provisions of Regulation XI. 1806 to cease, except in the cases provided for in the two preceding Sections.

VII. When carriage is impressed, or supplies of provisions and other articles are provided, in the manner authorised by Section IV. or Section V. of this Act, such carriage, provisions, and other articles shall be paid for by the Civil Officer concerned at double the common rates of hire and prices current at the time and place. And in the case of carriage, the carts, cattle, boats, boatmen, or bearers, shall be paid for from the day on which they are impressed; and the pay shall be the same for days on which the carriage is stationary as for the days on which it is in motion. And where it is customary to charge back-hire, such back-hire also shall be charged at double the current rate of the time and place. Impressed land-carriage shall never, unless when it is unavoidable, be retained beyond the first halting-place without the jurisdiction of the Civil Officer under whose authority it is impressed. Whenever land-carriage so impressed is retained, otherwise than by agreement, beyond the District in which it was impressed, a treble instead of a double rate of hire shall be paid for the time during which it may be so retained.

Rates of hire to be paid for carriage impressed or supplies provided under this Act.

VIII. In all cases of dispute, the Collector of the District shall settle the amount of hire and other sums due, according to the last preceding Section. And in regard to carriage of all descriptions, the Collector shall fix beforehand the greatest weight to be carried by each cart, boat, man, or beast employed; which shall in no case exceed the loads commonly so carried according to the means of conveyance. If this load is exceeded, notwithstanding the remonstrance of the party aggrieved, a day's extra rate of hire, according to the common rate of the time and place, shall be paid to the party so aggrieved, for every day on which the load was in excess, by the Civil Officer concerned.

Collector to settle amount of hire, &c. in cases of dispute, and to fix the greatest weight to be carried by each cart, &c.

Extra rate of hire in cases of excess load.

IX. When a Collector issues an order under Section IV. or Section V. of this Act, he shall be held strictly responsible for the selection of a proper person as the creditable Native Officer whom he is required by Section III. Regulation XI. of 1806 to depute to accompany the troops through his jurisdiction. The Native Officer so deputed shall be paid in no case at a rate of less than one Rupee a day, commencing on the day of his first employment, and continuing to the time of his discharge, with such travelling allowance as may be authorised for Revenue Officers of his class. When more than one Regiment moves in a body, there shall be one such Officer deputed for each Regiment or part of a Regiment so moving. It shall be a part of the duty of such Officer to make such payments as he may be authorised by the Collector to make; to take care that the loads fixed by the Collector are in no case exceeded; and to hear all complaints made by the men impressed for carriage, and to redress them, when well founded, if he can; or otherwise to report them to the Military Officer in charge of the baggage, or to the Officer commanding the troops, and finally, if not then redressed, to the Collector.

Collectors to depute proper Native Officers to accompany the troops through their Districts.

X. This Act shall extend to all the Districts of the Presidency of Fort William in Bengal; and to all other Provinces under the administration of the Lieutenant-Governor of Agra or the Lieutenant Governor of Bengal; and to all Provinces under the immediate administration of the Governor General of India in Council; and this Act shall commence to have effect on and from the day of 1857.

Territorial scope of Act.

Commencement of Act.

W. MORGAN,
Clerk of the Council.

BANK OF BOMBAY.

DISCOUNT.

On Government Bills.....	7 per cent.
On Private Bills at or within 3 Months	9 ditto.

INTEREST.

On Fixed Loans on Government Notes and Railway Shares..	7 per cent.
On Open Loans on ditto.....	8 *ditto.*
On Cash Credit Accounts	8 *ditto.*
On Loans on Security of Goods..	9 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, 12th March 1857.

Notice

Is hereby given, that the SUMS on account of the ESTATES of the undermentioned DECEASED NATIVE SEAMEN, of the Ships specified herein, have been received into my Office, and the same will be paid by me to their legal representatives, on application with full particulars (post-paid) :—

Seaman's Name.	No. of Register Ticket.	From what Port held.	Capacity.	To what Ship belonged.	Of the Port of	Amount.
						Rs. a. p.
Heera Bhaia	10654	Bombay ..	Lascar	Futhey Salaam..	Bombay	0 1 8
Mandun Gopal	7553	Unknown..	Ditto	Ditto ..	Ditto	0 3 4
Gairaz Narron.....	16511	Bombay ..	Ditto	Ditto ..	Ditto	0 2 4
Pancha Runchord	10585	Ditto ..	Ditto	Futhey Sultan ..	Cochin	2 9 4
Nalloo.....	43289	Calcutta ..	Ditto	Storm Cloud....	Glasgow	8 7 10
Busseeroodeen	38526	Ditto ..	Ditto	Americane.....	Bordeaux ..	10 2 11
Mohasson Ally	21759	Ditto ..	Ditto	Ditto	Ditto ..	6 11 10
Mahomed Wassee	11519	Ditto ..	Ditto	Ditto	Ditto ..	7 8 7
Chand.....	9908	Ditto ..	Ditto	Ditto	Ditto ..	9 7 0

W. R. HAYMAN,
Register of Seamen Office, Bombay, 9th March 1857. Acting Registrar of Merchant Seamen.

اِشتهار نامہ

ظاهر کیا جاتا هي که کچهه روپئے بابت مال اور اسباب خلاصیون متوفی کے جنکا اور جنکے جهاز ونکا نام نیچے لکها گیا هي میري آفیس مین جمع هوئے هین جو کوئي اُنکے وارث هونگے اور اپني درخواست مع اثبات اپنی حقیّت کے ڈاک کا محصول دیکر میرے پاس بهیجینگے تو وہ روپئے اُنکو دئے جائینگے

خلاصیون کے نام	رجسٹر ٹکٹ کا نمبر	کونسے بندر سے رجسٹر ٹکٹ ملا	عہدہ	کونسے جهاز پر نوکر تها	کونسے بندر کا	مبلغ
هیرا بهائی.....	۱۰۶۵۴	بمبئی ..	خلاصی ..	فتح اسلام	بمبئی	۰ ۱ ۸
مدن گوپال	۷۵۵۳	نامعلوم ..	ایضا ..	ایضا	ایضا	۰ ۳ ۴
جیراج نارائن	۱۶۵۱۱	بمبئی ..	ایضا ..	ایضا	ایضا	۰ ۲ ۴
پنچو رنچهور.....	۱۰۵۸۵	ایضا ..	ایضا ..	فتح سلطان	کوچین	۲ ۹ ۴
نالو.....	۴۳۲۸۹	کلکته ..	ایضا ..	استارم کلوڈ	گلاس گو....	۸ ۷ ۱۰
بصیرالدین	۳۸۵۲۶	ایضا ..	ایضا ..	امریکیان	بورڈ یاکس..	۱۰ ۲ ۱۱
محاسن علی	۲۱۷۵۹	ایضا ..	ایضا ..	ایضا	ایضا ..	۶ ۱۱ ۱۰
محمد وصی	۱۱۵۱۹	ایضا ..	ایضا ..	ایضا	ایضا ..	۷ ۸ ۷
چاند	۹۹۰۸	ایضا ..	ایضا ..	ایضا	ایضا ..	۹ ۷ ۰

رجسٹر اف سي مین آفیس
بمبئي تاریخ ۹ ماہ مارچ سنہ ۱۸۵۷

(صحیح) ولیم رگڈن هیمن صاحب
اکٹنگ رجسٹرار اف مرچنٹ سي مین

VENAYEK WASSOODEW,
Oriental Translator to Government.

Notice.

Sealed Tenders will be received by the undersigned for the CONSTRUCTION, by CONTRACT, of the following BUILDINGS in the SATTARA COLLECTORATE :—

An Office for the Electric Telegraph Department, and Out-houses.
An Office for the Collector's Department, and other Accommodations thereto.

2. The Plans of the above are open for inspection at this Office during any hour (on Week-days only) between 10 A. M. and 4 P. M., where all other information about the buildings can also be obtained.

3. Any party or parties willing to undertake the Contract will be required to deposit with his Tender two per cent. of the whole sum estimated for the works, which will be forfeited to Government upon evasion to sign the Contract. The person whose Contract is accepted will be further required to add to his deposit an additional eight per-centage as security for his compliance with the rules in his Contract. The unsuccessful persons will have their deposits returned to them upon application.

4. No security is required from Contractors who prefer to complete the works without advances.

5. Tenders will be received up to the 30th April 1857, and no reasons will be given for the rejection of any of them,

J. SMITH,
Assistant Executive Engineer,
In Charge of Public Buildings.

Office of the Assistant Executive Engineer, Satara, 14th March 1857.

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 weighment 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.	a.	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.

જાહેરનામુ.

કોલ્સ પુરા પાડવા વિશેના અરજો.

એહેવું જે ટંકશાલનાં કામસારૂ ૫૦૦ ટન અથવા ઓછામાં ઓછા ૫૦ ટન કોલ્સ પુરા પાડવા વિશેના અરજો મીંટ માસ્તર લેસે.

બાકીના અંત્ર લાએક સારા અવલ જાતનાં કોલ્સ જોઇએ અને તે કેહેવા છે તથા કહી જાતના છે એ વિશેનો સરટીફીકેટ તથા તેનો નમુનો અરજ સાથે મોકલવો.

અરજમાં ભાવ લખ્યો તે કોલ્સ કીનારે ઉતારવાનો તથા જોખીને ટંકશાલમાં ભરી આપવા વગેરે સર્વે ખર્ચ સુધાં લખ્યો.

મીંટ માસ્તરને જરૂર પડસે તો સરકારી અંમલદારની કમેટી પાસે કોલ્સની તપાસ કરાવીને પરશંદ કરીને લેસે અને ટંકશાલમાં કોલ્સ જોખીને સોંપવામાં આવશે તાંહાં સુધીનુ જોખમ અરજદારને માથે રેહેસે.

અરજનો નીચે નમુનો લખ્યો છે તે પ્રમાણે કોઈફેરફાર ન કરતાં અરજ કરવી જોઇએ અને એકાદી અરજીમાં લખેલા દર સર્વેથી કમી હસે તો એપણ તેનું કારણ કહ્યાવગર તે અરજ રદ કરવાને સરકાર મુખ્તયાર છે.

અરજનો મસુદો.

મુંબઇના મીંટમાસ્તર સાહેબ જોગ.

સને ૧૮૫૬ ઇસવીના અક્ટોબર મહીનાની નવમી તારીખના મુંબઈગાજીટના વર્તમાનપત્રમાં જાહેરખબર છાપી છે તે ઉપરથી નીચે લખેલી જાતના તથા ભાવથી કોલ્સ સરકારી કામ સારૂ આપવાને અમે રાજી છીએ.

કોલ્સની જાત.	કેટલા વાહાણ (કે મોજા) થી આવશે.	અમુક ટન.		સર્વે ખરચ સુધાં ૨૦ હંડરેડવેટના ટનનો ભાવ.			અંકે.
				રૂ.	આ.	પૈ.	

સદરહુ જાહેરખબરમાં લખેલી સર્વે સર્તો અમારે કબુલ છે.

અરજ કરનારની સહી.

મુકામ મુંબઈ તા.

મીંટ માસ્તર કપતાન જેમસ હેનરી બર્ક
સાહેબ બાહાદુરની સહી.

जाहिरनामा.

कोळसे पुरविण्या विषयीं अर्ज.

ऐसा जे टांकशाळेंतील कामाकरितां ५०० टन किंवा कमींत कमी ५० टन कोळसे पुरविण्याविशींचे अर्ज मिंट मास्तर घेतील.

वाफेचे यंत्रालायक चांगले उत्तम प्रतीचे कोळसे असावेत आणि ते कसे आहेत व कोणते प्रतीचे आहेत याविशींचीं सर्टिफिकेटें व त्याचा नमुना अर्जा बराबर पाठवावा.

अर्जीत दर लिहिणे तो कोळसे किनाऱ्यास उतरण्याचे व जोखून टांकसाळेंत भरून देण्याचे खर्चा सुध्धां त्याहावा.

मिंट मास्तर यांस जरूर वाटेल तर सर्कारी अंमलदाराचे कमिटी जवळून कोळशाची पाहणी करून पसंत करून घेतील आणि टांकसाळेंत कोळसे सोपऊन देण्यांत येत तोंपर्यंत त्याचें जोखीम अर्जदाराचे मार्थी राहील.

अर्जीचा खालीं नमुना लिहिला आहे त्या प्रमाणे कांहीं फेरफार केल्या वांचून अर्जी केली पाहिजे आणि एखादे अर्जीत लिहलेला दर सर्वांहून कमी असेल तथापि कारण सांगितल्या वांचून तो अर्ज रद्द करायास सरकार मुख्त्यार आहे.

अर्जीचा मसुदा.

मुंबईचे मिंट मास्तर साहेब यांस.

सन १८५६ इसवीच्या अक्टोबर महिन्याच्या नव्वे तारखेच्या मुंबई ग्याझेट या नावाच्या वर्तमानपत्रांत जाहिरखबर छापली आहे त्यावरून खालीं लिहिलेले प्रकारचे व दराने कोळसे सर्कारी कामाकरितां देण्यास आम्ही राजी आहोंत.

कोळशाचा प्रकार.	अमुक तारखा वहाणआलेले	अमुक टन.		सर्व खर्चासुद्धां बीस हंड्रेडवेटाचे टनीचा भाव.			रकम अक्षरों.
				रु.	आ.	पै.	

सदरहू जाहीर खबर लिहिलेल्या सर्व शर्ती आम्हास कबूल आहेत.

मुं॥ मुंबई तारीख

अर्ज करणाराची सही.

मिंट मास्तर कपतान जेम्स हेनरी बर्क
साहेब बाहादुर याची सही.

VENAYEK WASSOODEW,
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,

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, 185 .

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 recoinage of Silver Sicca Rupees will be at the rate of one per cent. on the out-turn value. There will not be any Seignorage levied on the recoinage 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.

જાહેરનામું.

એહેવું જે મુંબઇની ટંકશાલમાં શોનું તથા ચાંદી લેવા વિશેની કાંનુન મિંટ કમિટિના હુકમ ઉપરથી પ્રસિદ્ધ કરી છે તે.

૧. આદિતવાર તથા છુટીના દાહાડા સિવાય દરરોજ રાવારનાં દશ વાગાથી તે બપોર પછી ત્રણ વાગતાં સુધી શોનું તથા ચાંદી વેપારી પાસેથી અથવા બીજા લોકો પાસેથી મુંબઇની ટંકશાલમાં લેશે. મણ શોનું પચાસ તોલા કરતાં ઓછું ન જોઇએ તથા ચાંદી હજાર તોલા કરતાં ઓછી ન જોઇએ તથા સદર્હૂ શોનું તથા ચાંદી શિક્કો પાડવા લાયક નરમ જોઇએ.

૨. શોનું અથવા ચાંદી અથવા નાણું ટંકશાલમાં આપવું તે માલકે હેઠળ લખેલા મુરાદ પ્રમાણે અરજ લખીને

આપવું. અરજની છાપેલી નકલો ઠેકરાલમાં માંગવાથી મલશે.

મુંબઈના મિંટ માસ્તર જોગ.

નીચે લખેલું સોનું (અથવા ચાંદી) ઠેકરાલના દર પ્રમાણે શિક્કો પાડવાસારૂ હાજર કરૂં છું તે સોનું (અથવા ચાંદી) ઠેકરાલમાં લઈને નોંધીને તેની વાજબી કિંમત ઠરાયથી દાખલ કરાયથી વીશ દિવસની મુદતમાં તીજોરીમાંથી અવેજ મળે એહેવી બુલિઅંન રારટિફિકેટ આપે મેહેરબાની કરીને આપવી.

પેટીઓ ઉપરની નિશાણી	ચાંદી ઉપરની નિશાની.	પેટીની સંખ્યા.	સોનુ તથા ચાંદીનો પ્રકાર.	મુમારે વજન તોળા.	હાથ વજન પ્રમાણે નકી વજન રતલવિગેરે.

સહી.

મુકામ મુંબઈ તારીખ માહે સન

૩. જે સોનું તથા ચાંદી તથા નાણું શિક્કો પાડવા સારૂ ઠકરાલમાં આપશે તે લીધાની અગાઉ અથવા તેની ચારાણી કાહાડાની અગાઉ તે ઠેકરાલમાં પ્રથમ ગાલવાના ખાતામાં ગાલીને તેની લગડીઓ કરવી જોઈએ.

૪. સોનું અથવા ચાંદી ઠેકરાલમાં એક વખત આપી ચુકી એટલે તે એક માલકના નામ ઉપરથી બિજાનાં નામ ઉપર ચહડાવી દેશે નહીં. સોનું અથવા ચાંદી નોંધ્યાની અગાઉ ઠેકરાલમાંથી કાહાડી લઈ જવી હોય તો કાહાડી લઈ જવાની ચિઠ્ઠી બદલ રૂ. ૨ ફી આપ્યા વગર કાહાડી લઈ જવા દેશે નહીં જે સોનું અથવા ચાંદી ગાલી હશે તેનો કચરો અથવા ગાલ માત્ર લેવા દેશે.

૫. સોનું અથવા ચાંદી અથવા નાણું પ્રથમ ગાલા પછી સોનું તથા ચાંદી લેવાની કોટડીમાં ઠેકરાલના કાંટા ઉપર તે સોની દેશે તાંહાં સુધી તે માલકને તાબે છે તથા તેનુ જોખમ તેને માથે છે એહેવું સમજવું જોઈએ. પણ સોનું તથા ચાંદી બંદોબસ્તથી રાખવાની કોટડીમાં તે રાખવા વિશે તેને સર્વે પ્રકારે બંદોબસ્ત કરી આપશે.

૬. ચારાણીનો રપોટ આવ્યા પછી મિંટ ડુટીનો તથા શોધવાનો તથા પ્રથમ ગાલવાના ખર્ચની ઠરાવેલી રકમ બાદ કરીને સોનાંની અથવા ચાંદીના અથવા નાણાંના વજન પ્રમાણે તથા ચારાણીની કિંમત પ્રમાણે નકી ઉતપન થાશે તેનો હિશાબ આસિસ્ટેંટ બુલિઅંન કીપરની સહીનો માલકને તપાશવા સારૂ તથા સહી કરવા સારૂ આપશે. તે ઉપર માલકની સહી થઈ એટલે મિંટ માસ્તરની કચેરીમાં તયાર કરેલા જનરાલ તીજોરી ઉપરની બુલિઅંન રારટિફિકેટ માલકને આપવી તે એહેવી કે નોંધ્યાની તારીખથી એટલે સોનું અથવા ચાંદી અથવા નાણું ઠેકરાલમાં નકી ઠરાવીને લીધાની તારીખથી વિશ દિવસની મુદતની તે રારટિફિકેટની રકમ તે જેની પાશે હશે તેહેને મળશે એહેવી મજકુરની રારટિફિકેટ આપવી.

૭. સોનું અથવા ચાંદી અથવા નાણાંનો શિક્કો પાડવા બદલ તેની વાસ્તવીક ઠરેલી કિમત ઉપર દર શેકડે એક ટકો પ્રમાણે લેશે.—શિક્કા રૂપૈઆની ચાંદીનો ફરીથી શિક્કા પાડવા બદલ તેની વાજબી કિમત ઉપર દર શેકડા એક ટકા પ્રમાણે લેશે.—મદ્રાસી તથા ફરકાવાદી તથા કંપનીના ઓછા વજનના રૂપૈઆનો ફરીથી શિક્કો પાડવાને કાંઈ ખેરાશો નહીં.

સદહું સિવાય બિજા રૂપૈઆનાં નાણાંના તથા ચાંદીના શિક્કા પાડવા બદલ વાજબી ઠરેલી કિમત ઉપર દર શેકડે બે ટકા લેશે.

૮. બ્રિટિશ ઇંડિઆના ઠરાવેલા ટચ કરતાં ચારાણીમાં છ પેનીવેટ કરતાં ઓછી નરરા ચાંદી શોધવાનો ખર્ચ પડશે તે એક પેનીવેટ નરરા ચાંદી બદલ શેકડે .૦ ૦ ૪ ચાર રાતાંડરા એ દર પ્રમાણે પડશે. સોનું શોધવાનો ખર્ચ પડશે તે બ્રિટિશ ઇંડિઆના ઠરાવેલા ટચ કરતાં દર એક પાંચ કચરેટ ગ્રેન, નરરા બદલ શેકડે અર્ધો ટકો પડશે.

૯. પ્રથમ ગાલવા બદલ ખર્ચ પડશે તે આ પ્રમાણે ઠરાવેલા ટચના એક હજાર તોળા સોનાને કંપની રૂ. ૩ ૧૨ ૦ પડશે અને ઠરાવેલા ટચના એક હજાર તોલા ચાંદીનો કંપની રૂપીયો ૧ પડશે.

૧૦. સોનું અથવા ચાંદી અથવા નાણું ઠેકરાલમાં દેનારાં માણસોની પાશું કાહાડી લઈ જવાની મરજી હશે તો આશેનો રપોટ દાખલ થયાથી ઇમા નોંધ દાખલ થયાથી એક દિવસની અંદર કાહાડી લઈ જવાને મુખ્તીઆર છે ત્યાર પછી તેને પાશું મલનાર નહીં અને સદહું દિવસની અંદર કાહાડીને લઈ જશે ત્યારે પ્રથમ ગાલવાનો ખર્ચ ઉપર લખ્યો છે તે સિવાય વળી સોનાની દરએક ચારાણી બદલ ચાર રૂપૈઆ અને ચાંદીની ચારાણી બદલ બે રૂપૈઆ ફી દેવી પડશે.

૧૧. સોનું અથવા ચાંદી પ્રથમ ગાલ્યા પછી તે કઠણ છે તથા તે શિક્કો પાડવા લાએક નથી એહેવું નજરમાં આવશે તો તે માલકને પાશું આપવું અને મિંટ માસ્તરની તથા આસિસ્ટેંટ બુલિઅંન કીપરની સહીની લખેલી પરવાનગી ચિઠ્ઠી ઉપરથી તે ઠેકરાળમાંથી બાહાર જવા દેવી અને સોનું અથવા ચાંદી રદહું પ્રમાણે રદ કરેલું હશે તેના ખરા વજંન ઉપર ઠરાવેલા દર પ્રમાણ પ્રથમ ગાલવાનો ખર્ચ થાશે તે માલકે આપવો જોઈએ.

સહી.

જેમશ હેનરી બર્ક કપતાન,
મિંટ માસ્ટર.

તારીખ ૨૩મી માહે ડિસેંબર શંને ૧૮૫૬ ઈસવી

મુકામ મુંબઈ ઠેકરાળ.

જાહિરનામા.

મુંબઈ એથીલ ટાંકસાળેંત સોને વ ચાંદી ઘેણ્યાવિષયી કાનુ મિંટ કમિટીચે હુકુમાવરૂન પ્રસિદ્ધ કેલ્યા આહેત ત્યા.

૧. આદિતવાર વ સુટીચે દિવસ ખેરીજ કરૂન દરરોજ સકાળચે દાહા વાજલ્યા પાસૂન દોન પહરચે તીન વાજત તોં પર્યંત સોને વ ચાંદી ઘ્યાપાચ્યા કડૂન કિંવા ઇતર મનુષ્યા કડૂન મુંબઈચે ટાંકસાળેંત ઘેતીલ પરંતુ સોને પંનાસ તોળ્યાંહૂન કમી અસૂ નયે વ ચાંદી હજાર તોળ્યાંહૂન કમી અસૂ નયે આણિ સદહૂ સોને કિંવા ચાંદી શિક્કા પાડણ્યા યોગ્ય નરમ અસાવી.

૨. સોને કિંવા ચાંદી કિંવા નાણે ટાંકસાળેંત દેણે તેં માલકાને ખાલીં લિહિલેલે મસુદા પ્રમાણે અર્જ લિહૂન દ્યાવે. અર્જાચ્યા છાપીલ નકલા ટાંકસાળેંત માગિતલ્યા અસતાં મિળતીલ.

મુંબઈ યેથીલ મિંટ માસ્તર સાહેબ યાંચ.

ખાલીં લિહિલેલેં સોને (કિંવા ચાંદી) ટાંકસાળેંતીલ દરા-પ્રમાણે શિક્કા પાડણ્યા કરિતાં હજર કરિતોં તેં સોને (કિંવા ચાંદી) ટાંકસાળેંત ઘેઉન જોંદૂન ત્યાચી વાસ્તે-વિક કિંમત ઠરલ્યા વર લાગૂ કેલ્યા પાસૂન વીસ દિવસાંચે

मुदतीने तिजोरींतून ऐवज मिळे असें बुलियन सर्टिफिकेट आपण मेहरबानगी करून द्यावें.

पेटीवरील निशाण्या.	चांदी वरील निशाण्या.	पेट्यांची संख्या.	सोने किंवा चांदीचा प्रकार.	अजमासें वजन तोळे.	ट्राय वजना प्रमाणे नकी वजन रत्तल वगैरे.		

सही.

मु॥ मुंबई तारीख माहे सन

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

४. सोने किंवा चांदी टांकसाळेंत एकदा देऊन ठेविली म्हणजे ती एका मालकाचे नावावरून दुसऱ्याचे नावावर चढवूं देणार नाहीं सोने किंवा चांदी नोंदल्या पूर्वी टांकशाळेंतून काढून नेणे झाल्यास काढून नेण्याचे चिटी बदल दोन रुपये फी दिल्या वांचून काढून नेऊं देणार नाहींत 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 खोलींतील टांकसाळीचे कांट्यावर तें सोंपवून देत तोंपर्यंत तें मालकाचे ताब्यांत आहे व त्याचें जोखीम त्याचे शिरावर आहे असें समजलें पाहिजे परंतु सोने व चांदी बंदोबस्ताने ठेवण्याचे खोल्यांत तें ठेवण्याविषयीं त्यास सर्व प्रकारें सोई करून देतील.

६. चासणीचा रपोट आल्यावर मिंट ड्यूटीची व शोधण्याचे 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 बुलीयन कीपरचे सहीचा मालकास तपासण्या करितां व सही करण्या करितां द्यावा त्यावर मालकाची सही झाली म्हणजे मिंट मास्तरचे कचेरींत तयार केलेलें जनरल तिजोरीवरचें बुलियन सर्टिफिकेट मालकास द्यावें तें असें कीं नोंदीचे तारिखेपासून म्हणजे सोने किंवा चांदी किंवा नाणे टांकसाळेंत नकी ठरवून घेतल्या तारिखेपासून वीस दिवसांचे मुदतीने त्या सर्टिफिकेटाची रकम तें ज्या जवळ असेल त्यास मिळेल असे मजकुराचें सर्टिफिकीट द्यावें.

७. सोने किंवा चांदी किंवा नाण्याचा शिक्का पाडण्या बदल त्याचे वास्तवीक ठरलेले किमतीवर दर शेकडा एक टका प्रमाणे घेतील.—शिक्का रुप्याचे चांदीचा पुन्हा शिक्का पाडण्या बदल त्याचे वास्तवीक किमतीवर दर शेकडा एक टका प्रमाणे घेतील.—मद्रासी व फरकाबादी व कंपनी कमी वजनाचे रुप्याचा पुन्हा शिक्का पाडल्यास कांहीं पडणार नाहीं.

सदर्हू खेरीज इतर रुप्याचे नाण्याचा व चांदीचा शिक्का पाडण्या बदल वास्तवीक ठरलेले किमतीवर दर शेकडा दोन टके घेतील.

८. ब्रिटिश इंडियाचे ठरविलेले टचाहून चासणींत साहा पेनीवेटा पेक्षां कमी नरस असणारी चांदी शोधण्याचा खर्च पडेल तो एक पेनीवेट नरस चांदी बदल शेकडा .० ० ४ च्यार शतांश या दराने पडेल सोने शोधण्याचा खर्च पडेल तो ब्रिटिश इंडियाचे ठरविलेले टचाहून प्रत्येक पांच क्यारेट येत्र नरस असल्यास बदल शेकडा अर्धा टका पडेल.

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

१०. सोने किंवा चांदी किंवा नाणे टांकसाळेंत देणारीं मनुष्यें तें परत काढून नेण्यास इच्छीत असतील तर आसेचा रपोट दाखल झाल्यावर किंवा नोंद दाखल झाल्यावर एक दिवसाचे आंत काढून नेण्यास मुखत्यार आहेत मग त्यास परत मिळनार नाहीं आणि सदर्हू दिवसाचे आंत काढून नेतील तेव्हां प्रथम गाळण्याचा खर्च वर लिहिला आहे त्या खेरीज आणखी सोन्याचे प्रत्येक चासणी बदल चार रुपये आणि चांदीचे प्रत्येक चासणी बदल दोन रुपये फी द्यावी लागेल.

११. सोने किंवा चांदी प्रथम गाळल्या नंतर ती कडक आहे व शिक्का पाडण्या योग्य नाहीं असें नजरेस येईल तर ती मालकास परत करावी आणि मिंट मास्तरचे व असिस्टेंट बुलियन कीपरचे सहीचे लेखी परवानगी चिठी वरून ती टांकसाळेंतून बाहेर जाऊं द्यावी आणि सोने किंवा चांदी सदर्हू प्रमाणे रद्द केली असेल तीचें ऐन वजनावर ठराविलेले दरा प्रमाणे प्रथम गाळण्याचा खर्च होईल तो मालकाने दिल्हा पाहिजे.

सही.

जेम्स् हेनरी बर्क कपतान,
मिंट मास्तर.

तारीख २३ माहे डिसेंबर सन १८५६ इसवी
मुकाम मुंबई टांकसाळ.

VENAYEK WASSOODEW,
Oriental Translator to Govt.

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.

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.
Sewjee Dewjee.....	Goldsmith.....	Hindoo.....	Without the Fort, in Coombarwadda, near Khetwady.	6th	March	1857
Hurrychund Narronjee.	Attorney's Clerk.....	Ditto	Without the Fort, at Lowhar Chawl.	7th	,,	,,
Narron Tookaram, Gainoo Tookaram, and Suckoobaee, Widow of Tookaram Bhawoo.	Basket Makers.....	Ditto	Without the Fort, on Khuduck.	9th	,,	,,
Nowrojee Byramjee, and Sorabjee Byramjee.	Trading under the Name and Firm of Sorabjee Byramjee, as China Merchants.	Parsees.....	Within the Fort, near Mody Khana.	14th	,,	,,
Dewoobaee, Widow...	Labourer.....	Hindoo....	Lately without the Fort, at Girgaum, in Moogbhatwaddy (at present in the Bombay Gaol).	16th	,,	,,
Bapoo Sonjee and Surruswutteebaee.	Liquor Sellers.....	Ditto	Without the Fort, on Girgaum Road, near Mangulwady.	,,	,,	,,
Dinkar Wamonrao ..	Clerk in the Assistant Engineer's Office.	Ditto	Without the Fort, in Wittulwady.	,,	,,	,,
Syed Goolam Hoossain wulud Hakeem Goolam Mohideen.	Priest.....	Mahomedan..	Without the Fort, in Bhendy Bazar.	,,	,,	,,

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.
Hormusjee Dadabhoy	1st Monday....	April next.....	11 o'clock.
John Vincent Lobo	Ditto	Ditto	Ditto.
Bhawoodeen (otherwise called Fuzloodeen) bin Kootboodeen Toongakur.	3rd Monday....	Ditto	Ditto.
Aaron Solomon Gindill and Mayer Solomon Gindill.	Ditto	Ditto	Ditto.
Hurrychund Narronjee.....	Ditto	Ditto	Ditto.
Sewjee Dewjee	Ditto	Ditto	Ditto.
Syed Goolam Hoossain wulud Hakeem Goolam Mohideen.	Ditto	Ditto	Ditto.
Bapoo Sonjee Dewbaee, Widow, and Surruswutteebaee, Widow.	Ditto	Ditto	Ditto.
Ballajee Heerajee	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.

J. A. McKENZIE, Clerk of the Court,
By W. J. BROOKFIELD.

Clerk of the Court's Office, Fort, Bombay, this 17th day of March 1857.

નાદાર દેવાદારોની કોરટમ્યે.

જાહેર ખબર એ ઉપરથી આપવામાં આવે છે જે, વિગત સાથે હેની હેઠળ જે જુદી જુદી આશામીઓનાં નામો લખેલા છે, તેઓએ મુંબઇની નાદાર દેણદારોનાં છુટકા કરનારી કોરટને અરજીઓ આપી છે, તેમાં એક એકની અરજ હેવી છે જે વિકટોરીયાના અગિઆરમે વરશે જે ધારો કરીને ઠરાવ્યો છે, તેના એકવિરામાં બાબતોનો ઇલાજ હમોને મળે.

નામ.	ધંધો.	જાત.	મુંબઇમિયે રેહેવાનું ઠેકાણું.	અરજીઓ દાખલ કરાની તારીખ.		
				દાહાડા	માસ.	વરશ.
શીવજી દેવજી	શોનીનો	હીંદુ.	કોટબાહાર ખેતવાડીની પા-શે કુંભાર વાડામો.	૬ ઠો.	માર્ચ.	૧૮૫૭.
હરીચંદ નારાણજી	વકીલને તાંહાં લખનાર	હીંદુ.	કોટબાહાર લુવારચાલીમાં..	૭ મો	એજ.	એજ.
નારાણ ટુકારામ તથા ગનુ ટુકારામ તથા રાબુબાઇ તે ટુકારામ ભાઉની વિધવા.	ટોપલી કરનારાં	હીંદુ.	કોટબાહાર ખડક ઉપર ..	૯ મો	એજ.	એજ.
નવરોજજી ખેરામજી તથા શોરાબજી ખેરામજી.	ચીનના વેપારી તરીકે શોરાબ-જી ખેરામજીને નામે તથા પેઢીએ વેપાર કરે છે.	પારશી.	કોટમાં મોદીખાનાની પારો.	૧૪ મો	એજ.	એજ.
દેઉબાઇ વિધવા	મજુરી	હીંદુ.	આગલ કોટબાર ગીરગામ-માં મુગભાટ વાડીમો ને હાલ મુંબઇની તુરંગમાં.	૧૬ મો	એજ.	એજ.
બાપુ શોનજી તથા શારસ્વ-તીબાઇ.	દારૂવેચનારાં	હીંદુ.	કોટબાહાર ગીરગામના ર-સ્તા ઉપર માંગલ વા-ડીની પારો.	એજ.	એજ.	એજ.
દીનકર વામનરાવ	આસિસ્ટન્ટ ઇંજીનીઅરની હા-ઇસમાં લખનાર.	હીંદુ.	કોટબાહાર વીઠલ વાડીમો..	એજ.	એજ.	એજ.
શાએમ્મેદ ગુલામ હુશેન વલદ હકીમ ગુલામ મોહીદીન.	મુલાં	મહમદીઅન.	કોટબાહાર ભીંડીબજારમો.	એજ.	એજ.	એજ.

ઉપર લખેલા નાદાર દેવાદારોની અરજીઓની બાબતોમાં ધટતી રીતે હુકમ થયો છે, જે ઉપર લખેલા ધારાની સાતમી કલમ પ્રમાણે નાદાર દેવાદાર મજકુરોની સ્થાવર તથા જંગમ મિલકત તથા ચીજવસ્ત આ નામદાર કોરટનાં આફિસિઆલ આશાએનીના તાબામાં આપે.

નીચે લખેલા નાદાર દેવાદારોની અરજીઓ સાંભળવાશાટ ઠરાવેલા દીવસ.

નામ.	વખત.		
	દાહાડા.	માસ.	કલાક.
હોરમજજી દાદાભાઇ.....	૧ લો સોમવાર.	આવતો અપરેલ.	૧૧.
જન વીનરોટ લોબો	એજ.	એજ.	એજ.
ભાઉદીન ઉરફ ફજલુદીન ખીન કુતબુદીન ટુંગાકર	૩ જો સોમવાર.	એજ.	એજ.
એબ્રારન સાલેમાન ગીનડીલ તથા મેજર સાલેમાન ગીનડીલ.	એજ.	એજ.	એજ.
હરીચંદ નારાણજી	એજ.	એજ.	એજ.
શીવજી દેવજી	એજ.	એજ.	એજ.
શાએમ્મેદ ગુલામ હુશેન વલદ હકીમ ગુલામ મોહીદીન	એજ.	એજ.	એજ.
બાપુશોનજી તથા દેવબાઇ વિધવા તથા સરસ્વતી બાઇ વિધવા...	એજ.	એજ.	એજ.
બાલાજી હીરાજી	એજ.	એજ.	એજ.

આડા આવનાર લેણદારોએ, થોડામાં થોડા સાંભળવાના તણુ દીહાડા અગાઉ, સોગણુનાંમાથી સાબીત કરેલા પોતાના દાવા હમારી આફીસમાં દાખલ કરવા જોઇએ, તથા સિરસ્તા પ્રમાણે તેઓને ફી આપવી જોઇએ. ઉપર લખેલા નાદાર દેવાદારોએ પોતાના દેવાની, તથા માલ મિલકતની, ટીપો હમારી આફીસમાં દાખલ કરાવી છે.

મુંબઇનાં કોટમ્યે, કોર્ટના કલાર્કની આફીસમાં,
લખી તારીખ ૧૭ મી માર્ચ સને ૧૮૫૭.

જે. એ. મેકેનજી,
કોર્ટના કલાર્કની વતી વ. મરૂફકીલડ,
(A true translation)
NARAYEN DINANATHJEE, Acting Chief Translator.

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.	..	..	1	3	12	..	..	1	1	..	..	..	..	..	..	..	..	18
Brahmun..	..	1	..	2	1	1	..	1	..	..	1	..	..	..	..	..	..	7
Lingaet and Bhatia	..	..	..	..	3	..	..	..	..	..	..	..	1	..	..	..	..	4
Hindoo of other Caste	4	32	2	70	63	3	..	3	18	..	1	1	10	..	1	3	..	207
Hindoo Out-caste	1	2	..	4	5	..	..	..	3	..	..	..	..	1	..	..	..	15
Moosulman	4	5	1	25	42	..	..	7	10	..	2	..	4	..	..	..	..	96
Parsee	..	..	..	4	3	3	..	1	5	..	..	..	5	..	1	..	..	22
Jew	..	..	..	3	..	..	..	..	1	..	..	..	..	..	..	..	..	4
Native-Christian..	..	1	..	6	7	..	..	..	1	..	..	..	..	..	..	..	..	15
Indo-European	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	1
European..	..	..	..	..	..	2	..	2	4	..	..	..	..	..	..	..	..	8
Negro-African	..	1	1	..	..	..	..	..	1	..	..	..	3	..	..	..	..	6
Other and Unknown Caste ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	2	2
Total.. ..	9	42	5	117	136	9	..	15	45	..	4	1	23	1	2	3	2	405
Mean of the corresponding Weeks in the preceding Nine Years..	..	52	32	3	124	12	..	27	35	..	2	1	10	..	4	2	..	304

Bombay, 18*th March* 1857.

A. H. LEITH,
In charge of Mortuary Returns.

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.

2*nd*.—False Point Light House is in latitude 20° 19½′ north, and longitude 86° 47′ east; and a buoy is placed in 21½ fathoms on the Pilot's Ridge, in latitude 20° 49½′ north, and longitude 87° 42′ east: the buoy therefore bears from False Point Light House north 59° 49′ east, true, and distant 59½ miles.

3*rd*.—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 cruizing 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.

4*th*.—The soundings to seaward of the Pilot's Ridge are, in general, a greenish or olive-coloured mud, with occasionally a few bits of broken shells mixed with it; whilst those on the Ridge are of a shelly sand, or minute gravel, of a reddish or rusty brown colour.

5*th*.—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.

6*th*.—The Eastern Channel Light Vessel is in latitude 21° 4′ north, and longitude 88½° 14′ east, and therefore bears from the buoy on the Pilot's Ridge north 63° 26′ east, true; and distant 32½ 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.

7*th*.—The Pilot'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.

8*th*.—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.

The North-East Monsoon.

9*th*.—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 cruize 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.

DIVIE ROBERTSON,
Master Attendant.

Fort William, the 1st March 1856.

Notice.

At an Examination held at the Sudder Adawlut on the 26th January 1857, the following MOONSIFFS were declared qualified for the Office of SUDDER AMEEN:—

Names.	Designation.
Azum Jumeetram Himutram.	Moonsiff of Borsud.
Azum Madhowrow Krishna..	Moonsiff of Chikodee.
Azum Mudun Shreecrustna..	Moonsiff of Veerungaum.
Azum Narayen Bulwunt....	Moonsiff of Broach.
Azum Purshotum Shideshwur	Moonsiff of Rajapoor.
Azum Shaboodeen Emamoodeen.....	Moonsiff of Ahmednuggur.
Azum Sheik Huzrutmeea Budroodeen.....	Moonsiff of Jumbooseer.
Azum Wamunrow Purushram	Moonsiff of Hyperga.

At the same Examination, the following CANDIDATES were declared qualified for the Office of MOONSIFF:—

Names.	Designation.
Amrootrow Venaek....	Deshpande, Sattara.
Anundrow Rajaram....	Acting Sheristedar, Judge's Court, Ahmednuggur.
Balacharia Vitulacharia.	Unemployed.
Bhimrow Ramajee	Desaee, Dharwar.
Bulvuntrow Bajee	Vakeel, Moonsiff's Court, Bhewndy.
Chotumlal Oolasram ..	Sheristedar, Judge's Court, Ahmedabad.
Govind Ramchunder ..	Merchant, Dhoolia.
Jadowroy Runchordas..	Deputy Sheristedar, Sudder Adawlut.
Kasinath Ramchunder .	Ditto ditto ditto.
Krishnajee Mahadeo ..	Unemployed.
Krushnarow Pandurung.	Sheristedar to the First Assistant Collector, Dharwar.
Madhowrow Janojee ..	Head English Writer, Adawlut, Khandeish.
Makoond Ballajee	Acting Sheristedar, Assistant Judge's Court, Ahmednuggur.
Nanabhoy Hureedas ..	Fourth Interpreter, H. M.'s Supreme Court.
Narayan Purushram ..	Unemployed; son of a Moonsiff.
Ramchunder Mulhar ..	Vakeel, Tanna Adawlut.
Sitaram Bulvunt.....	Vakeel, Moonsiff's Court, Ahmednuggur.

By order of the Sudder Dewanee Adawlut,
M. A. COXON,
Registrar.

Bombay, Sudder Dewanee Adawlut, 12th March 1857.

OPIUM MEMORANDUM for the Week ending Tuesday, 17th March 1857.

YEARS.	PASSES GRANTED AT INDORE			IMPORTED INTO BOMBAY				EXPORTED BY SEA				Balance.
	Up to 10th Mar. 1857.	From 11th to 17th Mar. 1857.	Total.	Up to 10th Mar. 1857.	From 11th to 17th Mar. 1857.	Lost on the road.	Total.	Up to 10th Mar. 1857.	From 11th to 17th Mar. 1857.	Total.		
For 1854-55 .... Chests.	27,688	..	27,688	27,685½	..	2½	27,688	27,669½	..	27,669½	15½	
„ 1855-56 .... „	20,397	..	20,397	20,393½	..	3½	20,397	20,165½	433½	29,209	184½	
„ 1856-57 .... „	14,200	345	14,545	13,786	229	1	14,016	9,744½	766½	10,511½	3,503½	

Detail of Exports from 11th to 17th March 1857.

		Chests.
FOR THE SEASON 1855-56.		
Per Steamer "Cadiz".....		43½
FOR THE SEASON 1856-57.		
Per Steamer "Cadiz".....		761½
Purchased by Government.....		5
	Total....	810

E. L. JENKINS,
Actg. Depy. Commissioner of Customs, Salt, and Opium.

Bombay, Office of Commr. of Customs, Salt, and Opium, 18th March 1857.

General Orders.

MILITARY DEPARTMENT.

BY THE RIGHT HONORABLE THE GOVERNOR IN COUNCIL.

Bombay Castle, 12th March 1857.

No. 272 of 1857.—The services of Assistant Surgeon R. W. James have been placed at the disposal of His Excellency the Commander in Chief.

Bombay Castle, 13th March 1857.

No. 273 of 1857.—Lieutenant J. Black, 1st Grenadier Regt. N. I., has been appointed Acting Political Agent of Pahlunpoor, during the absence of Lieutenant Colonel Keily, or until further orders.

No. 274 of 1857.—The appointment of Lieutenant C. H. Collier, 21st Regt. N. I., as a Third Assistant Director of the Land Transport Corps of the Persian Expeditionary Force, dates from the 10th of January last.

No. 275 of 1857.—Lieutenant R. R. Woodhouse, 21st Regt. N. I., is placed at the disposal of Lieutenant General Sir J. Outram, K.C.B., for appointment as a Third Assistant Director of the Land Transport Corps of the Persian Expeditionary Force.

No. 276 of 1857.—Captain W. Lancaster, of the 20th Regt. N. I., is allowed a furlough to Europe, on medical certificate, for three years, under the Old Furlough Regulations.

No. 277 of 1857.—Captain H. T. Vincent, of the 7th Regt. N. I., and Military Paymaster of the Sind Division of the Army, is allowed a furlough to Europe on private affairs, for six months, under the New Furlough Regulations.

Bombay Castle, 14th March 1857.

No. 278 of 1857.—Captain J. P. Sandwith, 1st Grenadier Regt. N. I., has been appointed 2nd Class Deputy Collector and Magistrate at Shikarpoor.

No. 279 of 1857.—Captain W. Southey, 48th Regiment Madras N. I., has been appointed Acting 2nd Class Deputy Collector and Magistrate at Jerruck.

No. 280 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, 24th February 1857, No. 314:—

"The Right Honorable the Governor General of India in Council directs that the following Military Letter from the Honorable the Court of Directors to the Government of India, No. 9, dated 2nd January 1857, with enclosure, be published in General Orders:—

'MILITARY DEPARTMENT.

No. 9 of 1857.

Our Governor General of India in Council.

We transmit herewith copy of a letter from the Board of Commissioners for the Affairs of India, dated 15th November 1856, with its enclosure, from the War Department, under which a Quartermaster Serjeant, with the pay of 3*s.* a day, has been added to each Regiment of Cavalry in the Royal Service.

We are, &c.

(Signed) W. H. Sykes,
And nine others.

London, 2nd January 1857.

India Board, 15th November 1856.

Sir,—I am directed by the Commissioners for the Affairs of India to transmit to you the accompanying copy of a Letter from the War Department, dated the 12th instant, regarding the addition of a Quartermaster Serjeant to each Regiment of Her Majesty's Cavalry, and to request that you will move the Court of Directors to communicate the intention of the Secretary of State for the Department of War to their respective Governments in India.

I am, &c.

(Signed) W. Leach.

Sir James C. Melville, K.C.B.

War Department, 12th November 1856.

Sir,—I am directed by Lord Panmure to request that you will state to the Commissioners for the Affairs of India, that in consequence of the increased labour and responsibility which have devolved on the Quartermasters of Cavalry Regiments by reason of certain alterations which have taken place in the mode of supplying the clothing and saddlery, Her Majesty has been pleased to approve of a Quartermaster Serjeant being added to each Regiment of Cavalry with the pay of 3*s.* a day, in order to assist the Quartermaster in the performance of his various duties, and to place the Cavalry on the same footing in that respect as Regiments of Infantry; and I am to request that you will move the Commissioners for the Affairs of India to sanction a similar addition being made to the four Cavalry Regiments now serving within the Territories of the Honorable East India Company, viz. the 9th and 12th Lancers, 14th Light Dragoons, and 6th Dragoon Guards.

I am, &c.

(Signed) G. C. Mundy.'

The Secretary India Board.

(Signed) R. J. H. Birch, Colonel,
Secy. to the Govt. of India, in the Military Department."

No. 281 of 1857.—Veterinary Surgeon A. Turnbull, of the 5th Bengal Light Cavalry, is allowed a furlough to Europe on private affairs, for three years, under the Old Furlough Regulations.

Bombay Castle, 16th March 1857.

No. 282 of 1857.—The following Orders are confirmed :—

Dated 14th February 1857.—By Brevet Lieutenant Colonel Birdwood, appointing Ensign Sandwith, of the 3rd Regt. N. I., to receive charge of the Commissariat and Bazar Departments at Sholapore, in addition to his Regimental duties, vice Captain Neale.

Dated 22nd February 1857.—By Major Strange, appointing Captain Jones, of the 2nd Regiment Madras Light Cavalry, to act as Line Adjutant at Sholapore, without prejudice to his Regimental duties, during such time as Brevet Major Carruthers may be in Command of the Regiment.

Dated 24th February 1857.—By Brigadier Hobson, appointing Captain Bolton, Acting Assistant Quartermaster General, to act as Assistant Adjutant General Northern Division of the Army, during the absence of Brevet Lieutenant Colonel Leith on leave to Bombay.

Dated 2nd March 1857.—By Major Strange, appointing Captain Jones, of the 2nd Regiment Madras Light Cavalry, to receive charge of the Commissariat and Bazar Departments at Sholapore, from the 3rd idem, in addition to his duties of Acting Line Adjutant, on the departure of Ensign Sandwith from that Station.

No. 283 of 1857.—Captain J. D. DeVitre, Assistant Superintendent Revenue Survey, Khandeish, is placed at the disposal of His Excellency the Commander in Chief.

No. 284 of 1857.—Major Haselwood, Superintendent of Police in Khandeish, has been granted leave of absence for three months, the first month being allowed as privilege leave.

No. 285 of 1857.—The services of Serjeant Assistant Overseer Tracy, of the Public Works Department, are placed at the disposal of His Excellency the Commander in Chief, for Foreign Service.

No. 286 of 1857.—The following Orders are confirmed :—

Dated 6th January 1857.—By Brevet Colonel Macan, making over Command of the Station of Shikarpoor to Major Munro, of the 16th Regt. N. I., the next senior Officer, on the departure of the former Officer.

Dated 28th January 1857.—By Captain Forbes, appointing Lieutenant A. T. Moore to act as Adjutant to the 3rd Regiment Light Cavalry, vice Wren, promoted, and Lieutenant A. T. Spens as Acting Quartermaster to the Regiment, vice Moore.

Dated 12th February 1857.—By Major Duncan, appointing Lieutenant Clarke to act as Interpreter to the 24th Regt. N. I., until further orders, vice Lieutenant Neave, proceeded on Field Service.

Dated 14th February 1857.—By Lieutenant Colonel Lowth, appointing Lieutenant Knight, of the 1st Belooch Battalion, to act as Interpreter to the 1st European Regiment (Fusiliers), in the absence of another qualified Officer.

Dated 16th February 1857.—By Major General Scott, C.B., appointing Lieutenant Furneaux, of the 1st European Regiment (Fusiliers), to act as Adjutant to the 1st Belooch Battalion, until further orders, vice Knight, Acting Second in Command.

Dated 18th February 1857.—By Major Stewart, appointing Captain Stevenson to act as Adjutant to the 14th Regt. N. I., until the arrival of Lieutenant Preston, vice Leith.

Dated 19th February 1857.—By Major General Wilson, appointing Assistant Surgeon Nuttall, of the 29th Regt. N. I., to act as Staff Surgeon and Deputy Medical Storekeeper at Belgaum, as a temporary measure, in addition to his other duties, until further orders, vice Waller.

Dated 20th February 1857.—By Captain Groube, appointing Lieutenant Lord to act as Quartermaster to the 13th Regt. N. I., during the absence of Lieutenant Barnes on duty.

Dated 21st February 1857.—By Brigadier Macan, directing, at the requisition of the Political Agent in Meywar, Assistant Surgeon H. Cotes, Deputy Medical Storekeeper, on the departure of the Civil Surgeon at Neemuch, to afford medical aid to the Political and Civil Establishments at that Station, until further orders.

Dated 25th February 1857.—By Major Watkin, appointing Lieutenant Goodfellow to act as Quartermaster to the 15th Regt. N. I., until further orders, vice Lieutenant Coles, proceeding on furlough to Europe.

Dated 26th February 1857.—By Lieutenant Colonel Lowth, appointing Lieutenant Knight, of the 1st Belooch Battalion, to act as Interpreter to the 14th Regt. N. I., in the absence of another passed Officer in the Regiment, vice Weston.

Dated 28th February 1857.—By Captain Kemball, appointing Second Lieutenant Vachell to act as Adjutant and Quartermaster of Artillery, Southern Division, in addition to his Company duties, until the arrival of Lieutenant Marett, vice Lieutenant Brown, ordered to Bhooj.

Dated 3rd March 1857.—By Brigadier Shortt, appointing Lieutenant Keys, of the 11th Regt. N. I., to act as Interpreter to the 15th Regt. N. I., until further orders, vice Lieutenant Coles, proceeding on furlough to Europe.

No. 287 of 1857.—Captain C. Scott, Executive Engineer Ahmedabad and Kaira Collectorates, has been granted leave of absence, under the New Furlough Regulations, from the 3rd March to the 2nd April 1857, inclusive.

No. 288 of 1857.—Captain W. S. Hewett, 11th Regt. N. I., has been appointed Supernumerary Deputy Collector and Magistrate at Sukkur.

Bombay Castle, 17th March 1857.

No. 289 of 1857.—Brevet Major North, Engineers, is placed at the disposal of Lieutenant General Sir James Outram, K.C.B., for special duty with the Expeditionary Force in Persia.

No. 290 of 1857.—The Right Honorable the Governor in Council is pleased to make the following appointments, to have effect until further orders, in supersession of those announced in General Order No. 271, dated the 11th instant:—

Captain W. Leckie, 13th Regt. N. I., to officiate as Military Paymaster at the Presidency, vice Robertson, proceeding with his Regiment on Service.

Captain Henderson, 29th Regt. N. I., to act as Paymaster Poona Division of the Army, vice Landon, proceeding with his Regiment on Service.

No. 291 of 1857.—Sub-Conductor P. Donohoe, of the Department of Public Works, is promoted to Conductor, from the 20th February 1857, in succession to Wilcox, resigned the Service.

Serjeant Roberts to be Sub-Conductor, from the 20th February 1857, vice Donohoe, promoted.

Bombay Castle, 18th March 1857.

No. 292 of 1857.—Captain A. L. Peel, H. M.'s 52nd Regiment, is appointed an Aide-de-Camp on the Personal Staff of the Right Honorable the Governor, vice Elliot. Date of appointment 11th January 1857.

No. 293 of 1857.—Lieutenant D. Hutcheon, 2nd Regiment European Infantry, is appointed a Sub-Assistant Commissary General on probation, and attached to the Commissariat Department with the Persian Expeditionary Force.

By order of the Right Honorable the Governor in Council,

P. M. MELVILL, Colonel,
Secretary to Government.

MARINE DEPARTMENT.

Bombay Castle, 13th March 1857.

No. 50 of 1857.—Commander A. Macdonald is allowed a furlough to Europe on medical certificate, for three years, under the Old Furlough Regulations.

No. 51 of 1857.—Lieutenant George Way is permitted to proceed to Quilon and the Western Coast until the expiration of the leave granted him by General Order No. 154, dated the 24th of September last, on medical certificate.

No. 52 of 1857.—Mr. Thomas Henry Lovegrove, 1st Class Engineer, is allowed leave of absence to Khandalla and Mahableshwur, for two months, on medical certificate.

Bombay Castle, 16th March 1857.

No. 53 of 1857.—The Right Honorable the Governor in Council is pleased to make the following temporary appointments in the Master Attendant's Department, consequent upon Mr. Pryce's return to duty:—

Mr. Pryce, Second Assistant, to be Acting First Assistant.

Mr. Kennelly, Acting Master, to be Acting Second Assistant.

Mr. Cork, Acting Second Assistant, to revert to his former appointment of Third Assistant.

Mr. Goward, Acting Third Assistant, to revert to his former grade of Senior Pilot.

No. 54 of 1857.—Mr. St. Leger Williams, Captain's Clerk, is admitted to the Service, in conformity with his appointment by the Honorable the Court of Directors, from the 10th instant, the date of his arrival.

Bombay Castle, 17th March 1857.

No. 55 of 1857.—Commander H. W. Grounds returned to his duty on the 9th instant, with the permission of the Honorable the Court of Directors.

By order of the Right Honorable the Governor in Council,

P. M. MELVILL, Colonel,
Secretary to Government.

Civil Appointments, &c.

POLITICAL DEPARTMENT.

Bombay Castle, 16th March 1857.

Mr. B. H. Ellis has been appointed Acting Commissioner in Sind, from the 6th instant, on which date he received charge of that appointment from Brigadier General John Jacob, C.B.

Assistant Surgeon R. G. Lord, M.D., assumed charge of his duties, as Civil Surgeon in Kattywar, on the 3rd instant.

JUDICIAL DEPARTMENT.

Bombay Castle, 18th March 1857.

Mr. C. J. Erskine, Acting Judge and Session Judge of the Konkun, received charge of the Tanna Adawlut on the 16th instant.

By order of the Right Honorable the Governor in Council,
H. L. ANDERSON, *Secretary to Government.*

TERRITORIAL DEPARTMENT,

REVENUE.

Bombay Castle, 14th March 1857.

Mr. C. Daly, of the Civil Service, is permitted to proceed from Ahmednuggur to the Presidency, for the purpose of appearing before the next Vernacular Examination Committee.

Lieutenant A. Phillips, Assistant Superintendent Rutnagherry Revenue Survey, has been granted privilege leave of absence from the 25th instant to the 25th proximo.

Rao Bahadoor Appajee Ramchunder, employed under the orders of the Revenue Commissioner for Alienations, on special duty in Guzerat, is allowed leave of absence for twenty-five days, under Section VI. of the Uncovenanted Service Absentee Rules.

Bombay Castle, 16th March 1857.

Mr. Alexander Gray to officiate as Collector and Magistrate of Kurrachee, during the absence of Major Preedy, or until further orders.

Mr. H. W. Hathway, Supernumerary Assistant Superintendent Poona and Tanna Revenue Survey, has been appointed to act as an Assistant Superintendent, during the absence of Lieutenant W. Waddington on Field Service.

Bombay Castle, 17th March 1857.

Lieutenant A. Cowper, Superintendent Revenue Survey and Assessment, Guzerat, assumed charge of his duties on the 7th instant.

Mr. J. D. Inverarity, Collector and Magistrate of Tanna, assumed charge of his duties on the 13th instant.

Bombay Castle, 18th March 1857.

Mr. F. Macnaghten, of the Civil Service, is permitted to proceed from Ahmednuggur to the Presidency, for the purpose of appearing before the next Vernacular Examination Committee.

Messrs. J. B. Peile, W. G. Pedder, and W. Ramsay, of the Civil Service, are permitted to proceed from Surat to the Presidency, for the purpose of appearing before the next Vernacular Examination Committee.

Mr. W. G. Harrison, Supernumerary Assistant to the Superintendent of the Poona and Tanna Survey, is allowed leave of absence from the 1st April to the 15th May 1857, to proceed to the Presidency, to appear before the next General Examination Committee, for examination in the Murathee language.

The following appointments are made in the Department of the Commissioner of Customs, Salt, and Opium, consequent on Mr. A. W. Elliot having obtained leave of absence for twelve months, to proceed to England on medical certificate :—

Mr. W. A. Pelly to act for Mr. Elliot; the remaining Assistants down to Mr. A. DeSouza to act for their immediate Seniors.

Mr. Meerjeebhoy Viccajee to act for Mr. DeSouza.

The following Gentlemen of the Civil Service have been directed to study the Vernacular languages at the Stations indicated :—

Mr. H. E. Jacomb, Murathee, at Tanna.
Messrs. W. R. Pratt and T. M. Mason, Guzerathee, at Surat.
Mr. H. Burra, Murathee, at Sattara.
Mr. J. H. Grant, Murathee, at Rutnagherry.
Mr. J. A. Hankey, Murathee, at Mahableshwur.

By order of the Right Honorable the Governor in Council,
H. YOUNG, *Offg. Chief Secretary.*

GENERAL DEPARTMENT.

Bombay Castle, 17th March 1857.

Sub-Assistant Surgeon Burjorjee Ardaseer is appointed temporarily to the charge of the Civil Medical duties at Kaira.

Bombay Castle, 18th March 1857.

Assistant Surgeon Thompson, of the Bombay Medical Establishment, attached to the Bhopal Contingent, has passed a Colloquial examination in Hindoostanee.

Sub-Assistant Surgeon M. Continho is permitted to resign the Honorable Company's Service.

Mr. J. W. Scott, Supernumerary Assistant, Khandeish Revenue Survey, has passed an Examination in the Murathee language.

Sub-Assistant Surgeon Shamrao Narrayen, in medical charge of the Civil duties at Nassick, has been allowed leave of absence on medical certificate, from the 15th February to the 15th March 1857, to proceed to Bombay.

PUBLIC WORKS DEPARTMENT.

Bombay Castle, 16th March 1857.

The services of Captains G. W. Price and J. Daun, of the 3rd Europeans, employed in the Public Works Department, have been placed at the disposal of His Excellency the Commander in Chief, temporarily, for duty with their Regiment, proceeding on Field Service.

Bombay Castle, 17*th March* 1857.

The services of Brevet Major C. F. North, and Mr. S. Perkes, Civil Engineer, are temporarily placed at the disposal of His Excellency the Commander in Chief, for service with the Expeditionary Force in Persia.

ECCLESIASTICAL DEPARTMENT.

Bombay Castle, 16*th March* 1857.

The Reverend R. E. Tyrwhitt, Chaplain of Nusseerabad, is allowed leave of absence, on medical certificate, from the 20th January to the 19th March 1857, inclusive, and fifteen months' sick leave to Europe, from the 20th March 1857.

Bombay Castle, 18*th March* 1857.

The leave of absence for one month granted to the Reverend W. Goodall, Chaplain of Ahmednuggur, under date the 19th January 1857, is extended to the 3rd March 1857.

The Reverend W. Goodall, Chaplain of Ahmednuggur, resumed charge of his duties on the 4th March 1857.

By order of the Right Honorable the Governor in Council,
W. HART, *Secretary to Government.*

TERRITORIAL DEPARTMENT,

Finance.

The subjoined Notification, issued by the Government of India, is republished for general information, with reference to the Notification of this Government dated the 3rd October 1855 :—

No. 10.

Fort William, Financial Department,
The 6th February 1857.

Notification.—Read again the papers noted in the margin.

Financial Consultation 7th September 1855, Nos. 89 and 90.

Read para. 85 of a Despatch from the Honorable the Court of Directors, addressed to the Government of India, in the Financial Department, No. 97 of 1856, dated the 19th November.

Para. 85. We cannot acquiesce in your having ruled that it may be "discretional with the several local Governments, when good cause is shown for the indulgence, to sanction leave of absence, under Section XIV. of the New Rules" (the Section which authorises the grant of six months' leave on special private affairs) " to such parties as may not have occasion to apply for the whole at once, in instalments not to exceed in the aggregate six months in six years." This interpretation would have the practical effect of making the grant of this description of leave almost as much a matter of course as the grant of the privilege leave of one month in each year, whereas it is our intention, and Clause 3 of the Rule, Section XIV., expressly states, that it should be the duty of the Government to consider and determine, in each case, whether the grounds of the application are sufficiently urgent to justify the concession of the leave. The Rule will therefore remain in its original form.

Letter from, dated the 10*th March* 1856, *No.* 50.
Report proceedings in the Financial Department for the Third Quarter of 1855. 320 to 322. Report proceedings on an inquiry by the Bombay Government as to the interpretation placed upon that part of Clause 2, Section XIV., of the New Civil Furlough Rules (regarding special leave for six months, on private affairs), which prescribes that a second leave of the same description cannot be taken until the expiration of six years from the date of return to duty from any former leave.

Order.—Ordered, that a copy of the above paragraph be published in the Calcutta official *Gazette* for general information, and that a transcript thereof be sent to the Governments noted in the margin, and also to the Civil Auditor, Fort William, in supersession of the Orders dated 7th September 1855.

Bengal.
Fort St. George.
Bombay.
N. W. Provinces.
Straits' Settlements.

(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, 16*th March* 1857.

GENERAL DEPARTMENT.

Whereas it is provided by Act No. XXVI. of 1850, that whenever any application shall be made to the Government for putting the said Act in force in any Town or Suburb, notice thereof shall be given in the *Government Gazette* of the Presidency or place, and also by Proclamation within such Town or Suburb, setting forth the purposes of the application, and giving reasonable time for all Inhabitants of such Town or Suburb to declare themselves for or against the adoption of the said Act therein, for such purposes, or any of them; and whereas application has been made to the Government that the said Act No. XXVI. of 1850 may be put in force within the Town of Morassa, for the purpose of making better provision for making, repairing, cleaning roads, drains, and tanks, and for improving the said Town, and preventing any nuisances arising therein : Notice of the application aforesaid is hereby given, and all Inhabitants of the said Town of Morassa are hereby informed, that such of them as are minded to declare themselves for or against the adoption of Act No. XXVI. of 1850 in the Town of Morassa, for the purpose described in the application aforesaid, or any of them, may declare themselves accordingly before J.W. Hadow, Esq., the Magistrate of Ahmedabad, at any time during the usual Office hours, within two months from this date.

By order of the Right Hon'ble the Governor in Council,
W. HART,
Secretary to Government.
Bombay Castle, 14*th March* 1857.

MARINE DEPARTMENT.

The Sums below indicated, subscribed for a Testimonial to the memory of the late Mr. Purser Hyslop, and deposited in the Marine Department of the Military Pay Office, remaining unclaimed, it is hereby notified that the several sums

will be repaid to the Subscribers, or to their Agents on their authority, or to the Representatives of such as are deceased, on production of the necessary proof, within twelve months from this date, after which no claims will be entertained :—

List of Subscribers.

Lieutenant G. B. Kempthorne....	Rs. 20
Mr. F. P. Hora, Clerk.....	20
Commander W. Lowe	50
Lieutenant J. S. Draper	20
Lieutenant N. Ford	20
Mr. C. J. Metcalf.....	20
Lieutenant C. W. Montriou.....	30
Mr. Purser Sutherland	20
Lieutenant J. S. Grieve.....	20
Lieutenant P. Webb.....	30
Lieutenant H. C. Boulderson	30
Purser J. Ward.....	20
Purser F. G. Bone	20
Purser J. Harrison	30
Lieutenant H. Berthon.....	40
Purser J. C. Ibbs	20
Lieutenant J. Stephens.....	20
Purser J. Stockham	30
Purser R. G. Betham	50
Lieutenant W. C. Campbell.....	20
	Rs. 530

P. M. MELVILL, Colonel,
Secretary to Government.

Bombay Castle, 16th March 1857.

MEDICAL DEPARTMENT,
CIVIL.

No. 40 of 1857.—Senior Apprentice Ram Bhawoo, of the Vaccination Establishment, Konkun Division, to be an Assistant Vaccinator, vice Balloo Canoo, dismissed.

No. 41 of 1857.—Luxumun Powar is admitted into the *Vaccination Establishment, Konkun Division, as Junior Apprentice, to fill a vacancy.*

Bombay, Medical Board Office, 16th March 1857.

By order of the Medical Board,
W. C. COLES, M.D., Assist. Surg.,
Acting Secretary Medical Board.

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.

જાહેરનામું.

એહેવું જે તારીખ ૨૩ મી માહે ડિસેંબર સંને ૧૮૫૬ ને દિવસે મિંટ માસ્તરે જાહેરનામું પ્રગટ કરવું છે તે બાબત મિંટ કમિટિના હુકમથી મિંટ માસ્તર એહેવું જાહેર કરે છે કે, લંડનના ચાંદીના લાદા હાલ ઘણા આવ્યા છે તથા ઘણા આવવાના છે વાસ્તે બિજું જાહેરનામું પ્રગટ કરવામાં આવે ત્યાંહાં સુધી સદર્હુ પ્રકારની ચાંદી પ્રથમ ગલાવીઆ સિવાય તથા ચાલતા મહિનાની પેહેલી તારીખની અગાઉ સદર્હુ પ્રકારની ચાંદી જે રીતે લેતા હતા તેમ ટંકસાલમાં લેશે પણ ઇનવોઇસમાં ચાંદીનો જે ટચ લખેલો હોય તે બ્રિટિશ ઇંડિઆના ઠરવેલા ચાંદીના ટચ કરતાં વધતો હોય એટલે રોકડે ૯૧.૬૬ થી વધતો હોય તોજ લેશે.

નાણું આગલ પ્રમાણે પ્રથમથી ગાલા કરશે અને જે ચાંદી ખરેખરી પ્રથમ ગાલશે તેનોજ માત્ર પ્રથમ ગાલવાનો ખર્ચ લેશે.

સહી.
જેમ્સ હેનરી બર્ક કૃપતાંન,
મિંટ માસ્તર.

તારીખ ૨૪ મી માહે જાનેવારી સંને ૧૮૫૭ ઇસવી
મુકામ મુંબઈ ટંકસાલ.

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.	*Rs. a. p.*
Ditto Poona	ditto ditto.	
Ditto Ahmednuggur	ditto ditto.	2 8 0
Ditto Sattara Territory	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. 3-8-0 or Rs. 4 mounted on cloth.

CHARLES WADDINGTON,
Major General, Chief Engineer.

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

MILITARY

ARRIVALS AND DEPARTURES.

1857 ARRIVALS.

10th Mar.—Lieutenant F. P. Forteath, 12th Regt. N. I., on duty, from Deesa.

" " Lieutenant R. J. Hotchkis, 12th Regt. N. I., on duty, from Deesa.

" " Lieutenant G. C. Robinson, Madras Artillery, on duty, from Khandalla.

" " Assistant Surgeon J. Kearney, Medical Establishment, to join, from England.

" " Major E. V. P. Holloway, 42nd M. N. I., to rejoin, from England.

" " Captain C. W. Bannister, 2nd Light Cavalry, to rejoin, from England.

10th Mar.—Lieutenant S. Y. Howison, 12th Regt. N. I., to rejoin, from England.
" " Captain C. D. Waddell, Madras Artillery, on duty, from Khandalla.
12th " Lieutenant W. R. Alexander, Poona Horse, on special duty, from Khandalla.
13th " Lieutenant Colonel G. Malcolm, Southern Muratha Horse, on special duty, from Khandalla.
" " Brevet Major C. F. North, Engineers, on duty from Southern Konkan.
14th " Lieutenant Colonel J. Pope, 17th Regt. N. I., on medical certificate, from Bhooj.
" " Major W. Reynolds, Pension Paymaster, on duty, from Nassick.
" " Lieutenant H. M. B. Sandwith, 3rd Regt. N. I., to join Marine Battalion, from Sholapoor.
16th " Lieutenant G. Smith, Poona Horse, on duty, from Seroor.
" " Assistant Surgeon Robinson, Bengal Army, on medical certificate, from Attock.
" " Lieutenant G. G. Brown, Artillery, *en route* to Persia.
17th " Lieutenant H. F. Vachell, Artillery, *en route* to Persia, from Belgaum.
" " Lieutenant Colonel Ramsay, 11th Regt. N. I., on duty, from Bushire.

1857 DEPARTURES.

11th Mar.—Captain J. A. Anderton, 19th Regt. N. I., to join to Malligaum.
14th " Lieutenant R. J. Hotchkis, 12th Regt. N. I., on duty, to Poona.
" " Major W. Reynolds, Pension Paymaster, on duty, to Poona.
15th " Lieutenant F. P. Forteath, 12th Regt. N. I., on duty, to Vingorla.
16th " Captain John Forbes, 3rd Light Cavalry, on medical certificate, to Mahableshwur.
" " Surgeon B. White, Medical Staff, on duty, to Surat.
17th " Captain W. J. Anderson, 11th Regt. N. I., on duty, to Wagotun.
" " Lieutenant Colonel G. Malcolm, Southern Muratha Horse, to rejoin, to Panwell or Oolwa.
" " Lieutenant S. Y. Howison, 12th N. I., on leave, to Mahableshwur.
" " Major A. A. Drummond, 11th Regt. N. I., on leave, to Poona.
" " Captain E. W. Lyons, Acting Deputy Assistant Quartermaster General, on duty, to Khandalla.
18th " Captain H. Lancaster, 20th Regt. N. I., on medical certificate, to Europe.

Bombay, Town Major's Office,
18th March 1857.

ORIENTAL BANK CORPORATION.

Bombay Agency.

EXCHANGE.

THE CORPORATION grants Drafts on London on Demand and at from one day to six months' sight, and Drafts on Scotland and Ireland on Demand, also Circular Notes negotiable in Egypt, Syria, the Continent of Europe, New York, the West Indies, New South Wales, and the Cape of Good Hope.

The current rates of Exchange are:—

On London at 6 months' sight	2s.	1½d.	per Rupee.
" " 3 " "	2s.	1½d.	"
" " 2 " "	2s.	1d.	"
" " 1 " "	2s.	0½d.	"
" " 1 day's sight			
On Scotland on demand	2s.	0¾d.	"
On Ireland "			
Circular Notes "	2s.	0½d.	"
On Paris at 3 days' sight			

No Draft at six months' sight is granted for sums under £50. Sums under £20 are only drawn for on Demand.

COMMISSION.

The rate of Commission charged by this Agency, on the purchase or sale of Government Securities negotiable in Bombay is one-quarter per cent. on the amount invested or realized, and on the collection of Bills one per cent. and Postage.

The Corporation takes charge of Government Paper, Shares in the Bank of Bombay, and other local Stocks, free of all charges, and will draw Interest and Dividends on the same as they fall due, on the following terms:—

If to be remitted through the Corporation .... Without charge.
If to be paid in India, a Commission will be charged of .... ½ per cent.
On returning Government Paper out of safe custody .... ½ per cent.
Hours of Business .... 10 to 4
Saturdays .... 10 to 1

Bombay, 18th March 1857.

LONDON & EASTERN BANKING CORPORATION.

Incorporated by Royal Charter.

HEAD OFFICE, 27, CANNON STREET, LONDON.

CAPITAL—*Half a Million, of which Half is paid up.*

TRUSTEES, DIRECTORS, AND OFFICERS OF THE CORPORATION FOR 1856-57.

Trustees.

Major General George Brooke, C.B., 27, Cannon Street.
Colonel Thomas Chadwick, Porchester Terrace, Hyde Park.
Colonel J. G. W. Curtis, C.B., Fareham, Bury St. Edmund's.

Directors.

John Carnac Morris, Esq., F.R.S., *Chairman.*
Honorable John C. Erskine, *Deputy Chairman.*
Henry Fendall, Esq. | Robert J. Lattey, Esq.
Colonel W. P. Waugh. | Colonel E. R. W. W. Yates.
John Edward Stephens, Esq., *General Manager.*
James Black, Esq., *Secretary and Registrar.*
Auditors—William Feigate, Esq.; Augustus Walter, Esq.
Standing Counsel—Henry S. Keating, Esq., M. P., Q. C.
Solicitors—Messrs. Oliverson, Lavie, and Peachey.

LONDON BRANCHES.

Hyde Park Branch—136, Westbourne Terrace—T. J. A. Jenkins, Esq., *Manager.*
Pall Mall Branch—20, Pall Mall—Edward King, Esq., *Manager.*
Mark Lane Branch—44, Mark Lane—John Powell, Esq., *Manager.*

INDIAN BRANCHES.

CALCUTTA.

John Mackellar, Esq., *Manager.*
R. D. Turnbull, Esq., *Sub-Manager.*

BOMBAY.

C. P. Barclay, Esq., *Sub-Manager in Charge.*

AGENTS.

The Simla Bank, *Simla.*
The Delhi Bank, *Delhi.*
The Uncovenanted Service Bank, *Agra.*

THE BOMBAY BRANCH.

BUSINESS IS TRANSACTED AT THE BOMBAY BRANCH ON THE FOLLOWING TERMS.

INTEREST.

On Current Accounts (or sums over Rs. 500 and not exceeding Rs. 25,000) .... 2 per cent.
On deposits for 15 days, and thereafter requiring 15 days' notice previous to withdrawal .... 3 per cent.
On deposits payable at call, subject to a Commission of ½ per cent. on all sums withdrawn .... 4½ per cent.
For money deposited on the following terms, Bank Post Bills will be given:—
On Deposits for 1 month .... 3 per cent.
2 months .... 3½ "
3 do. .... 4½ "
6 do. .... 5 "
12 do. .... 6 "

The Bank does not reserve the right of paying off deposits till the expiry of the term for which they have been received.

Deposits may be withdrawn without the usual notice if taken in the Bank's Bills on London at the advertised rates of the day.

EXCHANGE.

Bills on London at 6 months' sight	2s.	1½d.	per Rupee.
" 3 "	2s.	1½d.	"
" 2 "	2s.	1d.	"
" 1 "	2s.	0½d.	"
" 1 day's "	2s.	0¾d.	"
Bills on Scotland at 30 days' "	2s.	0¾d.	"
" 1 day's "	2s.	0¾d.	"
Bills on Ireland at 1 day's "	2s.	0¾d.	"

For the convenience of parties not resident in Bombay, the Corporation undertakes to remit to Europe, *by its own Drafts*, at the current Exchange, and without any charge for Commission, on receiving the equivalent.

COMMISSION.

On the Purchase or Sale of Government or other Securities ....
On the Collection of Foreign Bills, &c.... ....
On realising Interest or Dividends.... } *One-Quarter per Cent.*

If the funds realised on account of Constituents are to be remitted in Bills of the Corporation, no Commission will be charged.

The Bank undertakes the custody of Government Paper, Bank Shares, and other Securities for *Constituents* without charge.

The Bank grants Drafts on Calcutta, Agra, Simla, Delhi, &c.

C. P. BARCLAY, Sub-Manager in charge.

No. 5, Forbes Street, Bombay, 11th March 1857.

NOTICE is hereby given, that the CO-PARTNERSHIP carried on for some time past at Bombay and elsewhere by JOHN TREACHER and JOHN SPARKS, under the FIRM of TREACHER and Co., was, on the 31st day of January last, dissolved by mutual consent. The business will in future

be carried on under the FIRM of TREACHER & Co., by Mr. JOHN TREACHER, who is empowered to discharge and settle all Debts due to and by the said co-partnership concern. All persons indebted to the late FIRM are respectfully requested to make arrangements for the speedy payment of their DEBTS.—*Dated the 7th day of February* 1857.

JOHN TREACHER.
JOHN SPARKS.

INDIA AND LONDON LIFE ASSURANCE COMPANY.

THE Scales of Premiums of this Company are now greatly reduced, and the Lives of healthy persons, Civil or Military, in any part of the world, are assured at as low rates of Premium as can be taken consistently with perfect security.

Extract from the Tables of Annual Premiums required for an Assurance of Rs. 1,000, *or* £100, *at the Reduced Rates.*

Age.	CIVILIANS. One year.	CIVILIANS. Seven years.	CIVILIANS. Whole life.	MILITARY AND NAVAL. One year.	MILITARY AND NAVAL. Seven years.	MILITARY AND NAVAL. Whole life.
	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.	Co.'s Rs.
18	18	20	27	24	26	32
25	22	23	31	28	29	36
30	25	26	34	31	32	39
35	28	30	38	34	36	43
40	31	33	43	37	39	47
45	35	37	48	41	43	52

Prospectuses and every requisite information obtained on application to the Agents of the Company.

GREY & Co.

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Shortly will be ready (in foolscap),

SEPARATE GENERAL ORDERS

ISSUED BY

HIS EXCELLENCY THE COMMANDER IN CHIEF

DURING 1856.

*** The several Sections of the above General Orders, issued from time to time, have been reprinted with the sanction of the Authorities.

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Post Office Notifications.

OVERLAND MAIL.

The Overland Mail, per P. & O. Company's Steamer "SINGAPORE," will be closed on THURSDAY, the 2nd proximo, 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 *viâ* Marseilles or *viâ* Southampton, may be prepaid or not, at the option of the sender.

The Inland and Steam Postage on Letters for Foreign Europe, *viâ* Trieste, as well as for places in the Mediterranean, Egypt, and Suez, remains unaltered: eight annas per ½ 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 *viâ* Southampton.

Post Office Packets for CEYLON, PENANG, SINGAPORE, HONGKONG, and COCHIN, per P. & O. Company's Steamer "PEKIN," will be closed on TUESDAY, the 31st 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.

W. BLOWERS,
Bombay Post Office, 18*th March* 1857. Deputy Post Master General.

NOTICE.

The following alterations in the issue of Overland Mails are, under authority, published for general information:—

From and after 1st April next, at which date existing Tickets will cease to have effect, a payment of Rupees Twelve per annum will be required from all individuals or firms who may wish to have private boxes in the Bombay Post Office, or their Letters issued at the Window Delivery by Tickets.

The latter will, on production, entitle holders to receive their Overland Letters and Summaries at any hour of day or night after the distribution of the Mail commences.

Persons not desirous of the privilege will receive their letters and papers, as usual, through the Delivery Peons, but no general distribution will take place from the Post Office after 7 P. M., and unless the Steamer anchors before 5 P. M.

There will be no alteration in the ordinary delivery of 6 A. M., 9 A. M., and 12 noon.

W. BLOWERS,
Bombay Post Office, 18*th March* 1857. 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.
Pekin	P. & O. Steam Navigation Company	1st April	Hongkong	Cochin, Galle, Penang, and Singapore.
Singapore	Ditto ditto	3rd „	Suez	Aden.
Victoria	Bombay Steam Navigation Company	12 hours after the arrival of the Overland Mail	Kurrachee.	
America	Messrs Heycock & Co.	18th March	Liverpool.	
Minerva	„ Vinay, Fils, & Co.	21st „	Bordeaux.	
British Lion	„ Ritchie, Steuart, & Co.	25th „	Liverpool.	

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.
Carnac	13th March	Surat.
Lowjee Family	18th „	Do.

W. BLOWERS,
Bombay Post Office, 18*th March* 1857. Deputy Post Master General.

NOTICE.

ONE ANNA STAMPED ENVELOPES are for SALE at this Office.

W. BLOWERS,
Deputy Post Master General.

Bombay Post Office, 18th February 1857.

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, *viâ* 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 *viâ* 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 ½ an ounce ..... 4 annas.
Exceeding ½ 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.

E. IMPEY,
Post Master General.

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

NOTICE.

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

(Signed) R. H. WILLIAMSON,
Post Master General.

Madras Post Master General's Office, 28th November 1856.

E. IMPEY,
Post Master General.

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

NOTICE.

The Public are informed that the *Transit* rate of Postage on Letters conveyed to and from England and India *viâ 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 ¼ of an ounce	0 4 0	0 2 0	0 6 0
Ditto ½ of an ounce	0 4 0	0 4 0	0 8 0
Ditto ¾ 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 *viâ 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, *viâ 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.

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

29*th January* 1857.

E. IMPEY,
Post Master General.

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

SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

THURSDAY, 19TH 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:—

Preamble.

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.

Territorial scope of Act.

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.

Jurisdiction of the Sudder Court.

Chapter II.

CIVIL COURTS SUBORDINATE TO THE SUDDER COURT.

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

Grades of District Judges.

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.

Their Courts, how to be denominated.

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.

Their appointment, suspension, and removal.

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:—

Declaration on entering upon office.

"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.

Seal.

6. It shall rest with the Governor General in Council, upon the report 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.

Ministerial Officers.

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.

Civil Courts have cognisance of all suits unless specially barred.

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.

Unless already heard and determined.

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.

Government officers who are subject to the Civil Courts for official acts.

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.

No person excepted from jurisdiction by reason of place of birth or of descent.

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:—

Moonsiffs, their jurisdiction.

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.

Pecuniary limitation.

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.

Jurisdiction in cases of set-off.

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.

Principal Sudder Ameens, their jurisdiction.

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.

To exercise the powers of Moonsiff at the Sudder 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.

Zillah Judge, original jurisdiction.

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.

Suits for real property situate within different jurisdictions of the same Zillah.

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.

Suits for real property situate in different Zillahs.

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.

Suits for real property in Zillah Courts subject to different Sudder Courts.

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 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.

By whom judicial decisions may be revised.

Chapter III.

PRELIMINARY RULES.

1. All applications to any Civil Court, and all 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.

Parties may appear in person or by vakeel.

2. In all cases in which a party shall appear 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.

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

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

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

4. Any person who may be authorised, as in 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.

Who may appear personally, or appoint vakeel.

Chapter IV.

OF A SUIT TILL FINAL DECREE.

Of the Institution of Suits.

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

Suits to commence with summons.

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.

3. The application shall be accompanied by the following particulars, distinctly written in the language in ordinary use in proceedings before the Court, namely—

Particulars to be given with the application.

(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, 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.

Application to be rejected if the claim is beyond the jurisdiction of the Court.

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.

Reference to be made to the Judge in a suit for property in different jurisdictions.

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.

When the claim is within the Court's jurisdiction, the officer shall enter the particulars in a register.

7. The register shall be kept in the form contained in the Schedule (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.

Form of the register.

8. When the plaintiff's demand is founded on any instrument in writing, as constituting or acknowledging the demand, such as a bond, tumussook, 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 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.

Document of debt should be shown to the officer.

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.

Summons may be for settlement of issues, or final disposal.

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 :—

Directions to be endorsed on summons to settle issues.

(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, this further direction shall be endorsed thereon:—

Further direction on summons for final disposal of the case.

(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 subpœnas 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, exclusive 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.

Time for appearance on a summons to settle issues.

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.

Time for appearance on a summons for final disposal of the case.

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.

Summons shall be served by the officer.

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.

Latest day of service to be written at foot of the summons.

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.

How service shall be made.

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.

When there are several defendants.

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.

Service to be on defendant in person, or on his accredited agent.

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.

Who may be agent for this purpose.

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

Accredited agents of Government.

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.

If defendant cannot be found, service may be made on a member of his family.

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.

If the summons cannot be served, it is to be returned with an endorsement of non-service.

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.

If served, time and manner of service to be endorsed.

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.

If the summons be returned unserved, the plaintiff may apply to the Court to substitute service.

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.

When service is substituted, the time for appearance is to be enlarged.

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.

How the summons is to be served when the defendant is out of the jurisdiction.

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.

How it is to be served when he is out of the territories of the East India Company.

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.

How native officers and soldiers are to be served.

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.

Substitutes for the summons in the case of privileged persons.

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.

List of privileged persons to be kept by the officer of Court.

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.

Service how to be made on privileged persons.

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.

In certain cases of inheritance a proclamation for claimants to be issued at the same time as the summons to the defendant.

34. In every suit concerning the succession or 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 proprety 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.

Proclamation how to be published.

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.

Proclamation may be issued in any suit by order of the Court.

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.

If any claimant appear, he is to be treated as 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.

If the suit be against the Government or its officers, the application for a summons is to be referred to the Judge.

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.

In cases where the Civil Courts have no direct jurisdiction against the officers of Government, the applicant is to be referred to the Government.

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.

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.

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.

How the Board of Revenue is to proceed in cases referred to it.

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.

When the summons is to be issued.

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.

When defendant is about to leave the jurisdiction, plaintiff may apply that security be taken for his appearance.

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.

How the Court is to proceed on such application.

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.

Deposit in lieu of bail.

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.

Defendant to be committed to custody if he cannot give security.

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.

When the defendant is about to leave the country, the application to be made to the Court.

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.

In certain cases plaintiff may apply for a sequestration of defendant's property.

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 sequestrated, 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.

Application how to be made.

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.

Defendant may be called on for security.

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.

If security is not provided, property may be sequestrated.

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.

Process for taking security and for sequestration may be simultaneous.

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

How the sequestration is to be made.

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.

Sequestration may be removed when security is furnished.

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.

Compensation for needless sequestration.

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.

Sequestration not to bar the execution of decrees or injure third parties.

58. But if the party at whose instance the property was sequestrated 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.

But person holding the decree is first to attach any other property of the defendant that may be pointed out.

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.

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. 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.

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

Or in which a receiver or manager may be appointed.

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.

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.

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.

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.

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.

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.

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.

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

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.

Proceeding in case of death of one or more of several defendants, or of a sole or sole surviving defendant.

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.

Objections which are competent to the new defendant.

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

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.

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

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.

Bankruptcy or insolvency when not to abate the suit.

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.

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

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

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:—

How the notice is 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.

Parties must appear in person or by vakeel.

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.

Consequences of non-appearance of a sole plaintiff or defendant.

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

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.

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

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.

When such appearance may be made without special authority.

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.

Consequence of non-appearance of one or more of several plaintiffs.

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.

When and how judgment by default may be set aside.

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

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.

Of the Examination of the Parties.

Examination of the parties or their vakeels.

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.

Consequence of refusal or inability of vakeel to answer.

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

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.

Documentary evidence to be produced at first hearing.

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.

Exhibits may be admitted or rejected by the Court.

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.

Unstamped documents may be received on payment of duty and penalty.

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.

Duty and penalty to be received by officer of 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.

How admitted exhibits are to be marked.

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.

Rejected exhibits to be marked and returned.

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.

When exhibit admitted in evidence may be returned.

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.

May be returned sooner for special reasons.

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.

Certified copy of returned exhibits to be kept.

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.

Court may send for papers from its own records or from other public offices or Courts.

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.

Framing 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

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.

Written statements may be tendered by the parties to assist the Judge at the first hearing of the cause.

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.

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

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.

Judge may at any time call for a written statement.

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.

How written statements are to be framed.

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.

Judge may reject an improper statement,

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.

Or expunge irrelevant matter,

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.

And fine party presenting it.

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.

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

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 subpœna or other suitable process.

Amendment of 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.

Appeal.

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.

Of Issues by Agreement of Parties.

Questions of fact, or of law or equity, may be stated by the parties in the form of an issue, and an agreement may be entered into for the payment of a sum of money, or the doing or the refraining to do a particular act, according to the result of the issue.

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.

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

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.

When the Suit may be disposed of at the First Hearing.

103. If the Court shall be satisfied that the questions of law or fact in which the parties are at issue do not require any further argument or proof than such as the parties or their vakeels can at once supply, the Court may at once decide such question, if the summons have been issued for a final disposal of the cause; and if the summons have been issued for a settlement of issues only, the Court may in like manner at once decide the question, if the parties consent thereto.

If the summons was for a final disposal of the case, or the parties consent, suit may be decided at first hearing.

104. When the summons has been issued for the settlement of issues only, if the parties or either of them do not consent that the Court shall at once decide the questions of law or fact on which they may be at issue, or if the questions of law or fact on which they are at issue require further argument or proof than the parties or their vakeels can at once supply, the Judge shall postpone the further hearing of the cause, and shall fix a day for the production of further evidence, or for further argument, as the case may require.

Otherwise, the hearing of the case to be postponed.

Of Adjournments.

105. The Judge may, at any stage of the suit, grant time to the parties, or either of them, and may from time to time adjourn the hearing of the cause as he may think fit; and in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Judge shall otherwise direct.

Judge may grant time, or adjourn to a future day.

106. If on any day to which the hearing of the cause may be adjourned, the parties or either of them shall not appear in person or by vakeel, the Court may proceed to dispose of the cause in the manner specified in Article 74 or Article 77 of this Chapter, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

How the Judge is to proceed if the parties fail to appear on the day fixed.

Of Summoning Witnesses.

107. The parties or their vakeels may at any time obtain, on application to the clerk or other proper officer of Court, summonses to witnesses or other persons, with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control, and in such summons any number of names may be inserted.

Application for Summons.

108. The person applying for a summons shall pay to the clerk or proper officer of the Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules, if any, established by the Court to which such Court shall be immediately subordinate. The sum so paid to the officer shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. In addition to the sum so paid, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons; and, in case of default in payment may order such sum to be levied by attachment, and sale of the goods of the person ordered to pay the same, and the witness or other person summoned shall not be bound to give evidence, or produce any document until such sum shall be paid.

Expenses of witnesses to be paid before issue of summons.

109. Every summons for the attendance of any witness or other person shall specify the time and place at which he is required to attend, and also the purpose for which his attendance is required, and any particular document or documents which the witness or other person may be called on to produce shall be described in the summons with convenient certainty. The witness shall further be required to produce all deeds and documents in his possession relating to the subject of the suit, and shall be bound to produce them, unless he shall satisfy the Judge that the notice to produce them did not give him sufficient information.

Time and place of attendance to be specified in summons.

110. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Summons to produce a document.

Service of Summons on a Witness.

111. Every summons shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

How the summons shall be served.

112. Whenever it may be practicable, the service of the summons shall in all cases be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult member of his family residing with him.

Service to be on the witness, or a member of his family.

113. When the person required to attend cannot be found, and there is no adult member of his family on whom the summons can be served, 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.

When the summons cannot be served it is to be returned to the Court.

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

Time and manner of service to be endorsed on the summons.

115. If the person required to attend be resident 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.

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

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.

When a witness absconds, his property may be attached.

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.

How the Court is to proceed with the witness on his appearance.

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 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.

Parties may be examined.

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.

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

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.

May receive a written declaration in support of the cause shown.

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.

Persons summoned to give evidence must attend.

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.

Consequences of non-attendance by a witness not a party to the suit.

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-

Consequences of refusal to give evidence.

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.

Consequence of non-attendance or refusal of a party.

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.

Any person present in Court may be called upon to give evidence, though not summoned.

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.

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

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 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.

But a witness may for special cause be examined immediately.

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.

Witnesses to be examined without oath, affirmation, or warning.

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.

Cases in which Court may issue a Commission to examine witnesses.

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 within the Court's jurisdiction.

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

Where the witness is beyond the Court's jurisdiction.

beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of 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.

Where the witness is within the local jurisdiction of the Supreme Court.

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.

Where the witness is beyond the general jurisdiction of the Sudder Court.

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.

Commission to be returned with the depositions of the witnesses.

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.

When depositions may be read in evidence.

Commission for local investigations.

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.

A Commissioner may be appointed to investigate and adjust accounts.

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 transmit the proceedings which he my 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.

When judgment is to be pronounced.

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.

Rights of all the heirs to be declared in cases of succession.

138. In any suit concerning the succession or 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.

The Judge to state his decision on each issue.

139. Inall suits in which issues have been framed, the Judge shall state his finding or decision on on each separate issue.

And to direct by whom costs are to be paid.

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.

What is included in costs.

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.

How the judgment is to be delivered.

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.

What the decree is to contain.

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.

Copies of the decree to be furnished.

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.

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.

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.

How decrees are to be enforced.

1. If the decree be for land or other immoveable 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.

Application for execution how to be made.

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 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.

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.

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.

Particulars to be given with the application.

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 jummah of such estate, and the names and shares of the registered proprietors.

Further particulars when the application is for an attachment of immoveable property.

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.

7. The clerk or other proper officer of the Court, 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.

Duty of the officer on receiving the application.

Measures required in certain Cases preliminary to the Issue of the Warrant.

8. If an interval of more than one year shall 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.

In certain special cases, the defendant may be called on to show cause.

9. Where the application is for a general attachment 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

Application for a general attachment of moveable property must be referred to the Judge.

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.

The Judge may summon and examine the defendant as to his means of payment.

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.

If the judgment be by default, and for land, a proclamation for claimants to be issued before execution.

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.

How the proclamation is to be published.

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.

If no claimant appear, execution to issue.

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.

Investigation of claims how to be made.

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 claimaint 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.

Warrant to be under seal of Court.

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.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

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.

How immoveable property is to be delivered when not in the occupancy of ryots.

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.

How it is to be delivered when in the occupancy of ryots.

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.

Obstruction to execution of decree for land.

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.

Obstruction by a *bonâ fide* claimant.

Of the Execution of Decrees for Money by Attachment of Property.

23. If the decree be for money, and the person or persons applying for execution thereof shall 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 immoveable, 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.

What property may be attached in execution of decree.

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.

The attachment is to be made by seizure when the property is goods and chattels;

Where the property shall consist of lands, houses, or other immoveable 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 seizure or by prohibitory order when it is real estate;

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.

By notice when it is money in deposit in a Court of Justice or Government office.

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.

When the attachment is by prohibitory order, how the order is to be made known.

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.

All private alienations of property under attachment to 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.

The Court may direct money or bank notes to be paid to the plaintiff;

Or other attached property to be made over to him at a reasonable price;

Or sold by public auction.

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.

Where the property consists of debts or real estate a manager may be appointed.

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.

Attachment to be released after full satisfaction of the decree.

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

How claims and objections to sale of attached property are to be investigated.

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.

Claims and objections should be preferred at the earliest opportunity.

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.

Sales to be by public auction.

Exception as to Government paper.

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.

How other property taken in execution must be sold.

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 property 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.

Nothing but the right, title, and interest of the defendant guaranteed to the purchaser.

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.

The process for attachment and sale may in certain cases be issued simultaneously.

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.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

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.

Certificate to be granted to the purchasers of land.

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.

And delivery made of property sold, as far as practicable.

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.

If the sale be set aside, price to be returned to purchaser.

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.

Subsistence-money of a defendant in gaol how fixed and furnished.

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.

Imprisonment for debt limited to 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.

Subsistence-money to be added to amount of decree.

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.

Application may be made for release from confinement on a surrender of the whole of the debtor's property.

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.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

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.

Though the defendant be released, his property is liable for the decree.

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.

Attaching creditor to be first paid out of property attached.

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.

How application is to be made for such execution.

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.

Judge certifying decree how to describe himself.

49. If such Court shall be the principal Civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

Certificate to pass from Chief Court of the district to Chief Court where it is to be executed.

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.

Court applied to for execution, how to proceed.

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.

Decree or order transmitted to be executed as that of the Court.

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.

Execution how to be enforced by Court applied to.

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.

What appeal from orders for execution under this Act.

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.

Contempt of Court under Chapter XI. Clause 39 of the Penal Code.

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.

Contempt of lawful authority under Chapter X.

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.

Ordinary powers of punishment not to be exceeded.

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.

Punishment may be remitted on submission of the offender.

Chapter VII.

REFERENCE TO ARBITRATION.

Reference on application of the parties.

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.

Application how to be made.

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.

Appointment of arbitrators may be made by Court at the desire of parties.

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.

Order of reference.

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.

When the reference is to two or more, the order shall provide for difference of opinion.

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.

Power to Court to direct arbitration.

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.

Court may determine particular facts or points of law.

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 arbitrator as conclusive.

If action be commenced by one party to a deed of arbitration, Court may stay proceedings.

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 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.

Powers of arbitrators.

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.

Extension of time for making award.

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.

In case of death, incapacity, or refusal to act, of arbitrators or umpire, Court may appoint others instead.

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.

Award how to be submitted to Court.

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.

Arbitrator may state special case.

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.

Power to send back to arbitrator.

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.

Judgment to be pronounced in terms of the award.

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.

Application to set aside the award.

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.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

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.

The agreement to be filed and numbered as a cause.

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.

Parties to be subject to the Court's jurisdiction.

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.

Hearing and disposal of the case.

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.

Special case may be stated by any persons interested.

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.

What it is to contain.

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.

To be filed and numbered as a cause.

7. The special case shall be filed with the proper officer of the Court, and 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 defendants or defendant.

Parties thereto to be subject to Court's jurisdiction.

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.

Hearing and disposal of the case.

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.

Chapter IX.

OF APPEALS.

Appeals from Final Decrees.

In what cases appeals shall lie from decisions of Judges, Principal Sudder Ameens, and Moonsiffs.

1. An appeal shall lie, as hereinafter provided, from the decisions of the Judge, 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.

When it shall not lie.

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.

When the appeal from the Principal Sudder Ameen and Moonsiff shall be to the Zillah Judge, and when to the Sudder Court.

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 be to the Zillah Judge; in suits above that sum, to the Sudder Court at Calcutta.

The decision of the Zillah Judge in appeal is final.

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.

In original suits the appeal 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.

Appeal to be preferred by a memorandum, to be filed within specified time.

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 Moonsiff; the days to be reckoned in all the cases as immediately following and exclusive of the day on which judgment was pronounced.

Time may be extended by an application.

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.

What the memorandum is to contain.

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.

Form of memorandum.

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 Moonsiff, 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.

Memorandum to be forwarded to the Appellate Court.

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 endorsement thereon of the date on which it was presented.

What proceedings to be forwarded to the Appellate Court, and when.

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.

In certain appeals to the Sudder Court the proper officer to attend in the Appellate Court with the original record of the case.

11. In appeal from the Principal Sudder Ameen and Moonsiff 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.

When and on what terms execution of decree may be stayed.

12. When any party or parties appealing 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.

How the appeal is to be entered.

13. When a memorandum of appeal shall 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.

Form of the register.

14. The register shall be kept in the form 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.

Court of Appeal may, at its discretion, require security for costs from appellant.

15. It shall not be necessary in any Court 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.

Day to be fixed for hearing the appeal.

16. A day shall be fixed by the Appellate 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.

The parties to be in attendance on day so fixed.

17. On the day in that behalf mentioned in 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.

Consequences of non-appearance.

18. If, on the day fixed for the hearing of 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.

When an appeal is dismissed, intimation to be sent to the Lower Court.

19. Where an appeal is dismissed for default, 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.

How an appeal dismissed for default may be restored.

20. In all cases in which an appeal shall 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.

The Appellate Court how to give judgment.

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.

No decision to be reversed for irregularity.

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.

When a case may be remanded by Appellate Court.

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 apppear 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.

Power to remand limited as above.

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.

When the Appellate Court may dispose of a case, though the Lower Court has decided on other grounds.

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.

When the Appellate Court may call for fresh evidence.

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.

How additional evidence is to be taken.

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.

Points to be defined.

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.

Powers of Appellate Court.

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.

How the judgment of the Appellate Court is to be delivered. In what language it is to be written.

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.

What the decree is to contain.

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.

A certified copy of the decree to be transmitted to the Lower Court.

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.

How to be executed.

33. Application for execution of the decree 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 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.

Court to which the appeal should be made.

35. The appeal from an order shall always be made to the Court 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.

The appeal not to stay proceedings.

36. The appeal shall not in any case stop the proceedings in the Lower Court.

Of Procedure in Appeals from Orders.

Procedure, how it differs from the procedure in appeals from decrees.

37. The procedure in appeals from orders shall be in all respects the same as in appeals from final decrees, except as hereinafter provided.

(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.

Cases in which a party may apply for a 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 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.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

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.

Whenever a review is granted, the parties are to be summoned.

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.

Abstract statements of reviews admitted to be forwarded to Superior Courts.

SCHEDULE A, referred to in the foregoing Scheme of Procedure.

COURT of the of holden at

REGISTER OF CIVIL SUITS *in the Year* 18

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.	Date of Order.	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 .

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 .

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.

Printed for Government, by JOHN FITCH, at the BOMBAY EDUCATION SOCIETY'S PRESS, Byculla.

SECOND SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

THURSDAY, 19TH 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 14th of April next:—

A Bill for Simplifying the Procedure of the Courts of Civil Judicature of the East India Company in the NORTH-WESTERN PROVINCES.

Preamble.

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 the North-Western Provinces as are subject to the General Regulations of the Bengal Code; It is hereby enacted as follows:—

Territorial scope of Act.

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

Chapter I.

SUDDER COURT.

Jurisdiction of the Sudder Court.

The Sudder Court at Agra 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.

Grades of District Judges.

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

Zillah Judges.
Principal Sudder Ameens.
Moonsiffs.

Their Courts, how to be denominated.

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.

Their appointment, suspension, and removal.

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.

Declaration on entering upon office.

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."

Seal.

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

Ministerial Officers.

6. It shall rest with the Governor General in Council, upon the report 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.

Civil Courts have cognisance of all suits unless specially barred.

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.

Unless already heard and determined.

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.

Government officers who are subject to the Civil Courts for official acts.

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.

No person excepted from jurisdiction by reason of place of birth or of descent.

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:—

Moonsiffs, their jurisdiction.

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.

Pecuniary limitation.

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.

Jurisdiction in cases of set-off.

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.

Principal Sudder Ameens, their jurisdiction.

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.

To exercise the powers of Moonsiff at the Sudder 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.

Zillah Judge, original jurisdiction.

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.

Suits for real property situate within different jurisdictions of the same Zillah.

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.

Suits for real property situate in different Zillahs.

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.

Suits for real property in Zillah Courts subject to different Sudder Courts.

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 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.

By whom judicial decisions may be revised.

Chapter III.

PRELIMINARY RULES.

1. All applications to any Civil Court, and all 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.

Parties may appear in person or by vakeel.

2. In all cases in which a party shall appear 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.

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

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

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

4. Any person who may be authorised, as in 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.

Who may appear personally, or appoint vakeel.

Chapter IV.

OF A SUIT TILL FINAL DECREE.

Of the Institution of Suits.

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

Suits to commence with summons.

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.

3. The application shall be accompanied by the following particulars, distinctly written in the language in ordinary use in proceedings before the Court, namely—

Particulars to be given with the application.

(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, 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.

Application to be rejected if the claim is beyond the jurisdiction of the Court.

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.

Reference to be made to the Judge in a suit for property in different jurisdictions.

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.

When the claim is within the Court's jurisdiction, the officer shall enter the particulars in a register.

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.

Form of the register.

7. The register shall be kept in the form contained in the Schedule (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.

Document of debt should be shown to the officer.

8. When the plaintiff's demand is founded on any instrument in writing, as constituting or acknowledging the demand, such as a bond, tumussook, 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 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.

Summons may be for settlement of issues, or final disposal.

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.

Form of summons.

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

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.

Directions to be endorsed on summons to settle issues.

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, this further direction shall be endorsed thereon:—

Further direction on summons for final disposal of the case.

(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 subpœnas 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, exclusive 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.

Time for appearance on a summons to settle issues.

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.

Time for appearance on a summons for final disposal of the case.

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.

Summons shall be served by the officer.

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.

Latest day of service to be written at foot of the summons.

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.

How service shall be made.

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.

When there are several defendants.

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.

Service to be on defendant in person, or on his accredited agent.

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.

Who may be agent for this purpose.

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

Accredited agents of Government.

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.

If defendant cannot be found, service may be made on a member of his family.

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.

If the summons cannot be served, it is to be returned with an endorsement of non-service.

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.

If served, time and manner of service to be endorsed.

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.

If the summons be returned unserved, the plaintiff may apply to the Court to substitute service.

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.

When service is substituted, the time for appearance is to be enlarged.

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.

How the summons is to be served when the defendant is out of the jurisdiction.

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.

How it is to be served when he is out of the territories of the East India Company.

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 Compay, 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.

How native officers and soldiers are to be served.

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.

Substitutes for the summons in the case of privileged persons.

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.

List of privileged persons to be kept by the officer of Court.

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.

Service how to be made on privileged persons.

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

34. In every suit concerning the succession or 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 proprety 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.

In certain cases of inheritance a proclamation for claimants to be issued at the same time as the summons to the defendant.

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.

Proclamation how to be published.

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.

Proclamation may be issued in any suit by order of the Court.

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.

If any claimant appear, he is to be treated as 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.

If the suit be against the Government or its officers, the application for a summons is to be referred to the Judge.

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.

In cases where the Civil Courts have no direct jurisdiction against the officers of Government, the applicant is to be referred to the Government.

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.

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.

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.

How the Board of Revenue is to proceed in cases referred to it.

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.

When the summons is to be issued.

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.

When defendant is about to leave the jurisdiction, plaintiff may apply that security be taken for his appearance.

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.

How the Court is to proceed on such application.

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.

Deposit in lieu of bail.

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.

Defendant to be committed to custody if he cannot give security.

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.

When the defendant is about to leave the country, the application to be made to the Court.

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.

In certain cases plaintiff may apply for a sequestration of defendant's property.

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 sequestrated, 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.

Application how to be made.

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.

Defendant may be called on for security.

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.

If security is not provided, property may be sequestrated.

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.

Process for taking security and for sequestration may be simultaneous.

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

How the sequestration is to be made.

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.

Sequestration may be removed when security is furnished.

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.

Compensation for needless sequestration.

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.

Sequestration not to bar the execution of decrees or injure third parties.

58. But if the party at whose instance the property was sequestrated 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.

But person holding the decree is first to attach any other property of the defendant that may be pointed out.

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.

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 a 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.

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

Or in which a receiver or manager may be appointed.

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.

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.

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.

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.

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.

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.

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.

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

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.

Proceeding in case of death of one or more of several defendants, or of a sole or sole surviving defendant.

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.

Objections which are competent to the new defendant.

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

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.

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

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.

Bankruptcy or insolvency when not to abate the suit.

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.

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

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

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:—

How the notice is 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.

Parties must appear in person or by vakeel.

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.

Consequences of non-appearance of a sole plaintiff or defendant.

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

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.

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

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.

When such appearance may be made without special authority.

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.

Consequence of non-appearance of one or more of several plaintiffs.

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.

Consequence of non-appearance of one or more of several defendants.

When and how judgment by default may be set aside.

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

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.

Of the Examination of the Parties.

Examination of the parties or their vakeels.

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.

Consequence of refusal or inability of vakeel to answer.

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

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.

Documentary evidence to be produced at first hearing.

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.

Exhibits may be admitted or rejected by the Court.

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 exhibit which it may consider irrelevant, or otherwise inadmissible.

Unstamped documents may be received on payment of duty and penalty.

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.

Duty and penalty to be received by officer of 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.

How admitted exhibits are to be marked.

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.

Rejected exhibits to be marked and returned.

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.

When exhibit admitted in evidence may be returned.

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.

May be returned sooner for special reasons.

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.

Certified copy of returned exhibits to be kept.

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.

Court may send for papers from its own records or from other public offices or Courts.

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.

Framing 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

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.

Written statements may be tendered by the parties to assist the Judge at the first hearing of the cause.

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.

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

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.

Judge may at any time call for a written statement.

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.

How written statements are to be framed.

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.

Judge may reject an improper statement,

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

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

And fine party presenting it.

see fit to strike out any part, as being argumentative, unnecessary, or irrelevant, a fine not exceeding fifty Rupees.

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

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 subpœna or other suitable process.

Amendment of 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.

Appeal.

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.

Of Issues by Agreement of Parties.

Questions of fact, or of law or equity, may be stated by the parties in the form of an issue, and an agreement may be entered into for the payment of a sum of money, or the doing or the refraining to do a particular act, according to the result of the issue.

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.

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

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.

When the Suit may be disposed of at the First Hearing.

If the summons was for a final disposal of the case, or the parties consent, suit may be decided at first hearing.

103. If the Court shall be satisfied that the questions of law or fact in which the parties are at issue do not require any further argument or proof than such as the parties or their vakeels can at once supply, the Court may at once decide such question, if the summons have been issued for a final disposal of the cause; and if the summons have been issued for a settlement of issues only, the Court may in like manner at once decide the question, if the parties consent thereto.

Otherwise, the hearing of the case to be postponed.

104. When the summons has been issued for the settlement of issues only, if the parties or either of them do not consent that the Court shall at once decide the questions of law or fact on which they may be at issue, or if the questions of law or fact on which they are at issue require further argument or proof than the parties or their vakeels can at once supply, the Judge shall postpone the further hearing of the cause, and shall fix a day for the production of further evidence, or for further argument, as the case may require.

Of Adjournments.

Judge may grant time, or adjourn to a future day.

105. The Judge may, at any stage of the suit, grant time to the parties, or either of them, and may from time to time adjourn the hearing of the cause as he may think fit; and in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Judge shall otherwise direct.

How the Judge is to proceed if the parties fail to appear on the day fixed.

106. If on any day to which the hearing of the cause may be adjourned, the parties or either of them shall not appear in person or by vakeel, the Court may proceed to dispose of the cause in the manner specified in Article 74 or Article 77 of this Chapter, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Of Summoning Witnesses.

Application for Summons.

107. The parties or their vakeels may at any time obtain, on application to the clerk or other proper officer of Court, summonses to witnesses or other persons, with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control, and in such summons any number of names may be inserted.

Expenses of witnesses to be paid before issue of summons.

108. The person applying for a summons shall pay to the clerk or proper officer of the Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules, if any, established by the Court to which such Court shall be immediately subordinate. The sum so paid to the officer shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. In addition to the sum so paid, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons; and, in case of default in payment may order such sum to be levied by attachment, and sale of the goods of the person ordered to pay the same, and the witness or other person summoned shall not be bound to give evidence, or produce any document until such sum shall be paid.

Time and place of attendance to be specified in summons.

109. Every summons for the attendance of any witness or other person shall specify the time and place at which he is required to attend, and also the purpose for which his attendance is required, and any particular document or documents which the witness or other person may be called on to produce shall be described in the summons with convenient certainty. The witness shall further be required to produce all deeds and documents in his possession relating to the subject of the suit, and shall be bound to produce them, unless he shall satisfy the Judge that the notice to produce them did not give him sufficient information.

Summons to produce a document.

110. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Service of Summons on a Witness.

How the summons shall be served.

111. Every summons shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on the witness, or a member of his family.

112. Whenever it may be practicable, the service of the summons shall in all cases be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult member of his family residing with him.

When the summons cannot be served it is to be returned to the Court.

113. When the person required to attend cannot be found, and there is no adult member of his family on whom the summons can be served, 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.

Time and manner of service to be endorsed on the summons.

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

115. If the person required to attend be resident 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.

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

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.

When a witness absconds, his property may be attached.

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.

How the Court is to proceed with the witness on his appearance.

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 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.

Parties may be examined.

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.

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

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.

May receive a written declaration in support of the cause shown.

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.

Persons summoned to give evidence must attend.

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.

Consequences of non-attendance by a witness not a party to the suit.

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-

Consequences of refusal to give evidence.

and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he my 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.

When judgment is to be pronounced.

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.

Rights of all the heirs to be declared in cases of succession.

138. In any suit concerning the succession or 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.

The Judge to state his decision on each issue.

139. In all suits in which issues have been framed, the Judge shall state his finding or decision on on each separate issue.

And to direct by whom costs are to be paid.

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.

What is included in costs.

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.

How the judgment is to be delivered.

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.

What the decree is to contain.

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.

Copies of the decree to be furnished.

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.

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.

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.

How decrees are to be enforced.

1. If the decree be for land or other immoveable 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.

Application for execution how to be made.

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 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.

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.

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.

Particulars to be given with the application.

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 jummah of such estate, and the names and shares of the registered proprietors.

Further particulars when the application is for an attachment of immoveable property.

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.

7. The clerk or other proper officer of the Court, 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.

Duty of the officer on receiving the application.

Measures required in certain Cases preliminary to the Issue of the Warrant.

8. If an interval of more than one year shall 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.

In certain special cases, the defendant may be called on to show cause.

9. Where the application is for a general attachment 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

Application for a general attachment of moveable property must be referred to the Judge.

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.

The Judge may summon and examine the defendant as to his means of payment.

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.

If the judgment be by default, and for land, a proclamation for claimants to be issued before execution.

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.

How the proclamation is to be published.

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.

If no claimant appear, execution to issue.

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.

Investigation of claims how to be made.

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 claimaint 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.

Warrant to be under seal of Court.

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.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

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.

How immoveable property is to be delivered when not in the occupancy of ryots.

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.

How it is to be delivered when in the occupancy of ryots.

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.

Obstruction to execution of decree for land.

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.

Obstruction by a *bonâ fide* claimant.

Of the Execution of Decrees for Money by Attachment of Property.

23. If the decree be for money, and the person or persons applying for execution thereof shall 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 immoveable, 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.

What property may be attached in execution of decree.

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.

The attachment is to be made by seizure when the property is goods and chattels;

Where the property shall consist of lands, houses, or other immoveable 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 seizure or by prohibitory order when it is real estate;

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.

By notice when it is money in deposit in a Court of Justice or Government office.

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.

When the attachment is by prohibitory order, how the order is to be made known.

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.

All private alienations of property under attachment to 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.

The Court may direct money or bank notes to be paid to the plaintiff;

Or other attached property to be made over to him at a reasonable price;

Or sold by public auction.

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.

Where the property consists of debts or real estate a manager may be appointed.

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.

Attachment to be released after full satisfaction of the decree.

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

How claims and objections to sale of attached property are to be investigated.

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.

Claims and objections should be preferred at the earliest opportunity.

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.

Sales to be by public auction.

Exception as to Government paper.

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 property 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.

How other property taken in execution must be sold.

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.

Nothing but the right, title, and interest of the defendant guaranteed to the purchaser.

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.

The process for attachment and sale may in certain cases be issued simultaneously.

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.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

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.

Certificate to be granted to the purchasers of land.

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.

And delivery made of property sold, as far as practicable.

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.

If the sale be set aside, price to be returned to purchaser.

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.

Subsistence-money of a defendant in gaol how fixed and furnished.

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.

Imprisonment for debt limited to 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.

Subsistence-money to be added to amount of decree.

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.

Application may be made for release from confinement on a surrender of the whole of the debtor's property.

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.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

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.

Though the defendant be released, his property is liable for the decree.

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.

Attaching creditor to be first paid out of property attached.

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.

How application is to be made for such execution.

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.

Judge certifying decree how to describe himself.

49. If such Court shall be the principal Civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

Certificate to pass from Chief Court of the district to Chief Court where it is to be executed.

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.

Court applied to for execution, how to proceed.

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.

Decree or order transmitted to be executed as that of the Court.

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.

Execution how to be enforced by Court applied to.

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.

What appeal from orders for execution under this Act.

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.

Contempt of Court under Chapter XI. Clause 39 of the Penal Code.

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.

Contempt of lawful authority under Chapter X.

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.

Ordinary powers of punishment not to be exceeded.

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.

Punishment may be remitted on submission of the offender.

Chapter VII.

REFERENCE TO ARBITRATION.

Reference on application of the parties.

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.

Application how to be made.

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.

Appointment of arbitrators may be made by Court at the desire of parties.

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.

Order of reference.

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.

When the reference is to two or more, the order shall provide for difference of opinion.

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.

Power to Court to direct arbitration.

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.

Court may determine particular facts or points of law.

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 arbitrator as conclusive.

If action be commenced by one party to a deed of arbitration, Court may stay proceedings.

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 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.

Powers of arbitrators.

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.

Extension of time for making award.

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.

In case of death, incapacity, or refusal to act, of arbitrators or umpire, Court may appoint others instead.

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.

Award how to be submitted to Court.

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.

Arbitrator may state special case.

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.

Power to send back to arbitrator.

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.

Judgment to be pronounced in terms of the award.

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.

Application to set aside the award.

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.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

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.

The agreement to be filed and numbered as a cause.

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.

Parties to be subject to the Court's jurisdiction.

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.

Hearing and disposal of the case.

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.

Special case may be stated by any persons interested.

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.

What it is to contain.

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.

To be filed and numbered as a cause.

7. The special case shall be filed with the proper officer of the Court, and 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 defendants or defendant.

Parties thereto to be subject to Court's jurisdiction.

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 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.

Hearing and disposal of the case.

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.

Chapter IX.

OF APPEALS.

Appeals from Final Decrees.

In what cases appeals shall lie from decisions of Judges, Principal Sudder Ameens, and Moonsiffs.

1. An appeal shall lie, as hereinafter provided, from the decisions of the Judge, 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.

When it shall not lie.

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.

When the appeal from the Principal Sudder Ameen and Moonsiff shall be to the Zillah Judge, and when to the Sudder Court.

3. In suits in which the amount claimed, or the value of the property claimed, does not exceed the sum of 1000 Rupees, the appeal from the decision of the Principal Sudder Ameen, or Moonsiff, as the case may be, shall, except as hereinafter provided, be to the Zillah Judge; in suits above that sum to the Sudder Court at Agra.

The decision of the Zillah Judge in appeal is final.

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.

In original suits the appeal 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.

Appeal to be preferred by a memorandum, to be filed within specified time.

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 Moonsiff; the days to be reckoned in all the cases as immediately following and exclusive of the day on which judgment was pronounced.

Time may be extended by an application.

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.

What the memorandum is to contain.

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.

Form of memorandum.

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 Moonsiff, 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.

Memorandum to be forwarded to the Appellate Court.

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 endorsement thereon of the date on which it was presented.

What proceedings to be forwarded to the Appellate Court, and when.

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.

In certain appeals to the Sudder Court the proper officer to attend in the Appellate Court with the original record of the case.

11. In appeal from the Principal Sudder Ameen and Moonsiff 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.

When and on what terms execution of decree may be stayed.

12. When any party or parties appealing 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.

How the appeal is to be entered.

13. When a memorandum of appeal shall 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.

Form of the register.

14. The register shall be kept in the form 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.

Court of Appeal may, at its discretion, require security for costs from appellant.

15. It shall not be necessary in any Court 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.

Day to be fixed for hearing the appeal.

16. A day shall be fixed by the Appellate 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.

The parties to be in attendance on day so fixed.

17. On the day in that behalf mentioned in 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.

Consequences of non-appearance.

18. If, on the day fixed for the hearing of 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.

When an appeal is dismissed, intimation to be sent to the Lower Court.

19. Where an appeal is dismissed for default, 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.

How an appeal dismissed for default may be restored.

20. In all cases in which an appeal shall 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.

The Appellate Court how to give judgment.

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.

No decision to be reversed for irregularity.

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.

When a case may be remanded by Appellate Court.

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 apppear 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.

Power to remand limited as above.

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.

When the Appellate Court may dispose of a case, though the Lower Court has decided on other grounds.

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.

When the Appellate Court may call for fresh evidence.

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.

How additional evidence is to be taken.

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.

Points to be defined.

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.

Powers of Appellate Court.

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.

How the judgment of the Appellate Court is to be delivered. In what language it is to be written.

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.

What the decree is to contain.

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.

A certified copy of the decree to be transmitted to the Lower Court.

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.

How to be executed.

33. Application for execution of the decree 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 lasimentioned 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.

Court to which the appeal should be made.

35. The appeal from an order shall always be made to the Court 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.

The appeal not to stay proceedings.

36. The appeal shall not in any case stop the proceedings in the Lower Court.

Of Procedure in Appeals from Orders.

Procedure, how it differs from the procedure in appeals from decrees.

37. The procedure in appeals from orders shall be in all respects the same as in appeals from final decrees, except as hereinafter provided.

(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.

Cases in which a party may apply for a 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 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.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

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.

Whenever a review is granted, the parties are to be summoned.

4. The Principal Sudder Ameens and Moonsiffs, except the Moonsiff of Agra, 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 Zillah Judge and the Moonsiff of Agra shall in like manner, at the close of each month, send to the Sudder Court a list of the cases in which they 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 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.

Abstract statements of reviews admitted to be forwarded to Superior Courts.

SCHEDULE A, referred to in the foregoing Scheme of Procedure.

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REGISTER OF CIVIL SUITS *in the Year* 18 .

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.	Date of Order.	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 AGRA [or Zillah Court at].

REGISTER OF APPEALS FROM FINAL DECREES *in the Year* 18 .

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 AGRA [or Zillah Court at].

REGISTER OF APPEALS FROM ORDERS *in the Year* 18 .

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.

Printed for Government, by JOHN FERTH, at the BOMBAY EDUCATION SOCIETY'S PRESS, Byculla.

THIRD SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

THURSDAY, 19TH 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.

Preamble.

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:—

Territorial scope of Act.

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.

Jurisdiction of the 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.

Grades of District Judges.

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

Zillah Judges.
Principal Sudder Ameens.
Moonsiffs.

Their Courts, how to be denominated.

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.

Their appointment, suspension, and removal.

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.

Declaration on entering upon office.

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."

Seal.

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

Ministerial Officers.

6. It shall rest with the Governor in Council, upon the report 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 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.

Civil Courts have cognisance of all suits unless specially barred.

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.

Unless already heard and determined.

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.

Government officers who are subject to the Civil Courts for official acts.

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.

No person excepted from jurisdiction by reason of place of birth or of descent.

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:—

Moonsiffs, their jurisdiction.

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.

Pecuniary limitation.

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.

Jurisdiction in cases of set-off.

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.

Principal Sudder Ameens, their jurisdiction.

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.

To exercise the powers of Moonsiff at the Sudder 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.

Zillah Judge, original jurisdiction.

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.

Suits for real property situate within different jurisdictions of the same Zillah.

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.

Suits for real property situate in different Zillahs.

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.

Declaratory suit.

19. The judicial decisions of the Courts of Justice shall be subject to revision only by the constituted Courts of appellate

By whom judicial decisions may be revised.

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

Chapter III.

PRELIMINARY RULES.

Parties may appear in person or by vakeel.

1. All applications to any Civil Court, and all 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.

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

2. In all cases in which a party shall appear 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.

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

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

Who may appear personally, or appoint vakeel.

4. Any person who may be authorised, as in 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.

Summons how to be applied for.

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.

Particulars to be given with 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—

(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, 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.

Application to be rejected if the claim is beyond the jurisdiction of the Court.

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.

Reference to be made to the Judge in a suit for property in different jurisdictions.

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.

When the claim is within the Court's jurisdiction, the officer shall enter the particulars in a register.

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.

Form of the register.

7. The register shall be kept in the form contained in the Schedule (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.

Document of debt should be shown to the officer.

8. When the plaintiff's demand is founded on any instrument in writing, as constituting or acknowledging the demand, such as a bond, tumussook, 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 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.

Summons may be for settlement of issues, or final disposal.

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.

Form of summons.

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

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.

Directions to be endorsed on summons to settle issues.

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, this further direction shall be endorsed thereon:—

Further direction on summons for final disposal of the case.

(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 subpœnas 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, exclusive 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.

Time for appearance on a summons to settle issues.

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.

Time for appearance on a summons for final disposal of the case.

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.

Summons shall be served by the officer.

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.

Latest day of service to be written at foot of the summons.

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.

How service shall be made.

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.

When there are several defendants.

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.

Service to be on defendant in person, or on his accredited agent.

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.

Who may be agent for this purpose.

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

Accredited agents of Government.

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.

If defendant cannot be found, service may be made on a member of his family.

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.

If the summons cannot be served, it is to be returned with an endorsement of non-service.

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.

If served, time and manner of service to be endorsed.

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.

If the summons be returned unserved, the plaintiff may apply to the Court to substitute service.

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.

When service is substituted, the time for appearance is to be enlarged.

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.

How the summons is to be served when the defendant is out of the jurisdiction.

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.

How it is to be served when he is out of the territories of the East India Company.

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.

How native officers and soldiers are to be served.

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.

Substitutes for the summons in the case of privileged persons.

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.

List of privileged persons to be kept by the officer of Court.

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.

Service how to be made on privileged persons.

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

34. In every suit concerning the succession or 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.

In certain cases of inheritance a proclamation for claimants to be issued at the same time as the summons to the defendant.

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.

Proclamation how to be published.

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.

Proclamation may be issued in any suit by order of the Court.

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.

If any claimant appear, he is to be treated as 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.

If the suit be against the Government or its officers, the application for a summons is to be referred to the Judge.

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 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.

In cases where the Civil Courts have no direct jurisdiction against the officers of Government, the applicant is to be referred to the Government.

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 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.

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.

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.

How the Board of Revenue is to proceed in cases referred to it.

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.

When the summons is to be issued.

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.

When defendant is about to leave the jurisdiction, plaintiff may apply that security be taken for his appearance.

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.

How the Court is to proceed on such application.

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.

Deposit in lieu of bail.

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.

Defendant to be committed to custody if he cannot give security.

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.

When the defendant is about to leave the country, the application to be made to the Court.

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.

In certain cases plaintiff may apply for a sequestration of defendant's property.

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.

Application how to be made.

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 sequestrated, 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.

Defendant may be called on for security.

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.

If security is not provided property may be sequestrated.

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.

Process for taking security and for sequestration may be simultaneous.

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.

How the sequestration is to be made.

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

Sequestration may be removed when security is furnished.

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.

Compensation for needless 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.

Sequestration not to bar the execution of decrees or injure third parties.

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.

But person holding the decree is first to attach any other property of the defendant that may be pointed out.

58. But if the party at whose instance the property was sequestrated 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.

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. 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.

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

Or in which a receiver or manager may be appointed.

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.

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.

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.

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.

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.

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.

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.

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

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.

Proceeding in case of death of one or more of several defendants, or of a sole or sole surviving defendant.

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.

Objections which are competent to the new defendant.

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

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.

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

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.

Bankruptcy or insolvency when not to abate the suit.

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.

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

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

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:—

How the notice is 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.

Parties must appear in person or by vakeel.

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.

Consequences of non-appearance of a sole plaintiff or defendant.

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

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.

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

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.

When such appearance may be made without special authority.

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.

Consequence of non-appearance of one or more of several plaintiffs.

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.

Consequence of non-appearance of one or more of several defendants.

When and how judgment by default may be set aside.

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

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.

Of the Examination of the Parties.

Examination of the parties or their vakeels.

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.

Consequence of refusal or inability of vakeel to answer.

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

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.

Documentary evidence to be produced at first hearing.

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.

Exhibits may be admitted or rejected by the Court.

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 exhibit which it may consider irrelevant, or otherwise inadmissible.

Unstamped documents may be received on payment of duty and penalty.

84. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under the existing Regulations of the Madras 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 Madras Code or Acts of the Council of India, shall have been paid to the clerk or proper officer of the Court.

Duty and penalty to be received by officer of 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 Madras 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.

How admitted exhibits are to be marked.

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.

Rejected exhibits to be marked and returned.

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.

When exhibit admitted in evidence may be returned.

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.

May be returned sooner for special reasons.

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.

Certified copy of returned exhibits to be kept.

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.

Court may send for papers from its own records or from other public offices or Courts.

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.

Framing 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

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.

Written statements may be tendered by the parties to assist the Judge at the first hearing of the cause.

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.

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

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.

Judge may at any time call for a written statement.

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.

How written statements are to be framed.

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.

Judge may reject an improper statement,

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.

Or expunge irrelevant matter,

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.

And fine party presenting it.

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.

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

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 subpœna or other suitable process.

Amendment of 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.

Appeal.

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.

Of Issues by Agreement of Parties.

Questions of fact, or of law or equity, may be stated by the parties in the form of an issue, and an agreement may be entered into for the payment of a sum of money, or the doing or the refraining to do a particular act, according to the result of the issue.

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.

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

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.

When the Suit may be disposed of at the First Hearing.

103. If the Court shall be satisfied that the questions of law or fact in which the parties are at issue do not require any further argument or proof than such as the parties or their vakeels can at once supply, the Court may at once decide such question, if the summons have been issued for a final disposal of the cause; and if the summons have been issued for a settlement of issues only, the Court may in like manner at once decide the question, if the parties consent thereto.

If the summons was for a final disposal of the case, or the parties consent, suit may be decided at first hearing.

104. When the summons has been issued for the settlement of issues only, if the parties or either of them do not consent that the Court shall at once decide the questions of law or fact on which they may be at issue, or if the questions of law or fact on which they are at issue require further argument or proof than the parties or their vakeels can at once supply, the Judge shall postpone the further hearing of the cause, and shall fix a day for the production of further evidence, or for further argument, as the case may require.

Otherwise, the hearing of the case to be postponed.

Of Adjournments.

105. The Judge may, at any stage of the suit, grant time to the parties, or either of them, and may from time to time adjourn the hearing of the cause as he may think fit; and in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Judge shall otherwise direct.

Judge may grant time, or adjourn to a future day.

106. If on any day to which the hearing of the cause may be adjourned, the parties or either of them shall not appear in person or by vakeel, the Court may proceed to dispose of the cause in the manner specified in Article 74 or Article 77 of this Chapter, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

How the Judge is to proceed if the parties fail to appear on the day fixed.

Of Summoning Witnesses.

107. The parties or their vakeels may at any time obtain, on application to the clerk or other proper officer of Court, summonses to witnesses or other persons, with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control, and in such summons any number of names may be inserted.

Application for Summons.

108. The person applying for a summons shall pay to the clerk or proper officer of the Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules, if any, established by the Court to which such Court shall be immediately subordinate. The sum so paid to the officer shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. In addition to the sum so paid, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons; and, in case of default in payment may order such sum to be levied by attachment, and sale of the goods of the person ordered to pay the same, and the witness or other person summoned shall not be bound to give evidence, or produce any document until such sum shall be paid.

Expenses of witnesses to be paid before issue of summons.

109. Every summons for the attendance of any witness or other person shall specify the time and place at which he is required to attend, and also the purpose for which his attendance is required, and any particular document or documents which the witness or other person may be called on to produce shall be described in the summons with convenient certainty. The witness shall further be required to produce all deeds and documents in his possession relating to the subject of the suit, and shall be bound to produce them, unless he shall satisfy the Judge that the notice to produce them did not give him sufficient information.

Time and place of attendance to be specified in summons.

110. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Summons to produce a document.

Service of Summons on a Witness.

111. Every summons shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

How the summons shall be served.

112. Whenever it may be practicable, the service of the summons shall in all cases be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult member of his family residing with him.

Service to be on the witness, or a member of his family.

113. When the person required to attend cannot be found, and there is no adult member of his family on whom the summons can be served, 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.

When the summons cannot be served it is to be returned to the Court.

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

Time and manner of service to be endorsed on the summons.

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.

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

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.

When a witness absconds, his property may be attached.

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.

How the Court is to proceed with the witness on his appearance.

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 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.

Parties may be examined.

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.

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

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.

May receive a written declaration in support of the cause shown.

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.

Persons summoned to give evidence must attend.

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.

Consequences of non-attendance by a witness not a party to the suit.

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-

Consequences of refusal to give evidence.

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.

Consequence of non-attendance or refusal of a party.

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.

Any person present in Court may be called upon to give evidence, though not summoned.

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.

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

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 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.

But a witness may for special cause be examined immediately.

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.

Witnesses to be examined without oath, affirmation, or warning.

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.

Cases in which Court may issue a Commission to examine witnesses.

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 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

Where the witness is within the Court's jurisdiction.

Where the witness is beyond the Court's jurisdiction.

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.

Where the witness is within the local jurisdiction of the Supreme Court.

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.

Where the witness is beyond the general jurisdiction of the Sudder Court.

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.

Commission to be returned with the depositions of the witnesses.

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.

When depositions may be read in evidence.

Commission for local investigations.

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.

A Commissioner may be appointed to investigate and adjust accounts.

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

transmit the proceedings which he my 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.

When judgment is to be pronounced.

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.

Rights of all the heirs to be declared in cases of succession.

138. In any suit concerning the succession or 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.

The Judge to state his decision on each issue.

139. In all suits in which issues have been framed, the Judge shall state his finding or decision on on each separate issue.

And to direct by whom costs are to be paid.

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.

What is included in costs.

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.

How the judgment is to be delivered.

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.

What the decree is to contain.

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.

Copies of the decree to be furnished.

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.

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.

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.

How decrees are to be enforced.

1. If the decree be for land or other immoveable 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.

Application for execution how to be made.

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 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.

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.

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.

Particulars to be given with the application.

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 jummah of such estate, and the names and shares of the registered proprietors.

Further particulars when the application is for an attachment of immoveable property.

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.

7. The clerk or other proper officer of the Court, 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.

Duty of the officer on receiving the application.

Measures required in certain Cases preliminary to the Issue of the Warrant.

8. If an interval of more than one year shall 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.

In certain special cases, the defendant may be called on to show cause.

9. Where the application is for a general attachment 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

Application for a general attachment of moveable property must be referred to the Judge.

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.

The Judge may summon and examine the defendant as to his means of payment.

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.

If the judgment be by default, and for land, a proclamation for claimants to be issued before execution.

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.

How the proclamation is to be published.

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.

If no claimant appear, execution to issue.

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.

Investigation of claims how to be made.

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 claimaint 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.

Warrant to be under seal of Court.

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.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

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.

How immoveable property is to be delivered when not in the occupancy of ryots.

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.

How it is to be delivered when in the occupancy of ryots.

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.

Obstruction to execution of decree for land.

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.

Obstruction by a *bonâ fide* claimant.

Of the Execution of Decrees for Money by Attachment of Property.

23. If the decree be for money, and the person or persons applying for execution thereof shall 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 immoveable, 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.

What property may be attached in execution of decree.

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.

The attachment is to be made by seizure when the property is goods and chattels;

Where the property shall consist of lands, houses, or other immoveable 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 seizure or by prohibitory order when it is real estate;

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.

By notice when it is money in deposit in a Court of Justice or Government office.

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.

When the attachment is by prohibitory order, how the order is to be made known.

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.

All private alienations of property under attachment to 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.

The Court may direct money or bank notes to be paid to the plaintiff;

Or other attached property to be made over to him at a reasonable price;

Or sold by public auction.

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.

Where the property consists of debts or real estate a manager may be appointed.

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.

Attachment to be released after full satisfaction of the decree.

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

How claims and objections to sale of attached property are to be investigated.

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.

Claims and objections should be preferred at the earliest opportunity.

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.

Sales to be by public auction.

Exception as to Government paper.

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.

How other property taken in execution must be sold.

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 property 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.

Nothing but the right, title, and interest of the defendant guaranteed to the purchaser.

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.

The process for attachment and sale may in certain cases be issued simultaneously.

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.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

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.

Certificate to be granted to the purchasers of land.

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.

And delivery made of property sold, as far as practicable.

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.

If the sale be set aside, price to be returned to purchaser.

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.

Subsistence-money of a defendant in gaol how fixed and furnished.

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.

Imprisonment for debt limited to 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.

Subsistence-money to be added to amount of decree.

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.

Application may be made for release from confinement on a surrender of the whole of the debtor's property.

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.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

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.

Though the defendant be released, his property is liable for the decree.

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.

Attaching creditor to be first paid out of property attached.

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.

How application is to be made for such execution.

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.

Judge certifying decree how to describe himself.

49. If such Court shall be the principal Civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

Certificate to pass from Chief Court of the district to Chief Court where it is to be executed.

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.

Court applied to for execution, how to proceed.

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.

Decree or order transmitted to be executed as that of the Court.

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.

Execution how to be enforced by Court applied to.

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.

What appeal from orders for execution under this Act.

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.

Contempt of Court under Chapter XI. Clause 39 of the Penal Code.

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.

Contempt of lawful authority under Chapter X.

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.

Ordinary powers of punishment not to be exceeded.

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.

Punishment may be remitted on submission of the offender.

Chapter VII.

REFERENCE TO ARBITRATION.

Reference on application of the parties.

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.

Application how to be made.

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.

Appointment of arbitrators may be made by Court at the desire of parties.

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.

Order of reference.

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.

When the reference is to two or more, the order shall provide for difference of opinion.

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.

Power to Court to direct arbitration.

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.

Court may determine particular facts or points of law.

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 arbitrator as conclusive.

If action be commenced by one party to a deed of arbitration, Court may stay proceedings.

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 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.

Powers of arbitrators.

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.

Extension of time for making award.

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.

In case of death, incapacity, or refusal to act, of arbitrators or umpire, Court may appoint others instead.

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.

Award how to be submitted to Court.

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.

Arbitrator may state special case.

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.

Power to send back to arbitrator.

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.

Judgment to be pronounced in terms of the award.

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.

Application to set aside the award.

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.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

1. Parties interested, or claiming to be interested in the decision of any question 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.

The agreement to be filed and numbered as a cause.

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.

Parties to be subject to the Court's jurisdiction.

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.

Hearing and disposal of the case.

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.

Special case may be stated by any persons interested.

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 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.

What it is to contain.

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.

To be filed and numbered as a cause.

7. The special case shall be filed with the proper officer of the Court, and 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 defendants or defendant.

Parties thereto to be subject to Court's jurisdiction.

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 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.

Hearing and disposal of the case.

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.

Chapter IX.

OF APPEALS.

Appeals from Final Decrees.

In what cases appeals shall lie from decisions of Judges, Principal Sudder Ameens, and Moonsiffs.

1. An appeal shall lie, as hereinafter provided, from the decisions of the Judge, 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.

When it shall not lie.

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.

When the appeal from the Principal Sudder Ameen and Moonsiff shall be to the Zillah Judge, and when to the Sudder Court.

3. In suits in which the amount claimed, or the value of the property claimed, does not exceed the sum of 1000 Rupees, the appeal from the decision of the Principal Sudder Ameen, or Moonsiff, as the case may be, shall, be to the Zillah Judge; in suits above that sum to the Sudder Court.

The decision of the Zillah Judge in appeal is final.

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.

In original suits the appeal 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.

Appeal to be preferred by a memorandum, to be filed within specified time.

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 Moonsiff; the days to be reckoned in all the cases as immediately following and exclusive of the day on which judgment was pronounced.

Time may be extended by an application.

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.

What the memorandum is to contain.

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.

Form of memorandum.

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 Madras [*or* Zillah Court at *as the case may be*], against the decree of the Moonsiff, 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.

Memorandum to be forwarded to the Appellate Court.

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 endorsement thereon of the date on which it was presented.

What proceedings to be forwarded to the Appellate Court, and when.

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 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.

In certain appeals to the Sudder Court the proper officer to attend in the Appellate Court with the original record of the case.

11. In appeal from the Principal Sudder Ameen and Moonsiff 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.

When and on what terms execution of decree may be stayed.

12. When any party or parties appealing 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.

How the appeal is to be entered.

13. When a memorandum of appeal shall 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.

Form of the register.

14. The register shall be kept in the form 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.

Court of Appeal may, at its discretion, require security for costs from appellant.

15. It shall not be necessary in any Court 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.

Day to be fixed for hearing the appeal.

16. A day shall be fixed by the Appellate 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.

The parties to be in attendance on day so fixed.

17. On the day in that behalf mentioned in 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.

Consequences of non-appearance.

18. If, on the day fixed for the hearing of 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.

When an appeal is dismissed, intimation to be sent to the Lower Court.

19. Where an appeal is dismissed for default, 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.

How an appeal dismissed for default may be restored.

20. In all cases in which an appeal shall 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.

The Appellate Court how to give judgment.

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.

No decision to be reversed for irregularity.

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.

When a case may be remanded by Appellate Court.

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 apppear 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.

Power to remand limited as above.

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.

When the Appellate Court may dispose of a case, though the Lower Court has decided on other grounds.

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.

When the Appellate Court may call for fresh evidence.

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.

How additional evidence is to be taken.

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.

Points to be defined.

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.

Powers of Appellate Court.

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.

How the judgment of the Appellate Court is to be delivered. In what language it is to be written.

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.

What the decree is to contain.

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.

A certified copy of the decree to be transmitted to the Lower Court.

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.

How to be executed.

33. Application for execution of the decree 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 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.

Court to which the appeal should be made.

35. The appeal from an order shall always be made to the Court 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.

The appeal not to stay proceedings.

36. The appeal shall not in any case stop the proceedings in the Lower Court.

Of Procedure in Appeals from Orders.

Procedure, how it differs from the procedure in appeals from decrees.

37. The procedure in appeals from orders shall be in all respects the same as in appeals from final decrees, except as hereinafter provided.

(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.

Cases in which a party may apply for a 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 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.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

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.

Whenever a review is granted, the parties are to be summoned.

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 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 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.

Abstract statements of reviews admitted to be forwarded to Superior Courts.

SCHEDULE A, referred to in the foregoing Scheme of Procedure.

Court of the holden at

Register of Civil Suits *in the Year* 18

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.	Date of Order.	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 of MADRAS [or Zillah Court at].

REGISTER OF APPEALS FROM FINAL DECREES *in the Year* 18 .

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 .

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.

Printed for Government, by JOHN FIERCE, at the BOMBAY EDUCATION SOCIETY'S PRESS, Byculla.

FOURTH SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

THURSDAY, 19TH 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 21st of May next :—

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

Whereas it is expedient to simplify the Procedure of the Civil Courts of the East India Company in such parts of the Presidency of Bombay as are subject to the General Regulations of the Bombay Code ; It is hereby enacted as follows :—

Preamble.

1. This Act shall extend only to such parts of the Presidency of Bombay as are subject to the General Regulations of the Bombay Code, except so far as is hereinafter otherwise expressly provided.

Territorial scope of Act.

Chapter I.

SUDDER COURT.

The Sudder Court at Bombay 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.

Jurisdiction of the Sudder Court.

Chapter II.

CIVIL COURTS SUBORDINATE TO THE SUDDER COURT.

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

Grades of District Judges.

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.

Their Courts, how to be denominated.

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.

Their appointment, suspension, and removal.

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 :—

Declaration on entering upon office.

"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.

Seal.

6. It shall rest with the Governor in Council, upon the report 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 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.

Ministerial Officers.

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 Bombay Code, or by any Act of the Council of India.

Civil Courts have cognisance of all suits unless specially barred.

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.

Unless already heard and determined.

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.

Government officers who are subject to the Civil Courts for official acts.

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.

No person excepted from jurisdiction by reason of place of birth or of descent.

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:—

Moonsiffs, their jurisdiction.

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.

Pecuniary limitation.

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.

Jurisdiction in cases of set-off.

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.

Principal Sudder Ameens, their jurisdiction.

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.

To exercise the powers of Moonsiff at the Sudder 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.

Zillah Judge, original jurisdiction.

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.

Suits for real property situate within different jurisdictions of the same Zillah.

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.

Suits for real property situate in different Zillahs.

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.

Declaratory suit.

19. The judicial decisions of the Courts of Justice shall be subject to revision only by the constituted Courts of appellate

By whom judicial decisions may be revised.

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

Chapter III.

PRELIMINARY RULES.

Parties may appear in person or by vakeel.

1. All applications to any Civil Court, and all 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.

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

2. In all cases in which a party shall appear 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.

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

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

Who may appear personally, or appoint vakeel.

4. Any person who may be authorised, as in 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.

Summons how to be applied for.

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.

Particulars to be given with 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—

(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, 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.

Application to be rejected if the claim is beyond the jurisdiction of the Court.

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.

Reference to be made to the Judge in a suit for property in different jurisdictions.

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.

When the claim is within the Court's jurisdiction, the officer shall enter the particulars in a register.

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.

Form of the register.

7. The register shall be kept in the form contained in the Schedule (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.

Document of debt should be shown to the officer.

8. When the plaintiff's demand is founded on any instrument in writing, as constituting or acknowledging the demand, such as a bond, tumussook, 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 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.

Summons may be for settlement of issues, or final disposal.

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.

Form of summons.

10. The summons shall be in the following 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 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.

Directions to be endorsed on summons to settle issues.

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, this further direction shall be endorsed thereon:—

Further direction on summons for final disposal of the case.

(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 subpœnas 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, exclusive 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.

Time for appearance on a summons to settle issues.

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.

Time for appearance on a summons for final disposal of the case.

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.

Summons shall be served by the officer.

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.

Latest day of service to be written at foot of the summons.

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.

How service shall be made.

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.

When there are several defendants.

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.

Service to be on defendant in person, or on his accredited agent.

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.

Who may be agent for this purpose.

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

Accredited agents of Government.

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.

If defendant cannot be found, service may be made on a member of his family.

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.

The person served is to be required to endorse the 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.

If the summons cannot be served, it is to be returned with an endorsement of non-service.

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.

If served, time and manner of service to be endorsed.

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.

If the summons be returned unserved, the plaintiff may apply to the Court to substitute service.

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.

When service is substituted, the time for appearance is to be enlarged.

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.

How the summons is to be served when the defendant is out of the jurisdiction.

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.

How it is to be served when he is out of the territories of the East India Company.

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

How native officers and soldiers are to be served.

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.

Substitutes for the summons in the case of privileged persons.

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.

List of privileged persons to be kept by the officer of Court.

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.

Service how to be made on privileged persons.

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.

In certain cases of inheritance a proclamation for claimants to be issued at the same time as the summons to the defendant.

34. In every suit concerning the succession or 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.

Proclamation how to be published.

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.

Proclamation may be issued in any suit by order of the Court.

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.

If any claimant appear, he is to be treated as 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.

If the suit be against the Government or its officers, the application for a summons is to be referred to the Judge.

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 Revenue Commissioner, 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 Bombay 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.

In cases where the Civil Courts have no direct jurisdiction against the officers of Government, the applicant is to be referred to the Government.

40. If it shall appear that the act complained of was done without any order of the Government or of the Revenue Commissioner, 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 Bombay 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 Revenue Commissioner, 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.

In cases where the Civil Courts have direct jurisdiction against the Officers of the Government, the Judge is to refer to the Revenue Commissioner.

41. The Revenue Commissioner, after making due inquiries on the subject, shall determine whether the party complaining entitled to redress directly is 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.

How the Revenue Commissioner is to proceed in cases referred to it.

42. At the expiration of six weeks from the transmission, or at any earlier period when the Judge may receive intimation from the Revenue Commissioner 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.

When the summons is to be issued.

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.

When defendant is about to leave the jurisdiction, plaintiff may apply that security be taken for his appearance.

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.

How the Court is to proceed on such application.

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.

Deposit in lieu of bail.

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.

Defendant to be committed to custody if he cannot give security.

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.

When the defendant is about to leave the country, the application to be made to the Court.

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.

In certain cases plaintiff may apply for a sequestration of defendant's property.

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 sequestrated, 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.

Application how to be made.

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.

Defendant may be called on for security.

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.

If security is not provided, property may be sequestrated.

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.

Process for taking security and for sequestration may be simultaneous.

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

How the sequestration is to be made.

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.

Sequestration may be removed when security is furnished.

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.

Compensation for needless sequestration.

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.

Sequestration not to bar the execution of decrees or injure third parties.

58. But if the party at whose instance the property was sequestrated 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.

But person holding the decree is first to attach any other property of the defendant that may be pointed out.

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.

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. 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.

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

Or in which a receiver or manager may be appointed.

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.

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.

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.

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.

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.

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.

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.

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

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.

Proceeding in case of death of one or more of several defendants, or of a sole or sole surviving defendant.

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.

Objections which are competent to the new defendant.

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

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.

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

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.

Bankruptcy or insolvency when not to abate the suit.

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.

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

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

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:—

How the notice is 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.

Parties must appear in person or by vakeel.

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.

Consequences of non-appearance of a sole plaintiff or defendant.

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

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.

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

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.

When such appearance may be made without special authority.

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.

Consequence of non-appearance of one or more of several plaintiffs.

Consequence of non-appearance of one or more of several defendants.

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.

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.

Documentary evidence to be produced at first hearing.

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.

Exhibits may be admitted or rejected by the Court.

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 exhibit which it may consider irrelevant, or otherwise inadmissible.

Unstamped documents may be received on payment of duty and penalty.

84. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under the existing Regulations of the Bombay 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 Bombay Code or Acts of the Council of India, shall have been paid to the clerk or proper officer of the Court.

Duty and penalty to be received by officer of 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 Bombay 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.

How admitted exhibits are to be marked.

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.

Rejected exhibits to be marked and returned.

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.

When exhibit admitted in evidence may be returned.

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.

May be returned sooner for special reasons.

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.

Certified copy of returned exhibits to be kept.

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.

Court may send for papers from its own records or from other public offices or Courts.

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.

Framing 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

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.

Written statements may be tendered by the parties to assist the Judge at the first hearing of the cause.

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.

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

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.

Judge may at any time call for a written statement.

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.

How written statements are to be framed.

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.

Judge may reject an improper statement,

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 see fit to strike out any part, as being argumentative, unnecessary, or irrelevant, a fine not exceeding fifty Rupees.

Or expunge irrelevant matter,

And fine party presenting it.

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

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 subpœna or other suitable process.

Amendment of 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.

Appeal.

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.

Of Issues by Agreement of Parties.

Questions of fact, or of law or equity, may be stated by the parties in the form of an issue, and an agreement may be entered into for the payment of a sum of money, or the doing or the refraining to do a particular act, according to the result of the issue.

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.

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

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.

When the Suit may be disposed of at the First Hearing.

If the summons was for a final disposal of the case, or the parties consent, suit may be decided at first hearing.

103. If the Court shall be satisfied that the questions of law or fact in which the parties are at issue do not require any further argument or proof than such as the parties or their vakeels can at once supply, the Court may at once decide such question, if the summons have been issued for a final disposal of the cause; and if the summons have been issued for a settlement of issues only, the Court may in like manner at once decide the question, if the parties consent thereto.

Otherwise, the hearing of the case to be postponed.

104. When the summons has been issued for the settlement of issues only, if the parties or either of them do not consent that the Court shall at once decide the questions of law or fact on which they may be at issue, or if the questions of law or fact on which they are at issue require further argument or proof than the parties or their vakeels can at once supply, the Judge shall postpone the further hearing of the cause, and shall fix a day for the production of further evidence, or for further argument, as the case may require.

Of Adjournments.

Judge may grant time, or adjourn to a future day.

105. The Judge may, at any stage of the suit, grant time to the parties, or either of them, and may from time to time adjourn the hearing of the cause as he may think fit; and in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Judge shall otherwise direct.

How the Judge is to proceed if the parties fail to appear on the day fixed.

106. If on any day to which the hearing of the cause may be adjourned, the parties or either of them shall not appear in person or by vakeel, the Court may proceed to dispose of the cause in the manner specified in Article 74 or Article 77 of this Chapter, as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Of Summoning Witnesses.

Application for Summons.

107. The parties or their vakeels may at any time obtain, on application to the clerk or other proper officer of Court, summonses to witnesses or other persons, with or without a clause requiring the production of books, deeds, papers, and writings in their possession or control, and in such summons any number of names may be inserted.

Expenses of witnesses to be paid before issue of summons.

108. The person applying for a summons shall pay to the clerk or proper officer of the Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules, if any, established by the Court to which such Court shall be immediately subordinate. The sum so paid to the officer shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. In addition to the sum so paid, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons; and, in case of default in payment may order such sum to be levied by attachment, and sale of the goods of the person ordered to pay the same, and the witness or other person summoned shall not be bound to give evidence, or produce any document until such sum shall be paid.

Time and place of attendance to be specified in summons.

109. Every summons for the attendance of any witness or other person shall specify the time and place at which he is required to attend, and also the purpose for which his attendance is required, and any particular document or documents which the witness or other person may be called on to produce shall be described in the summons with convenient certainty. The witness shall further be required to produce all deeds and documents in his possession relating to the subject of the suit, and shall be bound to produce them, unless he shall satisfy the Judge that the notice to produce them did not give him sufficient information.

Summons to produce a document.

110. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Service of Summons on a Witness.

How the summons shall be served.

111. Every summons shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on the witness, or a member of his family.

112. Whenever it may be practicable, the service of the summons shall in all cases be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult member of his family residing with him.

When the summons cannot be served it is to be returned to the Court.

113. When the person required to attend cannot be found, and there is no adult member of his family on whom the summons can be served, 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.

Time and manner of service to be endorsed on the summons.

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

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.

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

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.

When a witness absconds, his property may be attached.

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.

How the Court is to proceed with the witness on his appearance.

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 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.

Parties may be examined.

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.

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

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.

May receive a written declaration in support of the cause shown.

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.

Persons summoned to give evidence must attend.

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.

Consequences of non-attendance by a witness not a party to the suit.

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-

Consequences of refusal to give evidence.

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.

Consequence of non-attendance or refusal of a party.

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.

Any person present in Court may be called upon to give evidence, though not summoned.

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.

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

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 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.

But a witness may for special cause be examined immediately.

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.

Witnesses to be examined without oath, affirmation, or warning.

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.

Cases in which Court may issue a Commission to examine witnesses.

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 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

Where the witness is within the Court's jurisdiction.

Where the witness is beyond the Court's jurisdiction.

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.

Where the witness is within the local jurisdiction of the Supreme Court.

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 Bombay, but may, under special circumstances, be directed to any other person or persons whom the Court issuing the Commission may think proper to appoint.

Where the witness is beyond the general jurisdiction of the Sudder Court.

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.

Commission to be returned with the depositions of the witnesses.

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.

When depositions may be read in evidence.

Commission for local investigations.

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.

A Commissioner may be appointed to investigate and adjust accounts.

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

transmit the proceedings which he my 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.

When judgment is to be pronounced.

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.

Rights of all the heirs to be declared in cases of succession.

138. In any suit concerning the succession or right of inheritance to any zemindary, mook, 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.

The Judge to state his decision on each issue.

139. In all suits in which issues have been framed, the Judge shall state his finding or decision on on each separate issue.

And to direct by whom costs are to be paid.

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.

What is included in costs.

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.

How the judgment is to be delivered.

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.

What the decree is to contain.

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.

Copies of the decree to be furnished.

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.

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.

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.

How decrees are to be enforced.

1. If the decree be for land or other immoveable 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.

Application for execution how to be made.

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 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.

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.

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.

Particulars to be given with the application.

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 jummah of such estate, and the names and shares of the registered proprietors.

Further particulars when the application is for an attachment of immoveable property.

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.

7. The clerk or other proper officer of the Court, 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.

Duty of the officer on receiving the application.

Measures required in certain Cases preliminary to the Issue of the Warrant.

8. If an interval of more than one year shall 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.

In certain special cases, the defendant may be called on to show cause.

9. Where the application is for a general attachment 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

Application for a general attachment of moveable property must be referred to the Judge.

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.

The Judge may summon and examine the defendant as to his means of payment.

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.

If the judgment be by default, and for land, a proclamation for claimants to be issued before execution.

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.

How the proclamation is to be published.

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.

If no claimant appear, execution to issue.

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.

Investigation of claims how to be made.

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 claimaint 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.

Warrant to be under seal of Court.

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.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

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.

How immoveable property is to be delivered when not in the occupancy of ryots.

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.

How it is to be delivered when in the occupancy of ryots.

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.

Obstruction to execution of decree for land.

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.

Obstruction by a *bonâ fide* claimant.

Of the Execution of Decrees for Money by Attachment of Property.

23. If the decree be for money, and the person or persons applying for execution thereof shall 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 immoveable, 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.

What property may be attached in execution of decree.

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.

The attachment is to be made by seizure when the property is goods and chattels;

Where the property shall consist of lands, houses, or other immoveable 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 seizure or by prohibitory order when it is real estate;

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.

By notice when it is money in deposit in a Court of Justice or Government office.

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.

When the attachment is by prohibitory order, how the order is to be made known.

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.

All private alienations of property under attachment to 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.

The Court may direct money or bank notes to be paid to the plaintiff;

Or other attached property to be made over to him at a reasonable price;

Or sold by public auction.

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.

Where the property consists of debts or real estate a manager may be appointed.

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.

Attachment to be released after full satisfaction of the decree.

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

How claims and objections to sale of attached property are to be investigated.

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.

Claims and objections should be preferred at the earliest opportunity.

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.

Sales to be by public auction.

Exception as to Government paper.

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.

How other property taken in execution must be sold.

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 property 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 Bombay 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 Bombay, 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.

Nothing but the right, title, and interest of the defendant guaranteed to the purchaser.

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.

The process for attachment and sale may in certain cases be issued simultaneously.

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.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

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.

Certificate to be granted to the purchasers of land.

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.

And delivery made of property sold, as far as practicable.

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.

If the sale be set aside, price to be returned to purchaser.

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.

Subsistence-money of a defendant in gaol how fixed and furnished.

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.

Imprisonment for debt limited to 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.

Subsistence-money to be added to amount of decree.

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.

Application may be made for release from confinement on a surrender of the whole of the debtor's property.

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.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

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.

Though the defendant be released, his property is liable for the decree.

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.

Attaching creditor to be first paid out of property attached.

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.

How application is to be made for such execution.

49. If such Court shall be the principal Civil Court of original jurisdiction in the district, the Judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

Judge certifying decree how to describe himself.

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.

Certificate to pass from Chief Court of the district to Chief Court where it is to be executed.

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.

Court applied to for execution, how to proceed.

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.

Decree or order transmitted to be executed as that of the Court.

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.

Execution how to be enforced by Court applied to.

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.

What appeal from orders for execution under this Act.

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.

Contempt of Court under Chapter XI. Clause 39 of the Penal Code.

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.

Contempt of lawful authority under Chapter X.

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.

Ordinary powers of punishment not to be exceeded.

Punishment may be remitted on submission of the offender.

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.

Reference on application of the parties.

2. The application shall be made by the parties in person, or through one of the vakeels of the

Application how to be 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.

Appointment of arbitrators may be made by Court at the desire of parties.

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.

Order of reference.

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.

When the reference is to two or more, the order shall provide for difference of opinion.

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.

Power to Court to direct arbitration.

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.

Court may determine particular facts or points of law.

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 arbitrator as conclusive.

If action be commenced by one party to a deed of arbitration, Court may stay proceedings.

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 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.

Powers of arbitrators.

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.

Extension of time for making award.

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.

In case of death, incapacity, or refusal to act, of arbitrators or umpire, Court may appoint others instead.

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.

Award how to be submitted to Court.

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.

Arbitrator may state special case.

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.

Power to send back to arbitrator.

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.

Judgment to be pronounced in terms of the award.

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.

Application to set aside the award.

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.

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

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.

The agreement to be filed and numbered as a cause.

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.

Parties to be subject to the Court's jurisdiction.

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.

Hearing and disposal of the case.

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 *boná 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.

Special case may be stated by any persons interested.

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 Bombay 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.

What it is to contain.

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.

To be filed and numbered as a cause.

7. The special case shall be filed with the proper officer of the Court, and 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 defendants or defendant.

Parties thereto to be subject to Court's jurisdiction.

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 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.

Hearing and disposal of the case.

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.

Chapter IX.

OF APPEALS.

Appeals from Final Decrees.

In what cases appeals shall lie from decisions of Judges, Principal Sudder Ameens, and Moonsiffs.

1. An appeal shall lie, as hereinafter provided, from the decisions of the Judge, 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.

When it shall not lie.

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.

When the appeal from the Principal Sudder Ameen and Moonsiff shall be to the Zillah Judge, and when to the Sudder Court.

3. In suits in which the amount claimed, or the value of the property claimed, does not exceed the sum of 1000 Rupees, the appeal from the decision of the Principal Sudder Ameen, or Moonsiff, as the case may be, shall, be to the Zillah Judge; in suits above that sum to the Sudder Court.

The decision of the Zillah Judge in appeal is final.

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.

In original suits the appeal 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.

Appeal to be preferred by a memorandum, to be filed within specified time.

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 Moonsiff; the days to be reckoned in all the cases as immediately following and exclusive of the day on which judgment was pronounced.

Time may be extended by an application.

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.

What the memorandum is to contain.

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.

Form of memorandum.

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 Bombay [*or* Zillah Court at *as the case may be*], against the decree of the Moonsiff, 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.

Memorandum to be forwarded to the Appellate Court.

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 endorsement thereon of the date on which it was presented.

What proceedings to be forwarded to the Appellate Court, and when.

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.

In certain appeals to the Sudder Court the proper officer to attend in the Appellate Court with the original record of the case.

11. In appeal from the Principal Sudder Ameen and Moonsiff 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 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.

When and on what terms execution of decree may be stayed.

Of Procedure in Appeals from final Decrees.

13. When a memorandum of appeal shall 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.

How the appeal is to be entered.

14. The register shall be kept in the form 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.

Form of the register.

15. It shall not be necessary in any Court 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.

Court of Appeal may, at its discretion, require security for costs from appellant.

16. A day shall be fixed by the Appellate 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.

Day to be fixed for hearing the appeal.

17. On the day in that behalf mentioned in 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.

The parties to be in attendance on day so fixed.

18. If, on the day fixed for the hearing of 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.

Consequences of non-appearance.

19. Where an appeal is dismissed for default, 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.

When an appeal is dismissed, intimation to be sent to the Lower Court.

20. In all cases in which an appeal shall 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

How an appeal dismissed for default may be restored.

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.

The Appellate Court how to give judgment.

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.

No decision to be reversed for irregularity.

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.

When a case may be remanded by Appellate Court.

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 apppear 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.

Power to remand limited as above.

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.

When the Appellate Court may dispose of a case, though the Lower Court has decided on other grounds.

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.

When the Appellate Court may call for fresh evidence.

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.

How additional evidence is to be taken.

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.

Points to be defined.

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.

Powers of Appellate Court.

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.

How the judgment of the Appellate Court is to be delivered. In what language it is to be written.

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.

What the decree is to contain.

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.

A certified copy of the decree to be transmitted to the Lower Court.

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 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.

How to be executed.

Appeals from Orders.

34. Appeals shall lie from the orders of Civil Courts as follows :—

From what orders appeals shall lie.

(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 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.

Court to which the appeal should be made.

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.

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.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

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.

Whenever a review is granted, the parties are to be summoned.

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 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 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.

Abstract statements of reviews admitted to be forwarded to Superior Courts.

SCHEDULE A, referred to in the foregoing Scheme of Procedure.

Court of the of holden at

Register of Civil Suits *in the Year* 18

Date of Application for Summons.	No. of Suit.	Plaintiff: Name.	Plaintiff: Trade or Quality.	Plaintiff: Residence.	Defendant: Name.	Defendant: Trade or Quality.	Defendant: Residence.	Claim: Particulars.	Claim: Amount or Value.	Claim: When the Cause of Action accrued.	Appearance: Day for Parties to appear.	Appearance: Plaintiff.	Appearance: Defendant.	Judgment: Date.	Judgment: For whom.	Judgment: For what, or Amount.	Appeal: Date of Appeal.	Appeal: Judgment in Appeal.	Execution: Date of Application.	Execution: Date of Order.	Execution: Against whom.	Execution: For what, and Amount if Money.	Execution: Amount of Costs.	Return of Execution: Amount paid into Court.	Return of Execution: Arrested.	Return of Execution: Minute of other Return than Payment or Arrest, and Date of every Return.

SCHEDULE B to the foregoing Scheme of Procedure.

SUDDER COURT of BOMBAY [or Zillah Court at].

REGISTER OF APPEALS FROM FINAL DECREES *in the Year* 18 .

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 BOMBAY [or Zillah Court at].

REGISTER OF APPEALS FROM ORDERS *in the Year* 18 .

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.

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