



SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE,

CONTAINING

ACTS FINALLY PASSED.

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ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 18th March 1867, and is hereby promulgated for general information:—

Act No. XXIII. of 1867.

An Act for the Suppression of Murderous Outrages in certain Districts of the Punjáb.

Whereas in certain Districts of the Punjáb, fanatics have frequently murdered or attempted to murder servants of the Queen and other persons: and whereas the general law of the country is not adequate to suppress such offences; it is hereby enacted as follows:—

1. It shall be lawful for the Lieutenant Governor of the Punjáb, with the previous consent of the Governor General of India in Council, by a Proclamation published in the

Lieutenant Governor empowered to extend this Act to any part of the Punjáb. Official Gazette from time to time, to declare any part or parts of the territories under his government to be subject to the operation of all or any of the provisions of this Act, and also, by such proclamation and with such consent as aforesaid from time to time to withdraw from the operation of such provisions any part or parts of the said territories

which he may previously have declared to be subject thereto, and in like manner, as occasion shall require, to subject the same part or parts again to the operation of the same provisions, or of any of them.

2. Any fanatic who shall murder, or who shall

within the meaning of the Indian Penal Code, Section 307, attempt to murder any servant of the Queen or other person, shall, on conviction thereof, be punished either with death or with transportation for life, and all his property shall be forfeited to Government.

3. Every offence made punishable under this Act, shall be deemed an offence within the meaning of the Indian Penal Code.

Offences under this Act to be offences under Penal Code.

4. When, ever any fanatics shall be killed in the

act of committing any such offence as aforesaid, or, being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Commissioner, who under the provisions hereinafter contained would have had cognizance of the offence

if the offender could have been brought to trial, to proceed to hold an inquest into the circumstances of the death of the offender, and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government, and to dispose of his body as such Commissioner shall think fit.

5. Subject to the provision contained in Section 14 of this Act, any offence triable under this Act shall be tried by the Commissioner of the Division in which it has been committed; and in respect of all such offences, the Commissioner shall follow the procedure prescribed for a Magistrate by Sections 248 to 255 (both inclusive) of the Code of Criminal Procedure: provided that if he shall be of opinion that any witness or evidence is offered for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness or evidence is material, and if the Commissioner be not so satisfied, he shall not be bound to summon the witness or examine the evidence so offered.

6. Trials under this Act before the Commissioner shall be conducted with the aid of two or more Assessors as Members of the Court. The Commissioner may appoint such persons (other than persons specified in Section 334 of the Code of Criminal Procedure), at such time and in such manner as he may think fit, to serve as Assessors, and no persons shall be exempt, within the meaning of Section 335 of the same Code, from serving as such Assessors. The provisions of the Code of Criminal Procedure shall, save as aforesaid, apply to Assessors appointed under this Section.

7. When any trial under this Act is concluded, if the accused person be convicted, it shall be sufficient if the Court, in passing judgment and in recording the finding and sentence, shall specify the offence of which he is convicted, and the Court shall immediately issue a warrant to the officer in charge of the jail in which the prisoner is confined, to cause the sentence to be carried into execution, and such sentence shall be carried into execution accordingly. No sentence of death passed under this Act shall require confirmation by any Court.

8. When any person shall be sentenced to death under this Act, his body shall be disposed of as the Commissioner by whom he was so sentenced shall direct.

9. The proceedings in every trial held under this Act shall be reported to the Lieutenant Governor, without unnecessary delay, by the officer before whom such trial shall have been held.

10. Notwithstanding anything contained in the Code of Criminal Procedure or "The Punjab Chief Court Act, 1866," no appeal shall lie from any order or sentence under this Act.

11. If any Commissioner in whom jurisdiction is vested by this Act, shall be of opinion that the accused person has committed an offence punishable under the Indian Penal Code, but that such offence is not contemplated by the preamble to this Act, the offender shall be dealt with in manner provided in such case by the Code of Criminal Procedure.

12. The said Lieutenant Governor shall have, with respect to the confinement of any person charged with or suspected of an intention to commit any offence punishable under this Act, the powers which are vested in the Governor General of India by any law regarding the confinement of persons charged with or suspected of State offences, and the provisions of any such law shall, *mutatis mutandis*, be applicable to all cases in which the Lieutenant Governor shall proceed under the authority of this Section.

13. Any person having the full powers of a Magistrate may cause any person against whom there are in his judgment grounds of proceeding under the last preceding Section, to be apprehended; and after such inquiry as he may think necessary, may detain such person in safe custody until he shall have received the orders of the said Lieutenant Governor, to whom, in all such cases, he shall report his proceedings without unnecessary delay.

14. The jurisdiction conferred by this Act on a Commissioner, may be exercised, in the case of any offence punishable under this Act, by any person having the full powers of a Magistrate, whom the Commissioner to whom he may be subordinate, or the said Lieutenant Governor, shall, after the commission of such offence, specially invest with such jurisdiction.

15. It shall be lawful for said Lieutenant Governor, either on his own motion, or at the request of the Chief Court of the Punjab, from time to time, to withdraw any class of cases from the operation of this Act.

16. With the previous consent of the said Lieutenant Governor, but not otherwise, the said Chief Court may from time to time make and issue circular orders for the guidance of officers in cases under this Act; provided that such orders are consistent with the provisions herein contained. All such orders shall be published in the official *Gazette*, and shall be obeyed by the officers aforesaid.

17. This Act shall expire in ten years from the date of passing it, or at such earlier date as the Governor General of India in Council may order.

WHITLEY STOKES,

*Asst. Secy. to the Govt. of India,
Home Dept. (Legislative.)*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1867, and is hereby promulgated for general information:—

THE ADMINISTRATOR GENERAL'S ACT, 1867.

ARRANGEMENT OF SECTIONS.

PART I.—*Preliminary.*

1. Short Title.
2. Repeal of Acts.
3. Interpretation Clause.

PART II.—*Of the Office of Administrator General.*

4. Designation of the Administrators General in the three Presidencies.
5. Appointment, suspension, and removal of Administrators General.
6. Qualification of future and continuance of existing incumbents.
7. Administrator General not to be deemed an Officer of High Court.
8. Probates and Letters of Administration granted by Supreme Courts to Ecclesiastical Registrars, to have same effect as if granted to the Administrators General.
9. No Administrator General to be Ecclesiastical Registrar.
Administrator General not to hold any other office without sanction of Government.
Proviso.
10. Penalty for trading.
Exception.
11. Security to be given by Administrator General.
Substitution of security or sureties.
12. No security nor oath to be required by Court from Administrator General.
13. Appointment of Officiating Administrator General.

PART III.—*Of the Rights, Powers, and Duties of the Administrator General.*

(a)—*Grants of Letters of Administration and Probate to the Administrator General.*

14. As regards Administrator General, High Court at Presidency Town to be deemed a Court of competent jurisdiction, within meaning of Sections 187 and 190 of Indian Succession Act.
15. Administrator General entitled to letters of administration, unless granted to next-of-kin of deceased.
Administrator General entitled in preference to creditor, non-universal legatee, or friend.
16. When administration of estates of persons other than Hindus, Muhammadans, or Buddhists, is to be by Administrator General.
17. Upon death of any person leaving assets within local limits, High Court may, on application, if assets are in danger, direct Administrator General to apply for administration.
Administration to effects of deceased Hindus, Muhammadans, or Buddhists, not to be granted under this Section, unless required to protect the assets.
Costs of unnecessary application.
18. Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.
Rate of commission payable in such case.

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19. Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.
Costs of proceedings taken by the Administrator General to be paid out of the estate.
20. If no executor or next-of-kin appear, or give necessary security, letters of administration to be granted to Administrator General.
21. Administrator General in certain cases to secure and distribute the estate and effects of soldiers.
Proviso.
22. Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.
23. After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.
Exception.
Proviso.
24. What payments made or acts done by Administrator General prior to revocation of administration upon production of a will, shall be deemed valid.
25. In what cases Court may recall Administrator General's administration, and grant probate, &c. to executor or next-of-kin.
Unless a will is proved, application to revoke such administration must be made within six months and without needless delay.
26. Costs of obtaining administration, commission, &c. may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.
27. Exclusion of creditors who have not proved from assets with which a dividend is made.
After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.
Persons receiving payments liable to refund.
What to be notice of debt or claim.
28. Letters of administration to be granted to Administrator General in virtue of his office.
Authority given by such letters.
29. Grant of Probate to Administrator General named as executor by virtue of his office.
30. Transfer by private executor or Administrator of interest under probate or letters of administration.
31. Vesting of estates, &c. in successor of Administrator General.
- (b)—*Suits by and against the Administrator General.*
32. Administrator General to sue and be sued in his representative capacity by his name of office.
Suit not to abate by death, &c.
Proviso as to costs.
33. Creditor's suits against Administrator General.
- (c)—*Grant of Certificates by the Administrator General.*
34. In what case Administrator General may grant certificate.
No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.
35. Grant of certificate to creditors.
Proviso.
36. Administrator General not bound to grant certificate, unless satisfied of claimant's title, &c.
37. Copy of certificate, with receipt annexed, when signed by certificate-holder, to be a discharge.
Right of executor or Administrator against certificate-holder.

Right of creditor against assets in hands of certificate-holder.

38. Administrator General not bound to take out administration on account of effects, in respect of which he has granted certificate.
39. Fee for certificate.

(d)—*Expenses of the Administrator General's Establishment.*

40. Administrator General to defray expenses of establishment, and all other charges not expressly provided for.

(e)—*Accounts and Schedules.*

41. Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.
42. Administrator General to furnish half-yearly schedules.
- Schedules to be filed and published.

PART IV.—*Of the Audit of the Administrator General's Accounts.*

43. Government to appoint auditors.
44. Auditors to examine schedule and report to Government.
45. Auditors to have power to summon witnesses and to call for books, &c.
- Penalty for non-attendance.
46. Costs of preparing schedules, &c. how to be paid.
47. Auditors to report especially to Government if accounts appear not correct.
48. Proceedings upon such report.
49. Costs of reference, &c. how to be defrayed.

PART V.—*Of the Commission of the Administrator General.*

50. Commission to be received by Administrators General.
51. Section 50 not to apply to property of officers and soldiers dying on service which shall come to hands of Administrator General.
- Administrator General only entitled to a commission of three per cent. on gross amount of such property.
52. What expenses, &c. commission is to cover.
- How payable.
- Commission retained to be deemed a distribution.
53. Commission of the Administrator General of Bengal may be raised and again reduced.
- Commission of the Administrators General of Madras and Bombay may be reduced and again raised.
- Proviso.
54. Commission or agency not to be charged by executor or administrator other than the Administrator General.

Bequest in favour of executors not effected.

PART VI.—*Miscellaneous.*

55. Government may make and alter rules and orders consistent with this Act—
- For custody of assets.
- For remittance of money.
- For guidance of Administrator General.
- Proviso as to rules now in force.
56. Publication of orders, &c.
57. Orders of the Court to have same effect and to be executed in same manner as a decree.
58. Penalty for false evidence.
59. Assets unclaimed for fifteen years to be transferred to Government.

60. Mode of proceeding by claimant to recover principal money so transferred.
61. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.
62. Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.
63. Indian Succession Act and Indian Companies' Act not to affect Administrator General.
64. Power to appoint a Deputy Administrator General for the North-Western Provinces, and the Punjab, Oudh, and the Central Provinces.
- Schedule of Acts repealed.

Act No. XXIV. of 1867.

An Act to consolidate and amend the law relating to the office and duties of Administrator General.

WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows:

PART I.—*Preliminary.*

1. This Act may be called "The Administrator General's Act 1867."
- Short Title.
2. The Acts and parts of Acts specified in the Schedule hereto are repealed, except so far as they repeal other Acts or Regulations, or parts of Acts or Regulations. All things duly done under any of the said Acts or parts of Acts hereby repealed, shall be considered as having been done under this Act. Act No. XXVII. of 1860 (for facilitating the collection of debts on succession and for the security of parties paying debts to the representatives of deceased persons) is repealed, except as to Hindus, Muhammadans, and Buddhists, and persons exempted under the Indian Succession Act, 1865, Section 332, from the operation of such Act.

3. In this Act—unless there be something repugnant in the subject or context—

"Presidency of Bengal" includes the territories "Presidency of Bengal." which are or shall for the time being be respectively under the governments of the Lieutenant Governors of Bengal, the North-Western Provinces, and the Punjab, and under the administrations of the Chief Commissioners of Oudh, the Central Provinces, and British Burmah:

"Presidency of Madras" includes the territories "Presidency of Madras." which are or shall for the time being be under the government of the Governor of Fort St. George in Council, Coorg, and also, so far as regards British subjects, Mysore and the Hyderabad Assigned Districts:

"Presidency of Bombay" means the territories "Presidency of Bombay." which are or shall for the time being be under the government of the Governor of Bombay in Council:

"Presidency Town" means the town of Calcutta, Madras, or Bombay, as the case may be:

"Government" means the Governor General of India in Council, so far as the Act relates to the Presidency of Bengal; the person for the time being administering the executive government of the Presidency of Fort St. George, so far as the Act relates to the Presidency of Madras; and the person for the time being administering the executive Government of the Presidency of Bombay, so far as the Act relates to that Presidency.

"District Judge" means the Judge of a principal Civil Court of original jurisdiction.

"Letters of Administration" shall include any letters of administration whether general or limited or with a will annexed, and letters *ad colligenda bona* :

"Next of kin" includes a widower or widow of a deceased person, or any other person who by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor or legatee of the deceased :

"Officer" means a Commissioned Officer of Her Majesty's Army, or of Her Majesty's Indian Army ;

"Soldier" means a soldier of Her Majesty's Army, or European soldier of Her Majesty's Indian Army, including a Warrant and a Non-Commissioned Officer.

"Assets" includes immoveable as well as moveable property :

Words in the masculine gender include the feminine; and words in the singular number include the plural, and *vice versa*.

PART II.—Of the Office of Administrator General.

4. In each of the Presidencies of Bengal, Madras and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

5. Such Officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say—

The Administrator General of Bengal, by the Governor General of India in Council; the Administrator General of Madras, by the Government of Fort St. George; and the Administrator General of Bombay, by the Government of Bombay.

6. Any person hereafter appointed to the office of Administrator General or Officiating Administrator General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland; but any person now holding such office, shall continue to hold the same, subject to the provisions contained in the other Sections of this Act.

7. The Administrator General shall not be deemed in that capacity to be an Officer of any High Court.

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to the Administrator General.

9. No person now holding the office of Administrator General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor, without the express sanction of Government, any other office, together with that of Administrator General: Provided that the Administrator General of the Presidency may be appointed Official Trustee under Act No. XVII. of 1864 (to constitute an office of official Trustee): Provided also, that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

10. It is hereby declared to be an offence punishable in manner provided by Section 168 of the Indian Penal Code, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as shall appear to him to be expedient for the due management of the estates which shall come into his charge under the provisions of this Act, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

11. Unless the Governor General of India in Council or the Government, with the sanction of the Governor General of India in Council, shall otherwise order, every Administrator General hereafter to be appointed shall give security to the Secretary of State for India for the due execution of his office, for one lakh of Rupees by his own bond, and for another lakh of Rupees, or for separate sums, amounting together to one lakh of Rupees, by the deposit of Government securities, or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds; Provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another previously given for such last mentioned lakh, or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh

Security to be given by Administrator General.

Substitution of security or sureties.

sureties to be substituted for any of those previously bound, so far as the security shall relate, to the due execution of his office for the time then to come.

12. No Administrator General shall be required by any Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office. No Administrator General shall be required to verify, otherwise than by his signature, a petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

13. Whenever any person holding the office of Administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under Section 11 of this Act in like manner as if he had been appointed Administrator General.

PART III.—*Of the Rights, Powers, and Duties of the Administrator General.*

(a)—*Grants of Letters of Administration and Probate to the Administrator General.*

14. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras, and Bombay, the High Court of Judicature at the Presidency Town shall be deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of Indian Succession Act, 1865, wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

15. Any letters of administration, or letters of administration, shall hereafter be granted by the High Court of Judicature at any Presidency Town, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next-of-kin of the deceased. The Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor, a legatee other than an universal legatee, or a friend of the deceased.

16. If any person, not being a Hindú, Muhammadan, or Buddhist, or a person exempted under the Indian Succession Act 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within one year thereafter the value of one thousand Rupees within any of the said Presidencies, and no person shall, within one month after his death, have applied in such Presidency for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the High Court of Judicature at the Presidency Town, letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Whenever the Administrator General of the Presidency shall take proceedings under this Section, it shall be sufficient if the petition required by Section 246 of the Indian Succession Act, 1865, shall state the time and place of the deceased's death to the best of the petitioner's knowledge or belief, that the deceased left some property within the Presidency as hereinbefore defined, and the amount or value of assets which are likely to come into the petitioner's hands.

17. Whenever any person, whether a Hindú, Muhammadan, or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at the Presidency Town, it shall be lawful for the Court, upon the application of any person interested in such assets, or in the due administration thereof, either as a creditor, legatee, next-of-kin, or otherwise, or upon the application of a friend of any minor who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation, deterioration, or waste of such assets, unless letters of administration of the effects of such person are granted, to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as to the Court shall seem fit, directing the Administrator General to apply for letters of administration of the effects of such person. Provided that, in the case of an application being made under this Section for letters of administration to the effects of a deceased Hindú, Muhammadan, or Buddhist, the Court may refuse to grant letters of administration to any person if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the

Upon death of any person leaving assets within local limits, High Court may, on application if assets are in danger, direct Administrator General to apply for administration.

Administration to effects of deceased Hindús, Muhammadans, or Buddhists, not to be granted under this Section, unless required to protect the assets.

Costs of unnecessary application.

said Court shall make such order as to the costs of the application as it shall think just.

18. Whenever any person, whether a Hindú, Muhammadan, or Buddhist, or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation, deterioration, or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property, and to hold, or deposit, or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act, so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one per centum upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private Administrator of such assets might lawfully have made; and in case letters of administration of any such property shall be afterwards granted to the Administrator General, the said commission of one per centum shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section, shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

Rate of commission payable in such case.

commission of one per centum upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private Administrator of such assets might lawfully have made; and in case letters of administration of any such property shall be afterwards granted to the Administrator General, the said commission of one per centum shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section, shall entitle the Administrator General to collect and to take possession of such property, and, if necessary, to maintain a suit for the recovery thereof.

19. If in the course of proceedings to obtain letters of administration under the provisions of Section 16 or Section 17 of this Act, any executor appointed by a will of the deceased shall appear according to the practice of the Court, and prove the will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next-of-kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary or intestate expenses thereof.

20. If no person shall appear according to the practice of the Court, and entitle himself to probate of a will, or to a grant of letters of administration as next-of-kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General.

If no executor or next-of-kin appear or give necessary security, letters of administration to be granted to Administrator General.

Administrator General in certain cases to secure and distribute the estate and effects of soldiers.

21. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole five hundred Rupees, charging the estate with a commission of three per centum only. It shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this Section; but he shall have the same powers with regard to all such assets, as he would have had if he had taken out such letters.

Proviso.

Administrator General to take out letters of administration in cases referred to in this Section; but he shall have the same powers with regard to all such assets, as he would have had if he had taken out such letters.

22. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case, within the period of one month from the death of the deceased.

Administrator General not precluded from applying for letters of administration in any case within three months after death of deceased.

23. If any letters of administration which shall be granted to the Administrator General under the provisions of this Act, shall be revoked or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void: Provided that no notice of a will or of any other fact which would render any such letters of administration void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will, or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void: Provided that no notice of a will or of any other fact which would render any such letters of administration void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will, or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Proviso.

Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable; except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void: Provided that no notice of a will or of any other fact which would render any such letters of administration void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will, or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

24. If any letters of administration which shall be granted under this Act, shall be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of

What payments made or acts done by Administrator General prior to revocation of administration upon production of a will, shall be deemed valid.

Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of

administration lawfully granted to him with such will annexed, shall be deemed valid notwithstanding such revocation.

25. If an executor or next-of-kin of the deceased, who shall not have been personally served with a citation, or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid: Provided that no

letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled, except in cases in which a will or codicil of the deceased shall be proved in the Presidency, unless the application for that purpose shall be made within six months after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

26. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the costs of obtaining such letters of administration, and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation to be paid to or retained by the Administrator General out of any assets belonging to the estate. Provided that, in any such case, when the deceased has left a Will appointing an executor, and probate of the Will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month, if resident within the Presidency, or within three months, if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in Sections 17 and 18 of this Act,) not be entitled to receive or retain any commission out of assets belonging to such estate, and situate within the jurisdiction of the Court by which probate or administration shall have been granted as last aforesaid.

27. Whenever the Administrator General shall declare a dividend among such creditors of the deceased as have proved their debts, and shall notify the payment of such dividend by advertisement in the Official Gazette, no creditor of the deceased who shall not previously to such declaration and advertisement have proved his debt, shall be entitled to participate as

Exclusion of creditors who have not proved from assets with which a dividend is made.

dividend by advertisement in the Official Gazette, no creditor of the deceased who shall not previously to such declaration and advertisement have proved his debt, shall be entitled to participate as

such in the assets wherewith such dividend shall be made.

27. Any payment or delivery of assets to any legatee or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery: Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable: And provided also, that no notice of any debt or claim shall affect the Administrator General, unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice, and be prosecuted without unreasonable delay.

Person receiving payments liable to refund.

What to be notice of debt or claim.

28. All letters of administration, which shall be granted to any Administrator General in virtue of his office, shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate.

29. Every probate which shall be granted to any Administrator General named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to which such probate shall relate.

30. It shall be lawful for any private executor or administrator, with the previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, bearing a stamp of ten Rupees, and notified in the local Gazette, to transfer all estates, effects, and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office; and thereupon the transferrer shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer; and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had,

Authority given by such letters.

Transfer by private executor or administrator of interest under probate or letters of administration.

the probate or letters of administration is situate, by an instrument in writing under his hand, bearing a stamp of ten Rupees, and notified in the local Gazette, to transfer all estates, effects, and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office; and thereupon the transferrer shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer; and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had,

and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid. Nothing herein contained shall be taken to exempt any such transferrer from liability for acts and omissions in respect of the said property prior to the transfer.

31. All estates, effects, and interests, which at the time of the death, resignation, or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration, probates, or transfers as aforesaid, shall, upon every such death, resignation, or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto. All books, papers, and documents kept by such Administrator General, by virtue of his office, or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

Vesting of estates, &c., in successor of Administrator General.

(b)—Suits by and against the Administrator General.

32. All suits or other proceedings, which shall be commenced by or against any Administrator General in his representative capacity, may be brought by or against him by his name of office, and no suit or other proceedings already commenced, or which shall be commenced, by or against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation, or removal from office of any such Administrator General, but the same may by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued by or against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred: Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

33. If any suit shall be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit, and shall not be entitled to have the decree (if any) in such suit enforced, unless upon proof by affidavit or otherwise, that not less than one calendar month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office. If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased *pari passu* with the other creditors.

Creditor's Suits against Administrator General.

(c)—Grant of Certificates by the Administrator General.

34. Whenever any person, not being a Hindú, Muhammadan, or Buddhist, or exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left moveable assets within any of the said Presidencies, and the Administrator General of such Presidency shall be satisfied that such assets do not exceed in the whole one thousand Rupees in value, he may, after the lapse of one month from the death, if he shall think fit, or before the lapse of the said month, if he shall be requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such effects, certificates under his hand entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole one thousand Rupees: Provided that no certificate shall be granted under this Section where probate of the deceased's will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings' Bank.

In what case Administrator General may grant certificate.

No certificate to be granted where probate or administration taken out or in respect of money in Government Savings Bank.

35. If in cases falling within Section 34 of this Act, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased, shall, within three months, obtain a certificate from the Administrator General under the same Section, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters of administration had been granted to him; and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor, and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the same Section, and shall be subject to all the provisions of this Act which are applicable to such certificate:

Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

36. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath or solemn affirmation of the claimant (which oath or affirmation the

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

Administrator General is hereby authorized to administer or take, or by such other evidence as he shall require.

37. A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted,

be a full discharge for payment or delivery to him of the money, or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude any executor or administrator of the deceased from recovering from the person receiving the same the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration. And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Right of executor or administrator against certificate-holder.

the person receiving the same the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration. And any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Right of creditor against assets in hands of certificate holder.

shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

38. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of which he shall grant any such certificate; but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand Rupees.

Administrator General not bound to take out administration on account of effects, in respect of which he has granted certificate.

certificate; but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded one thousand Rupees.

39. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three Rupees in the hundred on the amount mentioned in the certificate.

(d)—*Expenses of the Administrator General's Establishment.*

40. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Administrator General to defray expenses of establishment, and all other charges not expressly provided for.

(e) *Accounts and Schedules.*

41. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act; and likewise of all payments made by him on account of such estate and of all debts due by or to the same, specifying

Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.

money, bonds and other securities for money, goods, effects and things as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act; and likewise of all payments made by him on account of such estate and of all debts due by or to the same, specifying

the dates of such receipts and payments respectively. Such books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

42. The Administrator General of each of the said Presidencies shall twice in every year, that is to say on or before the first day of April and on or before the first day of October, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct, exhibit, and deliver in the High Court at Calcutta, Madras, or Bombay, as case may be, a true schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true schedule of all administrations, whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances, and the persons to whom paid. Such schedules shall be filed of record and published.

Administrator General to furnish half yearly schedules.

Schedules to be filed and published.

shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit so to do, order the same to be deposited at the India Office, for public inspection, and may cause notices to be published in the *London Gazette* and other leading newspapers, that such schedules are open to inspection there, or may make such other orders respecting the same as he may think fit.

PART IV.—*Of the Audit of the Administrator General's Accounts.*

43. The Government shall, from time to time, appoint Auditors to examine the accounts of the Administrator General at the times of the delivery of the said schedules, and also at any other time when the Government shall think fit.

Government to appoint Auditors.

44. The Auditors shall examine the schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which, by this Act are, or which, by any such general rules and orders as hereinafter mentioned, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine schedule, and report to Government.

every thing which ought to be inserted therein, and whether the books which, by this Act are, or which, by any such general rules and orders as hereinafter mentioned, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

45. Every Auditor shall have power to summon as well the Administrator General as any other person whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other person, if he shall think fit, on oath or solemn affirmation to be by him administered; and to call for all books, papers, vouchers, and documents which shall appear to him to be necessary for the purposes of the said reference. If the Administrator General or other person when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document so required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined; the auditors shall certify such neglect or refusal in writing to the High Court at the Presidency Town; and every person so refusing or neglecting, shall thereupon be punishable in like manner as if such refusal or neglect had been in contempt of the said High Court.

46. The costs and expenses of preparing and publishing the said schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts shall relate. Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

47. If upon any such reference and examination the Auditors shall see reason to believe that the said schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act, or of any such rules and orders, they shall report accordingly to the Government.

48. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his executor or administrator in the High Court in the Presidency town by petition for an account, or to compel obedience to this Act, or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued, under the provisions of the Code of Civil Procedure, for his examination upon the said interrogatories. The Court shall have

power upon any such petition, to compel the attendance in Court of the defendant, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

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49. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant, the same shall be repaid to the estates by which they shall have been in the first instance contributed, and the Court may, if it shall think fit, order the defendant to receive his costs out of the said estates.

PART V.—Of the Commission of the Administrator General.

50. The Administrator General of each of the said Presidencies, under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office; or under any probates or letters of administration which are or shall be vested in him by Section 8 or Section 30 of this Act, shall be entitled to receive a commission at the following rates respectively, viz:—

The Administrator General of Bengal at the rate of three per centum, and the Administrators General of Madras and Bombay respectively at the rate of five per centum, upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

51. The last preceding Section shall not apply to cases in which the property of an officer or soldier dying on service shall come to the hands of the Administrator General of any of the said Presidencies, under the 9th or the 12th Section of the Statute called "The Regimental Debts' Act, 1863;" and such Administrator General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three per centum on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865, if preferential charges as defined by the 4th Section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

52. The Administrator General shall be entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but, save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble

entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but, save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble

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entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but, save as aforesaid, the commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble

of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that

How payable. one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General, who shall distribute any assets in the due course of administration, and may be retained by him upon such distribution. The amount of the commission lawfully retained by an Administrator General upon the distribution of assets, shall be deemed a distribution within the meaning of this Act.

53. The Governor General of India in Council may, from time to time, order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he shall collect and distribute in due course of administration and again to be reduced. The Governments of the Presidencies of Fort St. George and Bombay respectively may, with the sanction of the Governor General of India in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of Madras and Bombay respectively to be reduced and again to be raised: Provided that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras, or Bombay, shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

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Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso. that the commission so to be received shall not at any time exceed five *per centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras, or Bombay, shall, by any such order, be deprived of the right to receive and retain, for his own use, a commission at the rate of three *per centum* in respect of all assets collected and actually administered by him.

54. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court or High Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, (for the appointment of an Administrator General in Bengal), or by either of the Supreme or High Courts of Judicature at Madras and Bombay since the passing of Act No. II. of 1850 (to amend and extend to Madras and Bombay Act No. VII. of 1849), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865, but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

Bequest in favour of executors not affected.

PART VI.—Miscellaneous.

55. The Government shall have power, from time to time, to make and alter any general rules and orders consistent with this Act—

For custody of assets. provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the India Office of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

For remittance of money. the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the India Office of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

For guidance of Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts, and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept, and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to estates to be administered by such Administrator General shall be kept and invested or deposited pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

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Proviso as to rules now in force. the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

56. Such orders shall be published in the *Gazette of India*, the *Fort St. George Gazette*, or the *Bombay Government Gazette*, as the case may be, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Publication of orders, &c. *Gazette of India*, the *Fort St. George Gazette*, or the *Bombay Government Gazette*, as the case may be, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

57. Any order which shall be made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

Orders of the Court to have same effect and be executed in same manner as a decree.

58. Whoever, having been sworn, or having taken a solemn affirmation under this Act, shall upon any examination authorized by this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Penalty for false evidence. taken a solemn affirmation under this Act, shall upon any examination authorized by this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

59. All assets in the official charge of the Administrator General of any of the said Presidencies, and which now appear, or shall hereafter appear, from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be

Assets unclaimed for 15 years to be transferred to Government. from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any of those officers, to have been in official custody for a period of fifteen years or upwards without any claim thereto having been made and allowed, shall be

transferred and paid to the Controller General of Accounts or to the Accountant General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of Government; and the receipt of the said Controller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment: Provided that this Act shall

Proviso.

not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit already instituted or which shall be hereafter instituted in respect thereof.

60. If any claim shall be hereafter made to any part of the securities, monies or proceeds which shall be carried to the account or credit of the Government of India under the provisions of this Act, and if such claim shall be established to the satisfaction of the Controller General or the Accountant General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to the credit and account of the said Government of India, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Controller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency Town against the Secretary of State for India, and after taking evidence, either orally or on affidavit, in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, and such order shall be binding on all parties to the suit.

61. Whenever any person other than a Hindú, Muhammadan or Buddhist or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall die leaving assets within the limits of the jurisdiction of a District Judge, it shall be the duty of the District Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge, or appointing an Officer under the provisions of the Indian Succession Act, 1865, Section 239, to take and keep possession of the same, until the Administrator General shall have obtained letters of administration, or until some other person

shall have obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a Will being discovered, to the person who may obtain probate of the Will.

62. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary to Government or by a Committee of Adjustment, or other officers or persons acting under any law for the time being in force relating to the payment of Regimental debts; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts, and the distribution of the effects of officers and soldiers dying in the service of Her Majesty in India, or of any Articles of War.

63. Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties, and privileges of the Administrators General and Officiating Administrators General of Bengal, Madras, and Bombay, respectively.

64. It shall be lawful for the Governor General of India in Council to appoint a Deputy Administrator General for all or any of the territories which are or shall for the time being be respectively under the Governments of the said Lieutenant Governors of the North-Western Provinces and the Panjáb, and under the administrations of the Chief Commissioners of Oudh and the Central Provinces; and the provisions contained in this Act, as to the Administrator General of Bengal, shall apply to any Deputy Administrator General so appointed, save that in such case this Act shall be construed in the North-Western Provinces, Oudh, and the Central Provinces as if the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal, and in the Panjáb, as if the Chief Court of the Panjáb were substituted for the High Court of Judicature at Fort William.

any person applying a copy of the said declaration, attested by the seal of the Court which has the custody of the original, on payment of a fee of two rupees.

7. In any legal proceeding whatever, as well as in any Civil or Criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by this Act to have the custody of such declarations shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration.

8. Provided always, that any person who may have subscribed any such declaration as is aforesaid, and who may subsequently cease to be the printer or publisher of the periodical work mentioned in such declaration, may appear before any Magistrate, and make and subscribe in duplicate the following declaration:—

“I, A. B., declare, that I have ceased to be the printer (or publisher, or printer and publisher) of the periodical work entitled _____.”

Each original of the latter declaration shall be authenticated by the signature and seal of the Magistrate before whom the said latter declaration shall have been made, and one original of the said latter declaration shall be filed along with each original of the former declaration. The officer in charge of each original of the latter declaration, shall allow any person applying to inspect that original on payment of a fee of one rupee, and shall give to any person applying a copy of the said latter declaration, attested by the seal of the Court having custody of the original, on payment of a fee of two rupees. In all trials in which a copy, attested as is aforesaid, of the former declaration shall have been put in evidence, it shall be lawful to put in evidence a copy, attested as is aforesaid, of the latter declaration, and the former declaration shall not be taken to be evidence that the declarant was, at any period subsequent to the date of the latter declaration, printer or publisher of the periodical work therein mentioned.

PART III.

Delivery of Books.

9. Three printed or lithographed copies of the whole of every book which shall be printed or lithographed in British India after this Act shall come into force, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any addi-

tions or alterations, whether the same shall be in letter-press or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Act shall come into force, shall, within one calendar month after the day on which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof be delivered by the printer bound, sewed, or stitched together, and upon the best paper on which the same shall be printed or lithographed, at such place and to such officer as the Local Government shall, by notification in the official *Gazette*, from time to time direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints, and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid. Nothing in the former part of this Section shall apply to any periodical work published in conformity with the rules laid down in Section 5 of this Act.

10. Such officer shall thereupon give a receipt in writing for the copies so received, and, if the book is for sale to the public, shall, on the publication thereof, pay the publisher for the same copies at the rate at which the book shall be *bonâ fide* sold for cash to the public.

11. One of such copies shall be transmitted to the Secretary of State for India, another copy shall be disposed of as the Governor General of India in Council shall from time to time, by general or special order, direct, and the remaining copy shall, after a memorandum containing the particulars hereinafter mentioned respecting the book shall have been registered as hereinafter provided, be deposited in such public library, or be otherwise disposed of, as the Local Government shall from time to time determine.

PART IV.

Penalties.

12. Whoever shall print or publish any book or paper otherwise than in conformity with the rule contained in Section 3 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, or by simple imprisonment for a term not exceeding two years, or by both.

13. Whoever shall keep in his possession any such press as aforesaid, without making such a declaration as is required by Section 4 of this Act, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, or by simple imprisonment for a term not exceeding two years, or by both.

14. Any person who shall, in making any declaration under the authority of this Act, make a statement which is false, and which he either knows or believes to be false,

or does not believe to be true, shall, on conviction before a Magistrate, be punished by fine not exceeding five thousand rupees, and imprisonment for a term not exceeding two years.

15. Whoever shall print or publish any such periodical work as is hereinbefore described, without conforming to the rules hereinbefore laid down, or whoever shall print or publish, or shall cause to be printed or published, any such periodical work, knowing that the said rules have not been observed with respect to that work, shall, on conviction before a Magistrate, be punished with fine not exceeding five thousand rupees, or imprisonment for a term not exceeding two years, or both.

16. If any printer of any such book as is referred to in Section 9 of this Act, or of any second or subsequent edition of

any such book, shall neglect to deliver three copies of the same pursuant to this Act, he shall for every such default, forfeit, besides the value of the copies which he ought to have delivered, a sum not exceeding fifty rupees, to be recovered by the said officer, on conviction before a person exercising any of the powers of a Magistrate. If any publisher or other person employing any such printer shall neglect to supply him in manner aforesaid with the maps, prints, or engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the provisions of the same Section, such publisher or other person shall, for every such default, forfeit, besides the value of the said maps, prints, or engravings which he ought to have supplied, a sum not exceeding the said amount, and such sum shall be recovered in manner last aforesaid.

17. All pecuniary penalties imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, and Bombay, in the manner prescribed by the Code of Criminal Procedure, and if for offences committed within those limits, in the manner prescribed by any Act for regulating the Police of such towns in force for the time being. All such penalties shall be disposed of as the Local Government shall from time to time direct.

PART V.

Registration of Books.

18. There shall be kept at such office, and by such officer as the Local Government shall appoint in this behalf, a book to be called a Catalogue of Books printed in British India, wherein shall be registered a memorandum of every book which shall have been delivered pursuant to Section 9 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say):—

(1.)—The title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language:

(2.)—The language in which the book is written:

(3.)—The name of the author, translator, or editor of the book or any part thereof:

(4.)—The subject:

(5.)—The place of printing and the place of publication:

(6.)—The name or firm of the printer and the name or firm of the publisher:

(7.)—The date of issue from the press or of the publication:

(8.)—The number of sheets, leaves, or pages:

(9.)—The size:

(10.)—The first, second, or other number of the edition:

(11.)—The number of copies of which the edition consists:

(12.)—Whether the book is printed or lithographed:

(13.)—The price at which the book is sold to the public; and

(14.)—The name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copies thereof in manner aforesaid. Every registration under this Section shall, upon payment of the sum of two rupees to the officer keeping the said Catalogue, be deemed to be an entry in the Book of Registry kept under Act No. XX. of 1847 (*for the encouragement of learning in the Territories subject to the government of the East India Company, by defining and providing for the enforcement of the right called copyright therein*); and the provisions contained in that Act as to the said Book of Registry shall apply, *mutatis mutandis*, to the said Catalogue.

19. The memoranda registered during each quarter in the said Catalogue shall be published in the local *Gazette*, as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State, and to the Secretary to the Government of India in the Home Department respectively.

PART VI.

Miscellaneous.

20. The Local Government shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Act, and from time to time to repeal, alter, and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*.

21. The Governor General of India in Council may, by notification in the *Gazette of India*, exclude any class of books from operation of Act. from the operation of the whole or any part or parts of this Act.

22. Part III., and Section 16, and Part V. of this Act shall remain in force until the Governor General of India in Council shall declare to the contrary by notification in the *Gazette of India*.

23. This Act shall come into operation on the first day of July 1867.

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 22nd March 1867, and is hereby promulgated for general information :—

Act No. XXVI. of 1867.

An Act to amend the law relating to Stamp Duties.

Whereas it is expedient to amend the law relating to Stamp Duties ; It is hereby enacted as follows :—

1. In this Act—unless there be something Interpretation clause. repugnant in the subject or context—

“ High Court ” means the highest Court of appeal in every part of British India to which this Act extends.

“ Immoveable property ” includes land and every benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth :

“ Moveable property ” means property of every description except immoveable property.

2. The exception at the beginning of Section 30 of Act No. X. of 1862 (to consolidate and amend the law relating to stamp duties), shall not apply to the High Court of Judicature of the North-Western Provinces of the Presidency of Fort William in Bengal, and Section 2 of Act No. XX. of 1862, as continued by Act No. XXXII. of 1863, shall apply, *mutatis mutandis*, to the same Court.

3. Section 2 of this Act shall be deemed to have had and to have effect as if it were part of an Act which had actually passed and received the assent of the Governor-General of India on the 13th day of June 1866.

4. Sections 133 and 150 of the Code of Civil Procedure, and the following words in Section 198 of the same Code :—“ The application may be made either orally or by writing on unstamped paper ”—are hereby repealed.

5. In the said Act No. X. of 1862, Schedule A shall be read as if at the end of Article 43 the following clause were added (that is to say) :—

If the letter or power of attorney be made for the sole purpose of appointing or nominating a proxy to vote at any one meeting of the proprietors or shareholders of or in any Joint Stock Company, or other Company or Society whose stock of funds is or are divided into shares and transferable 0 4

Schedule substituted for Schedule B to Act X. of 1862. In the same Act, for Schedule B, the following shall be substituted :—

SCHEDULE B.

Appeal—see Petition.

Application—see Petition.

1. Bond or other obligation, whether the money secured or to be ultimately recoverable thereupon shall be limited or unlimited, when given by the direction of any Court or Revenue Authority. Rupees. Annas. 0 8

EXEMPTION.

Bail-bonds in criminal cases, recognizances to prosecute or give evidence, and personal recognizances for appearance or otherwise.

2. Certificate granted under Act XXVII. of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), or under Regulation VIII. of 1827 of the Bombay Code (to provide for the formal recognition of Heirs, Executors, and Administrators, and for the appointment of Administrators and Managers of property by the Courts), or under Act XL. of 1858 (for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal), if the debt or other property in respect to which the certificate is granted is sworn not to exceed 500 Rs. in amount or value. 5 0

If the property is sworn to exceed 500 Rs. but not to exceed 1,000 Rs. . . . 10 0
And for every additional 1,000 Rs. or fraction of 1,000 Rs. 5 0

The person to whom any such certificate is granted under the said Act XXVII. of 1860, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court which granted the certificate shall require him so to do, file a statement of all moneys recovered or realized by him under such certificate, and if the moneys so recovered or realized shall exceed the amount of the debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same, and order such person to take out a fresh certificate on the stamp prescribed by this Article for such excess. In default of filing such statement within the time allowed, the Court may cancel the certificate.

3. Copy of Decree or Order having the force of a Decree—

When passed by the High Court . . . 4 0

When passed by any Civil Court, other than a High Court, or by any Revenue Court—

If the decree or order purports to determine a claim of which the subject-matter is 50 rupees or less than 50 rupees in amount or value 0 8

If such amount or value exceeds 50 rupees 1 0

4. Copy or translation of a judgment or order not being, or having the force of, a decree—

When passed by the High Court. . . . 1 0

When passed by any Civil Court, other than the High Court, or by any Revenue Court, or by the Board of Revenue, or by any Chief Commissioner or other chief Revenue or Executive authority, or by any Commissioner of Circuit, or any chief officer charged with the executive Administration of a Division—

If the subject to which the judgment or order refers is 50 rupees or less than 50 rupees in amount or value 0 4

If such amount or value exceed 50 rupees 0 8

5. Copy of any Revenue or Judicial proceeding or Order not provided for in Articles 3 and 4, or copy of any account, statement, report, or the like, taken out of any Civil or Criminal Court, or any Revenue Court or Office, or any office of any Commissioner of Circuit, or any chief officer charged with the executive administration of a Division—per sheet.

Rupees. Annas.

0 8

The same Stamp as the original, when such Stamp does not exceed 8 Annas, otherwise a Stamp of 8 Annas per sheet. Provided that the stamp-duty on the copy shall never exceed the stamp-duty on the original.

6. Copy of any Deed, Instrument, or Writing, stamped in accordance with Schedule A annexed to this Act, when left by any party to a suit on Proceedings in place of the original withdrawn.

EXEMPTION.

Copy of any such Deed, Instrument, or Writing, when the original does not require a Stamp under the said Schedule A.

7. Mukhtárnáma, Wakálatnáma, and other power, filed or presented for the conduct of any one case in any Court, or before any Revenue or Executive Authority—

When presented to the High Court, the Board of Revenue, the Chief Commissioner or other Chief Revenue or Executive Authority.

2 0

When presented to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division, or to a Commissioner of Customs, not being the Chief Revenue or Executive Authority

1 0

When presented to any Court, Civil or Criminal, other than the High Court, or to any Revenue Court, or to any Collector or Magistrate, or other Revenue or Executive Officer, not being an authority already provided for by this Article

0 8

EXEMPTIONS.

Mukhtárnámas executed by an Officer or Soldier of the Army.

No advocate of any High Court shall be required to file or present a Mukhtárnáma or Wakálatnáma, or any other document empowering him to act.

8. Petition of appeal not being from an Order rejecting a plaint, or from a Decree or Order having the force of a Decree—

When presented to the High Court

2 0

When presented to any Civil Court, other than the High Court, or to any Revenue Court, other than the Board of Revenue.

0 8

9. Petition of Appeal when presented to the Board of Revenue, or to the Chief Commissioner, or other Chief Revenue or Executive Authority

2 0

10. Any other petition, and any application—

When presented to the High Court

2 0

When presented to the Board of Revenue, or to the Chief Commissioner or other Chief Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a Division

1 0

When presented to any Criminal Court when the petition or application contains

a complaint of the offence of wrongful confinement or wrongful restraint, or of any offence other than an offence for which Police officers may arrest without warrant, as specified in column 3 of the Schedule annexed to the Code of Criminal Procedure

Rupees. Annas.

1 0

When presented to any Civil Court, other than a principal Civil Court of original jurisdiction, or to any Cantonment Joint Magistrate sitting as a Court of Civil Judicature under Act III. of 1859 (for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds), or to any Court of Small Causes constituted under Act XI. of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature), or to a Collector or officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than 50 Rupees.

0 1

When, presented to the Collector of Customs at any Presidency town, to any Municipal Commissioners, or to any Magistrate or Justice of the Peace, under Act XIV. of 1856, or any other Act for the time being in force for the conservancy and improvement of any Presidency town.

When presented to any Civil, Criminal, or Revenue Court, or any Board of Revenue, or any Commissioner of Revenue or Circuit, or any chief officer charged with the executive administration of a Division for a copy or for a translation of any judgment, decree, or order, or other document on record.

Petition or application not falling within any of the other provisions, or of the exemptions of this Schedule, presented to a Civil, Criminal, or Revenue Court, or to any Collector or other Revenue Authority, or any Magistrate in his executive capacity.

0 8

EXEMPTIONS.

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

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

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

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

Any application for permission to cut timber in Government forests, or relating to such forests.

Petition, application, charge, or information respecting any offence when presented, made, or laid before an officer of Police, or before the heads of villages in the Presidency of Fort St. George, or before village Police officers in the Presidency of Bombay.

Any such petition, application, charge, or information presented, made, or laid before a Criminal Court, when such Court shall think that it ought to be exempted from stamp-duty.

Petition from any prisoner, convict, or other person in duress, or under restraint of any Court or its Officers.

11. PLAINT OR APPEAL, Petition of suits and appeals not otherwise provided for, instituted in any Civil or Revenue Court outside the local limits of the or-

dinary original Civil jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money, or to obtain possession of any interest, matter, or thing—

If the amount or value of the property claimed does not exceed . . . 10 Rs.
If it exceeds 10 Rs. and does not exceed . . . 100 Rs,

Rupees. Annas.

1 0

1 Rupee plus 8 annas per 5 Rupees or fraction of 5 Rupees of the difference between 10 Rupees and the amount or value sued for.

Illustration.

Where the amount or value is Rupees 32-8, the duty is Rupees 3-8.

1 Rupee per 10 Rupees or fraction of 10 Rupees.

Illustration.

Where the amount or value is Rupees 485-8, the duty is Rupees 49.

100 Rupees plus 5 Rupees per 100 Rupees or fraction of 100 Rupees of the difference between 1,000 Rupees and the amount or value sued for.

Illustration.

Where the amount or value is Rupees 1,250-8, the duty is Rupees 115.

1,050 Rupees plus 1 Rupee per 100 Rupees or fraction of 100 Rupees of the difference between 20,000 Rupees and the amount or value sued for.

Illustration.

Where the amount or value is Rupees 43,450-8, the duty is Rupees 1,285.

1,850 Rupees plus 8 annas per 100 Rupees or fraction of 100 Rupees of the difference between 1,00,000 Rupees and the amount or value sued for.

Illustration.

Where the amount or value is Rupees 5,93,150-8, the duty is Rs. 4,316.

Rupees. Annas.

0 4

0 8

1 0

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

If it exceeds 100 Rs. and does not exceed . . . 1,000 Rs.

1,000 „ „ 20,000 „

If it exceeds 20,000 Rs. and does not exceed 1,00,000 Rs.

If the suit be instituted in a Military Court of Requests, or in the Court of a Cantonment Joint Magistrate under the said Act III. of 1859, or in a Court of Small Causes established under Section 6 of Act XXII. of 1864 (to make provision for the administration of Military Cantonments) and the amount or value claimed does not exceed 8 Rupees . . .

If it exceeds 8 Rupees, and does not exceed 16 Rupees . . .

If it exceeds 16 Rupees and does not exceed 30 Rupees . . .

If it exceeds 30 Rupees . . .

In suits for possession instituted under Section 15, Act XIV. of 1859, and applications for immediate possession under Section 1, Clause 2 of Act No. XVI. of 1838, and Act No. V. of 1864, passed by the Governor of Bombay in Council . . .

NOTE.—(a) In suits for immoveable property whether paying or not paying revenue to Government, the amount of stamp duty payable shall be computed according to the market-value of the property in suit. In suits for immoveable property paying revenue to Government, where the settlement is temporary, eight times the revenue so payable, and where the settlement is permanent, ten times the revenue so payable, and in suits for immoveable property not paying revenue to Government, twenty times the annual net profits of such property, shall be taken to be the market-value thereof, unless and until the contrary shall be proved.

SPECIAL RULES FOR THE BOMBAY PRESIDENCY.

(1). In the case of lands held on a settlement for a period not exceeding thirty years and paying the full assessment to Government, a sum equal to eight times the survey assessment shall be taken to be the market-value.

(2). In the case of lands held on a permanent settlement or on a settlement for any period exceeding thirty years and paying the full assessment to Government, a sum equal to ten times the survey assessment shall be taken to be the market-value.

(3). When the whole or any part of the annual survey assessment is remitted, the valuation calculated by the preceding rules shall be increased by ten times the portion of assessment remitted.

(b). In all other descriptions of suits, the amount of stamp duty payable shall be computed in the following manner:—

(1). In suits for moveable property (other than money), according to the market-value of the subject-matter of the suit at the date of filing the plaint, or where the subject-matter has no market-value, as, for instance, in the case of documents relating to title, or accounts, the amount at which the subject-matter shall be estimated in the petition of plaint or appeal.

(2). In suits (other than suits under Act No. XV. of 1865, or Act No. XXI. of 1866,) in which it is not possible to estimate at a money-value the subject-matter of the suit.

(3). In suits for money (including suits for damages and compensation), according to the amount claimed.

In order to ascertain the market-value or the annual net profits of any such property as is described in NOTE (a) and in NOTE (b), the Court may either of its own motion, or on the application of any party to the suit, issue a commission to any proper person, directing him to make such local or other investigation as may be necessary, and to report thereon to the Court, and the decision of the Court as to market-value or annual net profits shall be final. If in the result of any such investigation, the Court shall find that the market-value or net profits has or have been erroneously estimated for the purpose of computing the stamp-duty, the Court shall either (as the case may be) refund the excess paid as such duty, or require the plaintiff to pay so much additional stamp duty as would have been payable had the said market-value or net profits been correctly estimated, and in such case the suit shall be stayed until the additional duty shall have been paid.

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

Rupees. Annas.

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Section 180 of the Code of Civil Procedure shall be construed as if the words "the market-value of any property in suit or" were inserted after the word "ascertaining," and as if the words "or annual net profits" were inserted after the word "damages."

(c). In suits for mesne profits or for immoveable property and mesne profits, if the profits decreed are in excess of the profits claimed, the decree shall not be executed until the difference between the stamp duty actually paid and the stamp duty which would have been payable had the suit comprised the whole of the profits so decreed, shall have been paid to the proper officer. Such difference shall be calculated by the Court according to the rules above mentioned, and shall be costs in the suit.

(d). If an appeal or plaint, which shall have been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, shall be ordered to be received, or if a suit shall be remanded in appeal on any of the grounds mentioned in Section 351 of the same Code, for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Collector the full amount of stamp duty paid on the petition of appeal. Provided that, if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorize the appellant to receive back more than so much duty as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

(e). When any appeal shall be presented to a Civil Court, not against the whole of a decision, but only against so much thereof as relates to a part or parts of the subject-matter of the suit, and, on the hearing of such appeal, the respondent shall take, under Section 348 of the Code of Civil Procedure, an objection to any part of the said decision other than the part appealed against, the Court shall not hear such objection until the respondent shall have paid the additional stamp duty which would have been payable had the appeal comprised the part of the decision so objected to. Such additional stamp duty shall be calculated by the Court according to the rules above mentioned, and shall be costs in the suit.

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

7. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, as specified in the third column of the Schedule annexed to the Code of Criminal Procedure, and who has not already presented a petition stamped as required by Article 10 of Section 6 of this Act, shall be reduced to writing under the provisions of the Code of Criminal Procedure, such examination shall be written upon stamp paper of the value of one rupee, to be supplied by the complainant, unless the Court shall think fit to write such examination upon plain paper.

8. Sections 1, 5, 6, and 7 of this Act shall be read with and taken as part of the said Act No. X. of 1862: provided that nothing contained in these Sections shall have a retrospective operation.

9. Nothing in this Act shall affect Act No. XVIII. of 1865 (to amend Act not to affect Act XVIII. of 1865. Act No. X. of 1862) or any order passed thereunder, and nothing in this Act shall affect the stamps or fees leviable under the Indian Succession Act, 1865, the Parsee Marriage and Divorce Act, 1865, the Native Converts' Marriage Dissolution Act, 1866, nor any other stamp or fee leviable on any application, bond, certificate, copy, petition, power, or translation not hereinbefore expressly provided for.

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd March 1867, and is hereby promulgated for general information :—

Act No. XXVII. of 1867.

An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh, and the Jhānsi Division to distribute the business in subordinate Courts.

Whereas it is expedient to enable Deputy Commissioners in the Central Provinces, the Panjáb, Oudh, and the Jhānsi Division to direct the business in the Courts subordinate to them, respectively, to be distributed among such Courts in such way as the said Deputy Commissioners shall respectively think fit; It is hereby enacted as follows :—

1. Notwithstanding anything contained in Act No. VIII. of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter), Act No. XIV. of 1865 (to define the jurisdiction of the Courts of Civil Judicature

in the Central Provinces), Act No. XIX. of 1865 (to define the jurisdiction of the Courts of Judicature of the Panjáb and its dependencies), or Act No. XVIII. of 1867 (to define the jurisdiction of the Courts of Civil Judicature in the Jhānsi Division), every Deputy Commissioner in Oudh, the Central Provinces, the Panjáb and its dependencies, and the Jhānsi Division, may direct the business in the Courts subordinate to him, whether or not they hold their sittings in the same place, to be distributed among such Courts in such way as he shall think fit.

Nothing in Act to apply to Small Cause Courts. 2. Nothing in this Act shall apply to Courts of Small Causes.

3. This Act shall in the Central Provinces be read with and taken as part of the said Act No. XIV. of 1865; in the Panjáb and its dependencies as part of the said Act No. XIX. of 1865, and in the Jhānsi Division as part of the said Act No. XVIII. of 1867.

WHITLEY STOKES,

*Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).*

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 22nd March 1867, and is hereby promulgated for general information:—

Act No. XXVIII. of 1867.

An Act to remove doubts as to the legality of certain sentences passed by tribunals, called Petty Sessions Courts, in the North-Western Provinces.

Whereas certain Magistrates in the North-Western Provinces of the Presidency of Fort William in Bengal have been used to sit together in certain places in the said Provinces as a Court of Petty Sessions and to pass sentences, in that capacity: And whereas doubts have been raised as to the legality of such proceedings and sentences, and it is expedient to remove such doubts; It is hereby enacted as follows:—

1. When two or more persons authorized to exercise all or any of the powers of a Magistrate sit together for the despatch of business in any place in the said Provinces, any summons, warrant or process, or other proceeding, and any order, judgment, finding or sentence, signed by any two or more of them, shall be as valid to all intents and purposes as if it were solely signed, when the powers of one or more of them are higher than the powers of the others or other of them, by

Validity given to process, &c., signed by Magistrates in Petty Sessions.

such one of them as has, or by one of such of them as have, been invested under Section 23 of the Code of Criminal Procedure with the highest of such powers, or, when their powers are equal, by any one of them.

2. All sentences heretofore passed by any Magistrates sitting together in any such place as aforesaid, shall be deemed to be as valid as if this Act had then been passed.

Sentences heretofore passed by Magistrates in Petty Sessions to be valid.

3. It shall be lawful for the High Court of Judicature for the said Provinces to frame rules consistent with this Act and with the Code of Criminal Procedure, for the conduct of business transacted by Magistrates sitting together in manner aforesaid, and from time to time to repeal, alter, and add to such rules. All such rules, and all repeals and alterations thereof, and additions thereto, shall be published in the local *Gazette*.

4. It shall be lawful for any Local Government, other than the Government of the North-Western Provinces, to extend, *mutatis mutandis*, the provisions of this Act to all or any part of the territories under its government.

Act may be extended.

WHITLEY STOKES,

*Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).*