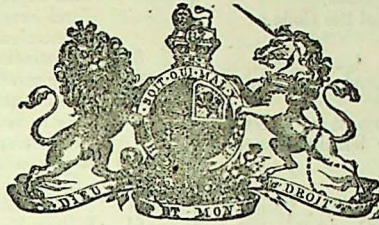


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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th July 1879, and was referred to a Select Committee;—

Bill No. 12 of 1879.

THE DEKKHAN AGRICULTURISTS RELIEF BILL, 1879.

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A Bill for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists Relief Act 1879".
- Short title.

It extends only to the districts of Poona, Sâtara, Sholâpur, and Ahmed-nagar, and it shall come into force on the first day of October 1879.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture:

(2) "money" includes grain and any other agricultural produce.

(3) "special judge" means the officer appointed under section fifty-one.

CHAPTER II.

OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

3. The provisions of this chapter shall apply to—

(a) suits for an account instituted on or after the first day of October 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees in amount or value, and the parties agree that such provisions shall apply.

The descriptions of suits referred to in clause (b) are the following (namely):—

suits of the nature cognizable by Courts of Small Causes, and

suits between mortgagors, being agriculturists, and mortgagees for the foreclosure or redemption of the mortgage, for the enforcement of the mortgage lien or for the possession of the property mortgaged.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have jurisdiction in the same local area, every suit referred to in section 3, clause (b), to be instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds

one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

5. Notwithstanding anything contained in the Subordinate Judges Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall, while this Act continues in force, be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of October 1879, to have been withdrawn.

6. The Local Government may from time to time by notification in the local Gazette direct that any class of suits which a Subordinate Judge would be precluded from hearing by section twelve of 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 Court of Judicature*) shall be heard and determined by him and not otherwise, and may by a like notification cancel any such direction.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

8. If the officer employed to serve a summons on a defendant cannot find such defendant and there is no agent empowered to accept the service of the summons in his behalf, nor any person on whom the service can be made, the serving officer may, instead of proceeding in manner prescribed by section 80 of the Code of Civil Procedure, leave such summons for service with the Patel of the defendant's village.

A Patel with whom a summons is left under this section shall, if he within one week from the date on which the summons is so left finds the defendant in the village, serve such summons on the defendant in manner prescribed by section 79 of the said Code, endorse the same or cause the same to be endorsed in manner prescribed by section 81 of the said Code, sign such endorsement and return the summons by post or otherwise to the Court.

An endorsement made on a summons under this section shall be *prima facie* proof of the facts stated therein, and the Court shall take judicial notice of the signature thereto.

9. No suit shall be heard *ex parte*, unless the No suit to be heard *ex parte* Court, for reasons to be recorded in writing, thinks that it ought to be so heard.

In any suit which the Code of Civil Procedure directs to be heard *ex parte*, but which the Court does not think ought to be so heard, the Court shall adjourn the hearing and take steps to secure the attendance of the defendant by the issue of a fresh summons or of a warrant of arrest.

10. In suits of the nature cognizable by Courts of Small Causes no party shall be entitled to file a written statement without the permission of the Court.

11. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

CHAPTER III.

OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

12. When any suit is brought for the recovery of money alleged to be due on account of money lent or advanced to, or paid for, the defendant, or as the price of goods sold or on an account stated, or on a written or unwritten engagements for the payment of money, or for the foreclosure of a mortgage, or for the possession of mortgaged property, and the defendant or any one of the defendants, not being merely a surety of the actual debtor, is an agriculturist,

and when any suit is brought for the redemption of a mortgage and the plaintiff or any one of the plaintiffs is an agriculturist,

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties out of which the suit has arisen, first, with a view of ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise; and secondly, with a view (if necessary) to taking an account between the parties in manner hereinafter provided.

When the amount of the claim is admitted, and the Court sees no reason to doubt the truth of such admission, the Court shall not be bound so to enquire, but may do so if it thinks fit.

When the Court sees reason to doubt the truth of such admission, it shall be bound to enquire as aforesaid.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall, if it considers any agreement between the parties as to interest or the profits of mortgaged property or determining in any way the manner of taking the account fair and equitable, give effect to such agreement and take the account on the footing thereof; but if it does not consider such agreement fair and equitable, it shall, notwithstanding the same,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

determine the amount due according to the following rules (that is to say):—

(a) separate accounts of principal and interest shall be taken:

(b) in the account of principal there shall be debited to the debtor only such money as may from time to time have been actually received by him or on his account from the creditor:

(c) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at the rate allowed by the Court as hereinafter provided:

(d) all payments by or on account of the debtor, and all profits or advantages of every description received by the creditor in the course of the transactions, shall be credited, first, on account of interest; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal;

(e) the accounts of principal and interest shall be made up to the date of suit, and the aggregate of the balances (if any) of both such accounts against the debtor on that date shall be deemed to be the amount due, except when the balance of the interest account exceeds that of the principal account, in which case double the latter balance shall be deemed to be the amount due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, unless such rate is deemed by the Court to be unreasonable; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, such rate as the Court deems reasonable:

Provided that, in any case in which the parties have agreed that the profits of mortgaged property shall be taken by the mortgagee in lieu of interest and such agreement has been set aside under section thirteen, the rate of interest to be allowed shall be nine per cent. per annum.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that the question be referred to arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them: if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit:

Provided that if both parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town, or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. If the debt, or any portion thereof, was

In the case of ancestral debts interest to be disallowed or limited. person from whom the creditor seeks to obtain recovery, but by such person's father or other ancestor, the said person shall be called upon to state whether he is willing to accept the full responsibility for such debt or for such portion thereof;

and, if he accepts such responsibility, shall be held liable for the full amount payable on account of such debt, or of such portion thereof subject to the other provisions of this Act, or of any law for the time being in force relating to ancestral debts;

but if he declines to accept such responsibility, he shall not be held liable for more than the principal amount of such debt, or of such portion thereof, with interest up to the date of the death of the person who incurred such debt, or of such portion thereof, if such person was related to him in the first degree, and otherwise only for the principal amount of such debt or of such portion thereof.

17. Any agriculturist may sue for an account

Agriculturist debtors may sue for accounts. of monies lent or advanced to or paid for him by a creditor or due by him to such creditor as the price of goods sold or on a written or unwritten engagement for the payment of money and of monies paid by him to such creditor, and for a decree declaring the amount, if any, still payable by him to such creditor.

When any such suit is brought, the amount

Amount of debts in such cases to be determined according to foregoing provisions. shall be determined under the same rules as would be applicable if the creditor had himself sued for recovery of the debt.

18. A decree passed under section seventeen

Decree may provide for payment by instalments. may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained the decree in a suit to recover the debt.

19. The plaintiff in any suit instituted under

Payment into court in cases under section 17. section seventeen may at any stage of such suit deposit in court such

sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

20. When a decree has been passed, whether

Power to discharge judgment-debtor. before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, whether in the course of execution of the said decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of a portion of the same, and grant him a discharge from such balance.

When the sum payable under the decree amounts

Power to direct institution of insolvency proceedings. to fifty rupees or upwards, or when there are other claims against the debtor, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

21. The Court may at any time direct that

Power to fix instalments in execution. the amount of any decree against an agriculturist or the portion of the same which it directs under section twenty to be paid, shall be paid by instalments with or without interest.

22. Except as provided in the Code of Civil

Arrest and imprisonment for debt abolished. Procedure, section 359, no agriculturist shall be arrested or imprisoned on account of debt.

23. No agriculturist's land shall be attached

Land exempted from attachment and sale unless specifically pledged. or sold in execution of any decree or order unless it has been specifically pledged as security for the payment of the debt to which such decree or order relates, and the mortgage lien still subsists.

But the Court may, when passing a decree or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any land of an agriculturist judgment-debtor to the possession of which such judgment-debtor is entitled, and which, in the opinion of the Collector, is not required for the support of such judgment-debtor and the members of his family dependent on him, and deal with the same for the benefit of the decree-holder in manner provided by section thirty-one.

24. If, upon application being made for the

Ancestral debt. execution of a decree for the payment of money against an agriculturist, it appears that the person against whom execution is sought is not the person made liable by the decree for the amount

thereof, but the heir of such person, the amount recoverable under the decree shall be limited in accordance with the provisions of section sixteen.

CHAPTER IV.

OF INSOLVENCY.

25. Every Subordinate Judge shall have the powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his jurisdiction declared insolvent and proceedings taken under orders passed by him under the second clause of section twenty, and no such application or proceeding shall be dealt with by any other Court.

26. Any agriculturist who is in debt to the amount of fifty rupees or upwards and who resides within the said districts may apply to any Subordinate Judge within the local limits of whose jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property in execution of decree.

27. Notwithstanding anything contained in section 351 of the Code of Civil Procedure, the Court shall declare an agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-six of this Act.

28. No person other than the Názir of the Court shall be appointed as receiver, and no receiver shall be entitled to commission.

29. In determining under section 352 of the said Code the amount of any claim of the nature referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to sixteen of this Act, both inclusive.

30. Whenever any moveable property of an insolvent is liable to be sold by a receiver under section 356 of the said Code, the Court may direct that it shall not be so sold, and may, after recording the opinions of two Assessors appointed by the Court in this behalf, determine the value of such property and direct the receiver, to transfer it to any of the scheduled creditors who may be entitled to receive in the distribution under the said section 356 an amount equal to or greater than the value so determined; and such creditor shall accept such property in full or partial liquidation (as the case may be) of the amount to which he is so entitled.

31. No immoveable property of the insolvent shall vest in the receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding seven years from the date on which the receiver has been appointed, any such property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors, by letting it on lease or otherwise:

Provided that if the insolvent or his heir at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

32. When any scheduled debt is secured by a mortgage of any portion of the insolvent's immoveable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property rent-free for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property by public auction or otherwise as he thinks fit.

Where property is let under this section, the premium shall be applied to the payment of the debt.

When property is sold under this section, the sale proceeds shall be applied, first, to the payment of the debt; and the balance, if any, shall be paid to the receiver.

33. So long as any management under section thirty-one or letting under section thirty-two continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property or any part thereof.

34. When the balance available for distribution among the scheduled creditors under section 356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section thirty-one.

35. No Subordinate Judge exercising the powers conferred by section twenty-five, if he is a Subordinate Judge of the first class, shall sentence any person under section 359 of the said Code to imprisonment for a term longer than three months, or if he is a Subordinate Judge of the second class, shall so sentence any person for a term longer than one month.

CHAPTER V. OF VILLAGE-MUNSIFS.

36. The Local Government may from time to time appoint any Patel of a village to be a Village-Munsif for such village or for such village and for any other villages the sites of which are situate not more than two miles from the site of such village, and may cancel any such appointment.

37. Every Village-Munsif so appointed shall take cognizance of suits, for money lent, or advanced to or paid for, the defendant, or due as the price of goods sold or on an account stated, or on a written or unwritten engagement for the payment of money when the amount or value of the claim does not exceed ten rupees, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

A suit cognizable by a Village-Munsif shall not be heard by any other Court:

Provided that the Special Judge may from time to time transfer any suit instituted before a Village-Munsif to any other Civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

38. The Special Judge may on a petition being presented within thirty days from the date of any decree or order of a Village Munsif by any party aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif.

Except as herein provided and as provided in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

39. The Local Government may from time to time, by notification in the local Gazette make rules for regulating the procedure of Village-Munsifs and for conferring on them any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

CHAPTER VI. OF CONCILIATION.

40. The Local Government may from time to time appoint any person to be a Conciliator and cancel and such appointment.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local limits as the Local Government may from time to time determine.

41. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any local limits for which a Conciliator has been appointed, any of such parties may apply to such Conciliator to effect an amicable settlement between them.

42. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a general statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him upon a day to be fixed for this purpose, and shall direct the applicant also to be present on such day.

If the said person fails to appear on the day first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

43. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

44. The Conciliator shall hear the statement of any witness and peruse any book of account or other document produced by the parties, and if any party or witness consents in writing to affirm any statement upon oath or solemn affirmation in any form not repugnant to justice or decency and not purporting to affect any third person, shall arrange for such oath or solemn affirmation being duly taken in the presence of all the parties.

45. If on the day on which the case is first heard by the Conciliator or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise attested by the Conciliator and the parties or their representatives respectively.

46. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides.

The Court which receives the agreement shall order it to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

47. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

48. If the person against whom any application is made before a Conciliator cannot be found, or if he refuses or neglects, after such period as the Conciliator thinks reasonable has been allowed for his appearance, to appear before the Conciliator, or if he appears but the attempt to reconcile the parties or to induce them to resort to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his signature to that effect.

49. No suit and no application for execution of a decree passed before the date on which this Act comes into force to which any agriculturist residing within any local limits for which a Conciliator has been appointed is a party shall be entertained by any Civil Court, unless the plaintiff or decree-holder produces a certificate as aforesaid.

50. The Local Government may from time to time make rules—

- (a) regulating the proceedings of Conciliators in matters not provided for by this Act;
- (b) fixing the charges to be made by Conciliators for anything done by them under this Act; and
- (c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them,

CHAPTER VII.

SUPERINTENDENCE AND REVISION.

51. The Local Government shall appoint an officer, as special Judge, to inspect, supervise and control the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators under this Act, and to discharge in respect of such proceedings, before Subordinate Judges all the functions of the District Court.

The officer so appointed shall not, without the previous sanction of the Government of India, discharge any public function except those which he is required by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge in regard

to any matter, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

52. The Special Judge may—

(a) transfer to his own file, and himself as if he were a Subordinate Judge dispose of any suit or other matter pending before the Court of any Subordinate Judge; or

(b) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this chapter.

If the members of any Bench sitting under this section differ in opinion, the opinion of the Special Judge shall prevail.

53. The Local Government may appoint any Assistant or Subordinate Judge to inspect and to aid Special Judge. supervise, subject to the control of the Special Judge, the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators under this Act in one or more districts. Any Assistant or Subordinate Judge so appointed may, in the districts for which he is so appointed, if the Special Judge so directs, exercise the powers of the Special Judge under section fifty-two of this Act, and transfer any suit under section 25 of the Code of Civil Procedure.

54. The Special Judge may call for and examine therecord of any suit or other matter tried by a Subordinate Judge for the purpose of satisfying himself of the legality or propriety of any decree or order passed, and as to the regularity of the proceedings, and may pass such order thereon as he thinks fit; and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-three may similarly in the districts for which he is appointed call for and examine the record of any such case, and if he see cause therefor, may refer the same, with his remarks, for the orders of the Special Judge:

Provided that no decision or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place,

CHAPTER VIII.

REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may—

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars, for such local areas as it may from time to time prescribe;

(b) direct that the Village-Registrar for any local area may discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas; and

(c) delegate to any person by name or in virtue of his office the powers conferred on it by this section.

56. No instrument purporting to create, modify, transfer or evidence

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-Registrar.

an obligation for the payment of money or a charge upon any property executed after the passing of this Act by an agriculturist residing in any local area for which a Village-Registrar has been appointed shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer unless such instrument is written by, or under the superintendence of, and is attested by a Village-Registrar :

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one or more of whom

Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.

is an agriculturist, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which the said agriculturist or any one of the said agriculturists resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties, and receiving from them the fee (if any) prescribed by the Local Government and the stamp (if any) which may be necessary, shall write the instrument, or cause the same to be written under his superintendence, and require the parties to execute it in his presence.

Every instrument so written and executed shall be attested by the Village-Registrar, and also if any of the parties thereto is unable to read and write, by two respectable witnesses.

58. Every Village-Registrar shall keep a

Registration of instruments by Village-Registrars.

register of instruments executed before him in such form as shall from time to time be prescribed by the Inspector General of Registration under section sixty-one of this Act.

As soon as any instrument has been completely executed before a Village-Registrar, he shall make or cause a copy of it to be made in his register and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties, if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by or under

Consideration to be fully stated in every instrument executed before a Village-Registrar.

the superintendence of the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note, under his signature, re-

cording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument is to be executed in supersession, or partly in supersession, of a previous instrument, such instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his signature for identification.

60. Every instrument executed and registered

Registration under this Act to be deemed equivalent to registration under the Indian Registration Act, 1877.

in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877; and no instrument which ought to have been executed before a Village-Registrar, but has been otherwise executed, shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The said Inspector-General shall exercise,

Village-Registrars to be subordinate to the Inspector General of Registration.

by himself and his subordinates, a general superintendence over all Village-Registrars, and shall have power from time to time to make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. Nothing in this Act shall be deemed to

Exemption of instruments to which Government or any officer of Government is a party.

require any instrument to which the Government or any officer of Government in his official capacity is a party to be executed before a Village-Registrar.

63. The Local Government may from time to

Power of Local Government to make rules.

time make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

CHAPTER IX.

OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. Every agriculturist who makes any pay-

Agriculturists to be entitled to written receipts

ment of money in liquidation of a debt shall be entitled to receive at the time of such payment a written receipt from the person to whom such payment is made.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is

and to annual statements of accounts;

due under any instrument shall be entitled to receive from the person claiming under such instrument, within one month after the date on which by local custom annual accounts are balanced, a statement of his accounts up to that date.

The Local Government may, by notification in the local Gazette, declare what date shall in any district or portion of a district be taken to be the date on which annual accounts are balanced for the purpose of this section.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require from time to time that his account up to date be written therein and attested by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent for the purposes of section sixty-four to the grant of a receipt for the amount so entered.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six refuses or neglects to give a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.

LEGAL PRACTITIONERS.

68. No pleader, vakil, mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to a case before a Village-Munsif or a Conciliator:

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Munsif, to employ any relative, servant or dependent, who is not, and has not previously been, a pleader or a mukhtár or vakil to appear either conjointly with or in lieu of such party.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power of attorney defining the extent to which he is empowered to act.

69. In awarding costs to any party in any suit or proceeding before a Subordinate Judge under this Act in which the subject-matter does not exceed one hundred rupees in amount or value, nothing shall be allowed on account of the fees of any pleader, vakil, mukhtár, or of any advocate or attorney of a High Court, unless the Court, for reasons to be recorded by it in writing, thinks that professional assistance was necessary to the proper conduct of such party's case.

70. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakil or

mukhtár, or any advocate or attorney of a High Court appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance may, with the consent of such agriculturist, direct the Government pleader or some other competent person (who is willing so to do) to appear on his behalf.

CHAPTER XI.

MISCELLANEOUS.

71. No mortgage, lien or charge of or upon Mortgages, &c., to be any immovable property valid only when written belonging to an agriculturist shall be valid unless it is created by an instrument in writing signed by the person creating such mortgage, lien or charge.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say) :—

(a) when such suit is based on a written instrument registered under this Act or any other law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years :

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before the passing of this Act.

73. No appeal shall lie from any decision or order in any suit or proceeding before a Subordinate Judge under this Act.

74. The decision of any Court of first instance that any person is or is not an agriculturist shall be final.

75. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges.

76. The Local Government may from time to time make all such rules as it may deem necessary for carrying out the provisions of this Act.

77. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

STATEMENT OF OBJECTS AND REASONS.

1. THE inquiries made into the causes of the riots which occurred in the Dekkhan districts in 1875 and the discussions which have since taken place show that the difficulties under which the agriculturists in those districts labour are due, in a great measure, to the unsatisfactory nature of the relations at present subsisting between them and the money-lending classes.

2. In order to put those relations on a better footing, it is deemed necessary—
first, to provide some safeguards against the money-lenders committing frauds in their accounts and obtaining from ignorant peasants bonds for larger amounts than are actually paid to or due from them;

secondly, to arrange disputes by conciliation as far as possible; to increase the number of Courts, and to simplify and cheapen the administration of justice, and thus to afford facilities to the agriculturist to defend any suit that may be brought against him;

thirdly, to insist that in suits against agriculturists the Court shall in certain cases of its own motion investigate the entire history of the transactions between the parties, and do substantial justice between them;—

fourthly, to restrict the sale of the raiyat's land in execution of decree, and to provide an insolvency-procedure more liberal to the debtor, than that of the Code of Civil Procedure.

The present Bill has been drafted with a view to securing these objects, in so far as they can be secured by legislation. It extends only to the four districts in which the agricultural distress has been most felt.

3. An attempt has been made to secure the first object by sections 55 to 63, providing for the appointment of village-registrars before whom every written obligation for the payment of money by an agriculturist must be registered; by sections 64 to 67, requiring money-lenders to give receipts to agriculturists for all payments made by them, to render accounts, and to furnish a pass-book in which the agriculturist's account will be periodically written up; and by section 71, which invalidates all mortgages created by an agriculturist otherwise than by a written instrument.

4. With a view to the second of the proposed objects, the Bill provides in sections 40 to 50 for the establishment of a system of conciliation under which it is hoped a large number of disputes will be settled out of court; and in sections 36 to 39 for the appointment of village-munsifs, like those in the Madras Presidency, to dispose of petty cases. A further addition to the machinery for the disposal of suits will be made by an increase of the number of Subordinate Judges; but as this is a matter which it is competent to the Local Government to deal with under the existing law no reference to it will be found in the Bill.

5. As regards procedure, it is proposed, with a view to a more rapid despatch of business and to diminishing the cost of litigation, to simplify the record in certain respects (sections 10 and 11); to discourage the employment of pleaders in petty suits (section 69); and to substitute for the present system of appeals a very strict and searching supervision (sections 51 to 54).

6. Sections 12 to 16 provide in certain cases for a thorough investigation into the history of the transaction between the parties (the third of the four objects mentioned above). They prescribe the system in which the raiyat's account is to be made up in cases where the Court finds it necessary to set aside oppressive or inequitable arrangements between the parties, and they guard especially against exorbitant demands for interest.

7. The presence of the defendant being essential for the thorough investigation proposed, and the raiyats being, through various difficulties, apt to leave their suits undefended, it has been provided (in section 9) that, except for special reasons, no suit shall be decided *ex parte*, but that the Court shall compel the defendant to appear.

8. The last of the four objects proposed will be found provided for by sections 25 and 33, which enact that land shall not be sold to pay the debt of the owner except where it has been specifically pledged, but admit of its profits being made available to the creditor for a term of years, and by the sections relating to insolvency.

9. The chief points in which the provisions of the insolvency-chapter differ from those of the Code are that they allow an agriculturist to apply to be adjudicated an insolvent, though no process in execution has been issued against him; that they entitle him to an adjudication in all cases in which, as a matter of fact, he may be insolvent, leaving any misconduct on his part to be punished under the Code of Civil Procedure; and that they similarly entitle him in all cases to a complete discharge from debts which, after all reasonable enforcement, he is unable fully to pay.

10. This insolvency procedure is further supplemented by section 20, which gives the Court a summary power in petty cases to discharge a judgment-debtor who is clearly insolvent, and by section 22, which abolishes imprisonment for debt.

11. The only other provisions of the Bill which appear to call for special notice are section 70, which empowers the Court to direct the Government pleader to appear on behalf of a raiyat when he is unable to engage the services of a professional advocate and the opposite side is represented by a pleader, and section 72, which extends the period of limitation in suits for debt instituted against agriculturists. This latter provision has been introduced into the Bill, as there appears to be a pretty general consensus of opinion to the effect that the difficulties of the raiyat are much aggravated by the present law of limitation which compels the money-lender at very short intervals to sue him or take a fresh bond, either of which steps commonly entails a considerable addition to the debt.

SIMLA;

The 7th July 1879.

(Signed) T. C. HOPE.

D. FITZPATRICK,

Secretary to the Government of India,
 Legislative Department.

[Published with the "Bombay Government Gazette" on the 31st July 1879.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th July 1879, and was referred to a Select Committee;—

Bill No. 12 of 1879.

THE DEKKHAN AGRICULTURISTS RELIEF BILL, 1879.

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A Bill for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists Relief Act 1879".

It extends only to the districts of Poona, Sátára, Sholapur, and Ahmednagar, and it shall come into force on the first day of October 1879.

Local extent and commencement.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture:

"agriculturist."

(2) "money" includes grain and any other agricultural produce.

"money."

(3) "special judge" means the officer appointed under section fifty-one.

"special judge."

CHAPTER II.

OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

3. The provisions of this chapter shall apply to—

Application of this chapter.

(a) suits for an account instituted on or after the first day of October 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees in amount or value, and the parties agree that such provisions shall apply.

The descriptions of suits referred to in clause (b) are the following (namely):—

suits of the nature cognizable by Courts of Small Causes, and

suits between mortgagors, being agriculturists, and mortgagees for the foreclosure or redemption of the mortgage, for the enforcement of the mortgage lien or for the possession of the property mortgaged.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have jurisdiction in the same local area, every suit referred to in section 3, clause (b), to be instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds

Certain suits to be instituted in Courts of first class Subordinate Judges.

one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

5. Notwithstanding anything contained in the Subordinate Judges Bombay Civil Courts Act, 1869, section 28, no Small Cause Courts. Subordinate Judge shall, while this Act continues in force, be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of October 1879, to have been withdrawn.

6. The Local Government may from time to time by notification in the local Gazette direct that any class of suits which a Subordinate Judge would be precluded from hearing by section twelve of 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 Court of Judicature*) shall be heard and determined by him and not otherwise, and may by a like notification cancel any such direction.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

8. If the officer employed to serve a summons on a defendant cannot find such defendant and there is no agent empowered to accept the service of the summons in his behalf, nor any person on whom the service can be made, the serving officer may, instead of proceeding in manner prescribed by section 80 of the Code of Civil Procedure, leave such summons for service with the Patel of the defendant's village.

A Patel with whom a summons is left under this section shall, if he within one week from the date on which the summons is so left finds the defendant in the village, serve such summons on the defendant in manner prescribed by section 79 of the said Code, endorse the same or cause the same to be endorsed in manner prescribed by section 81 of the said Code, sign such endorsement and return the summons by post or otherwise to the Court.

An endorsement made on a summons under this section shall be *prima facie* proof of the facts stated therein, and the Court shall take judicial notice of the signature thereto.

9. No suit shall be heard *ex parte*, unless the Court, for reasons to be recorded in writing, thinks that it ought to be so heard.

In any suit which the Code of Civil Procedure directs to be heard *ex parte*, but which the Court does not think ought to be so heard, the Court shall adjourn the hearing and take steps to secure the attendance of the defendant by the issue of a fresh summons or of a warrant of arrest.

10. In suits of the nature cognizable by Courts of Small Causes no party shall be entitled to file a written statement without the permission of the Court.

11. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

CHAPTER III.

OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

12. When any suit is brought for the recovery of money alleged to be due on account of money lent or advanced to, or paid for, the defendant, or as the price of goods sold or on an account stated, or on a written or unwritten engagements for the payment of money, or for the foreclosure of a mortgage, or for the possession of mortgaged property, and the defendant or any one of the defendants, not being merely a surety of the actual debtor, is an agriculturist,

and when any suit is brought for the redemption of a mortgage and the plaintiff or any one of the plaintiffs is an agriculturist,

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties out of which the suit has arisen, first, with a view of ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise; and secondly, with a view (if necessary) to taking an account between the parties in manner hereinafter provided.

When the amount of the claim is admitted, and the Court sees no reason to doubt the truth of such admission, the Court shall not be bound so to enquire, but may do so if it thinks fit.

When the Court sees reason to doubt the truth of such admission, it shall be bound to enquire as aforesaid.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall, if it considers any agreement between the parties as to interest or the profits of mortgaged property or determining in any way the manner of taking the account fair and equitable, give effect to such agreement and take the account on the footing thereof; but if it does not consider such agreement fair and equitable, it shall, notwithstanding the same,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

determine the amount due according to the following rules (that is to say) :—

(a) separate accounts of principal and interest shall be taken :

(b) in the account of principal there shall be debited to the debtor only such money as may from time to time have been actually received by him or on his account from the creditor :

(c) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at the rate allowed by the Court as hereinafter provided :

(d) all payments by or on account of the debtor, and all profits or advantages of every description received by the creditor in the course of the transactions, shall be credited, first, on account of interest; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal;

(e) the accounts of principal and interest shall be made up to the date of suit, and the aggregate of the balances (if any) of both such accounts against the debtor on that date shall be deemed to be the amount due, except when the balance of the interest account exceeds that of the principal account, in which case double the latter balance shall be deemed to be the amount due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, unless such rate is deemed by the Court to be unreasonable; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, such rate as the Court deems reasonable :

Provided that, in any case in which the parties have agreed that the profits of mortgaged property shall be taken by the mortgagee in lieu of interest and such agreement has been set aside under section thirteen, the rate of interest to be allowed shall be nine per cent. per annum.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that the question be referred to arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them : if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit :

Provided that if both parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town, or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. If the debt, or any portion thereof, was

In the case of ancestral not contracted by the debts interest to be dis- person from whom the allowed or limited. creditor seeks to obtain recovery, but by such person's father or other ancestor, the said person shall be called upon to state whether he is willing to accept the full responsibility for such debt or for such portion thereof;

and, if he accepts such responsibility, shall be held liable for the full amount payable on account of such debt, or of such portion thereof subject to the other provisions of this Act, or of any law for the time being in force relating to ancestral debts;

but if he declines to accept such responsibility, he shall not be held liable for more than the principal amount of such debt, or of such portion thereof, with interest up to the date of the death of the person who incurred such debt, or of such portion thereof, if such person was related to him in the first degree, and otherwise only for the principal amount of such debt or of such portion thereof.

17. Any agriculturist may sue for an account

Agriculturist debtors may of monies lent or advanced to or paid for him by sue for accounts. a creditor or due by him to such creditor as the price of goods sold or on a written or unwritten engagement for the payment of money and of monies paid by him to such creditor, and for a decree declaring the amount, if any, still payable by him to such creditor.

When any such suit is brought, the amount

Amount of debts in such payable by the plaintiff cases to be determined ac- shall be determined under cording to foregoing provi- the same rules as would sions. be applicable if the creditor had himself sued

for recovery of the debt.

18. A decree passed under section seventeen

Decree may provide for may, besides declaring payment by instalments. the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plain-

Execution of decrees under this section. tiff may pay the amount of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained the decree in a suit to recover the debt.

19. The plaintiff in any suit instituted under

Payment into court in section seventeen may at cases under section 17. any stage of such suit deposit in court such

sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

20. When a decree has been passed, whether

Power to discharge before or after this Act judgment-debtor. comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, whether in the course of execution of the said decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of a portion of the same, and grant him a discharge from such balance.

When the sum payable under the decree amounts

Power to direct insti- to fifty rupees or upwards, tution of insolvency pro- or when there are other ceedings. claims against the debtor, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

21. The Court may at any time direct that

Power to fix instalments the amount of any decree in execution. against an agriculturist or the portion of the same which it directs under section twenty to be paid, shall be paid by instalments with or without interest.

22. Except as provided in the Code of Civil

Arrest and imprisonment for debt abolished. Procedure, section 359, no agriculturist shall be arrested or imprisoned on account of debt.

23. No agriculturist's land shall be attached

Land exempted from or sold in execution of attachment and sale unless any decree or order specifically pledged. unless it has been specifically pledged as security for the payment of the debt to which such decree or order relates, and the mortgage lien still subsists.

But the Court may, when passing a decree or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any land of an agriculturist judgment-debtor to the possession of which such judgment-debtor is entitled, and which, in the opinion of the Collector, is not required for the support of such judgment-debtor and the members of his family dependent on him, and deal with the same for the benefit of the decree-holder in manner provided by section thirty-one.

24. If, upon application being made for the

Ancestral debt. execution of a decree for the payment of money against an agriculturist, it appears that the person against whom execution is sought is not the person made liable by the decree for the amount

thereof, but the heir of such person, the amount recoverable under the decree shall be limited in accordance with the provisions of section sixteen.

CHAPTER IV. OF INSOLVENCY.

25. Every Subordinate Judge shall have the

Subordinate Judges to have jurisdiction in agriculturist's cases.

powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified

by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his jurisdiction declared insolvent and proceedings taken under orders passed by him under the second clause of section twenty, and no such application or proceeding shall be dealt with by any other Court.

26. Any agriculturist who is in debt to the

Agriculturist may apply for adjudication in cases not provided for by Code.

amount of fifty rupees or upwards and who resides within the said districts may apply to

any Subordinate Judge within the local limits of whose jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property in execution of decree.

27. Notwithstanding anything contained in

Modification of section 351 of the Code.

section 351 of the Code of Civil Procedure, the Court shall declare an

agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-six of this Act.

28. No person other than the Názir of the

Receiver.

Court shall be appointed as receiver, and no

receiver shall be entitled to commission.

29. In determining under section 352 of the

Proof of debts.

said Code the amount of any claim of the nature

referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to sixteen of this Act, both inclusive.

30. Whenever any moveable property of an

Power to make over moveable property to creditor at valuation.

insolvent is liable to be sold by a receiver under

section 356 of the said Code, the Court may

direct that it shall not be so sold, and may, after recording the opinions of two Assessors appointed by the Court in this behalf, determine the value of such property and direct the receiver to transfer it to any of the scheduled creditors who may be entitled to receive in the distribution under the said section 356 an amount equal to or greater than the value so determined; and such creditor shall accept such property in full or partial liquidation (as the case may be) of the amount to which he is so entitled.

31. No immovable property of the insolvent shall vest in the receiver;

Immovable property not to vest in receiver, but may be managed for benefit of creditors.

but the Court may direct the Collector to take into his possession, for any period not exceeding

seven years from the date on which the receiver has been appointed, any such property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors, by letting it on lease or otherwise:

Provided that if the insolvent or his heir at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

32. When any scheduled debt is secured by a

Secured debts.

mortgage of any portion of the insolvent's immov-

able property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property rent-free for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property by public auction or otherwise as he thinks fit.

Where property is let under this section, the premium shall be applied to the payment of the debt.

When property is sold under this section, the sale proceeds shall be applied, first, to the payment of the debt; and the balance, if any, shall be paid to the receiver.

33. So long as any management under sec-

Insolvent incompetent to sell, &c., property dealt with under sections 31 and 32.

tion thirty-one or letting under section thirty-two continues, the insolvent and his representative in

interest shall be incompetent to mortgage, charge, lease or alienate the property or any part thereof.

34. When the balance available for distribu-

Scheduled debts discharged.

tion among the scheduled creditors under section

356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section thirty-one.

35. No Subordinate Judge exercising the

Limitation to powers of Subordinate Judges under section 359 of the Code.

powers conferred by section twenty-five, if he is a Subordinate Judge of the first class, shall sen-

tence any person under section 359 of the said Code to imprisonment for a term longer than three months, or if he is a Subordinate Judge of the second class, shall so sentence any person for a term longer than one month.

CHAPTER V. OF VILLAGE-MUNSIFS.

36. The Local Government may from time to time appoint any Patel of a village to be a Village-Munsif for such village or for such village and for any other villages the sites of which are situate not more than two miles from the site of such village, and may cancel any such appointment.

37. Every Village-Munsif so appointed shall take cognizance of suits, for money lent, or advanced to or paid for, the defendant, or due as the price of goods sold or on an account stated, or on a written or unwritten engagement for the payment of money when the amount or value of the claim does not exceed ten rupees, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

A suit cognizable by a Village-Munsif shall not be heard by any other Court:

Provided that the Special Judge may from time to time transfer any suit instituted before a Village-Munsif to any other Civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

38. The Special Judge may on a petition being presented within thirty days from the date of any decree or order of a Village Munsif by any party aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif.

Except as herein provided and as provided in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

39. The Local Government may from time to time, by notification in the local Gazette make rules for regulating the procedure of Village-Munsifs and for conferring on them any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

CHAPTER VI.

OF CONCILIATION.

40. The Local Government may from time to time appoint any person to be a Conciliator and cancel any such appointment.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local limits as the Local Government may from time to time determine.

41. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any local limits for which a Conciliator has been appointed, any of such parties may apply to such Conciliator to effect an amicable settlement between them.

42. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a general statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him upon a day to be fixed for this purpose, and shall direct the applicant also to be present on such day.

If the said person fails to appear on the day first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

43. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

44. The Conciliator shall hear the statement of any witness and peruse any book of account or other document produced by the parties, and if any party or witness consents in writing to affirm any statement upon oath or solemn affirmation in any form not repugnant to justice or decency and not purporting to affect any third person, shall arrange for such oath or solemn affirmation being duly taken in the presence of all the parties.

45. If on the day on which the case is first heard by the Conciliator or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise attested by the Conciliator and the parties or their representatives respectively.

46. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides.

The Court which receives the agreement shall order it to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

47. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

48. If the person against whom any application is made before a Conciliator cannot be found, or if he refuses or neglects, after such period as the Conciliator thinks reasonable has been allowed for his appearance, to appear before the Conciliator, or if he appears but the attempt to reconcile the parties or to induce them to resort to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his signature to that effect.

49. No suit and no application for execution of a decree passed before the date on which this Act comes into force to which any agriculturist residing within any local limits for which a Conciliator has been appointed is a party shall be entertained by any Civil Court, unless the plaintiff or decree-holder produces a certificate as aforesaid.

Local Government to frame rules.

50. The Local Government may from time to time make rules—

- (a) regulating the proceedings of Conciliators in matters not provided for by this Act;
- (b) fixing the charges to be made by Conciliators for anything done by them under this Act; and
- (c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

CHAPTER VII.

SUPERINTENDENCE AND REVISION.

51. The Local Government shall appoint an officer, as special Judge, to inspect, supervise and control the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators under this Act, and to discharge in respect of such proceedings, before Subordinate Judges all the functions of the District Court.

The officer so appointed shall not, without the previous sanction of the Government of India, discharge any public function except those which he is required by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge in regard

to any matter, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

52. The Special Judge may—

- (a) transfer to his own file, and himself as if he were a Subordinate Judge, draw case from Subordinate Judge, dispose of any suit or other matter pending before the Court of any Subordinate Judge; or
- (b) stay the proceedings in any such suit or matter, and sit together or sit with Subordinate Judge as a Bench for trial with such Judge as a Bench to dispose of such suit or matter in accordance with the provisions of this chapter.

If the members of any Bench sitting under this section differ in opinion, the opinion of the Special Judge shall prevail.

53. The Local Government may appoint any Assistant or Subordinate Judge to inspect and to aid Special Judge. supervise, subject to the control of the Special Judge, the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators under this Act in one or more districts. Any Assistant or Subordinate Judge so appointed may, in the districts for which he is so appointed, if the Special Judge so directs, exercise the powers of the Special Judge under section fifty-two of this Act, and transfer any suit under section 25 of the Code of Civil Procedure.

54. The Special Judge may call for and examine therecord of any suit or other matter tried by a Subordinate Judge for the purpose of satisfying himself of the legality or propriety of any decree or order passed, and as to the regularity of the proceedings, and may pass such order thereon as he thinks fit; and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-three may similarly in the districts for which he is appointed call for and examine the record of any such case, and if he see cause therefor, may refer the same, with his remarks, for the orders of the Special Judge:

Provided that no decision or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

CHAPTER VIII.

REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may—

- (a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars, for such local areas as it may from time to time prescribe;
- (b) direct that the Village-Registrar for any local area may discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas; and
- (c) delegate to any person by name or in virtue of his office the powers conferred on it by this section.

56. No instrument purporting to create, modify, transfer or evidence

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-Registrar.

an obligation for the payment of money or a charge upon any property executed after the passing of this Act by an agriculturist residing in any local area for which a Village-Registrar has been appointed shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer unless such instrument is written by, or under the superintendence of, and is attested by a Village-Registrar :

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one or more of whom

Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.

is an agriculturist, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which the said agriculturist or any one of the said agriculturists resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties, and receiving from them the fee (if any) prescribed by the Local Government and the stamp (if any) which may be necessary, shall write the instrument, or cause the same to be written under his superintendence, and require the parties to execute it in his presence.

Every instrument so written and executed shall

Attestation of such instruments.

be attested by the Village-Registrar, and also if any of the parties thereto is unable to read and write, by two respectable witnesses.

58. Every Village-Registrar shall keep a

Registration of instruments by Village-Registrars.

register of instruments executed before him in such form as shall from time to time be prescribed by the Inspector General of Registration under section sixty-one of this Act.

As soon as any instrument has been completely executed before a Village-Registrar, he shall make or cause a copy of it to be made in his register and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties, if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by or under

Consideration to be fully stated in every instrument executed before a Village-Registrar.

the superintendence of the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note, under his signature, re-

cording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument is to be executed in supersession, or partly in supersession, of a previous instrument, such instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his signature for identification.

60. Every instrument executed and registered

Registration under this Act to be deemed equivalent to registration under the Indian Registration Act, 1877.

in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877 ; and no instrument which ought to have been executed before a Village-Registrar, but has been otherwise executed, shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The said Inspector-General shall exercise,

Village-Registrars to be subordinate to the Inspector General of Registration.

by himself and his subordinates, a general superintendence over all Village-Registrars, and shall have power from time to time to make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. Nothing in this Act shall be deemed to

Exemption of instruments to which Government or any officer of Government is a party.

require any instrument to which the Government or any officer of Government in his official capacity is a party to be executed before a Village-Registrar.

63. The Local Government may from time to

Power of Local Government to make rules.

time make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

CHAPTER IX.

OF RECEIPTS AND STATEMENTS OF ACCOUNT.

64. Every agriculturist who makes any pay-

Agriculturists to be entitled to written receipts

ment of money in liquidation of a debt shall be entitled to receive at the time of such payment a written receipt from the person to whom such payment is made.

If such payment is made under any instrument executed before a Village-Registrar, the receipt shall, if the agriculturist so require, be endorsed on the copy of the instrument furnished to him under section fifty-eight.

65. Any agriculturist by whom any money is

and to annual statements of accounts;

due under any instrument shall be entitled to receive from the person claiming under such instrument, within one month after the date on which by local custom annual accounts are balanced, a statement of his accounts up to that date.

The Local Government may, by notification in the local Gazette, declare what date shall in any district or portion of a district be taken to be the date on which annual accounts are balanced for the purpose of this section.

66. Any agriculturist in whose name an account is kept by any trader or money-lender shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require from time to time that his account up to date be written therein and attested by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent for the purposes of section sixty-four to the grant of a receipt for the amount so entered.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six refuses or neglects to give a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.

LEGAL PRACTITIONERS.

68. No pleader, vakil, mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to a case before a Village-Munsif or a Conciliator:

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Munsif, to employ any relative, servant or dependent, who is not, and has not previously been, a pleader or a mukhtár or vakil to appear either conjointly with or in lieu of such party.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power of attorney defining the extent to which he is empowered to act.

69. In awarding costs to any party in any suit or proceeding before a Subordinate Judge under this Act in which the subject-matter does not exceed one hundred rupees in amount or value, nothing shall be allowed on account of the fees of any pleader, vakil, mukhtár, or of any advocate or attorney of a High Court, unless the Court, for reasons to be recorded by it in writing, thinks that professional assistance was necessary to the proper conduct of such party's case.

70. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakil or

mukhtár, or any advocate or attorney of a High Court appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance may, with the consent of such agriculturist, direct the Government pleader or some other competent person (who is willing so to do) to appear on his behalf.

CHAPTER XI.

MISCELLANEOUS.

71. No mortgage, lien or charge of or upon any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing signed by the person creating such mortgage, lien or charge.

72. In any suit against an agriculturist under Limitation. this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say):—

(a) when such suit is based on a written instrument registered under this Act or any other law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years:

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before the passing of this Act.

73. No appeal shall lie from any decision or order in any suit or proceeding before a Subordinate Judge under this Act.

74. The decision of any Court of first instance that any person is or is not an agriculturist shall be final.

75. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges.

76. The Local Government may from time to time make all such rules as it may deem necessary for carrying out the provisions of this Act.

77. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

STATEMENT OF OBJECTS AND REASONS.

1. THE inquiries made into the causes of the riots which occurred in the Dekkhan districts in 1875 and the discussions which have since taken place show that the difficulties under which the agriculturists in those districts labour are due, in a great measure, to the unsatisfactory nature of the relations at present subsisting between them and the money-lending classes.

2. In order to put those relations on a better footing, it is deemed necessary—

first, to provide some safeguards against the money-lenders committing frauds in their accounts and obtaining from ignorant peasants bonds for larger amounts than are actually paid to or due from them;

secondly, to arrange disputes by conciliation as far as possible; to increase the number of Courts, and to simplify and cheapen the administration of justice, and thus to afford facilities to the agriculturist to defend any suit that may be brought against him;

thirdly, to insist that in suits against agriculturists the Court shall in certain cases of its own motion investigate the entire history of the transactions between the parties, and do substantial justice between them;—

fourthly, to restrict the sale of the raiyat's land in execution of decree, and to provide an insolvency-procedure more liberal to the debtor, than that of the Code of Civil Procedure.

The present Bill has been drafted with a view to securing these objects, in so far as they can be secured by legislation. It extends only to the four districts in which the agricultural distress has been most felt.

3. An attempt has been made to secure the first object by sections 55 to 63, providing for the appointment of village-registrars before whom every written obligation for the payment of money by an agriculturist must be registered; by sections 64 to 67, requiring money-lenders to give receipts to agriculturists for all payments made by them, to render accounts, and to furnish a pass-book in which the agriculturist's account will be periodically written up; and by section 71, which invalidates all mortgages created by an agriculturist otherwise than by a written instrument.

4. With a view to the second of the proposed objects, the Bill provides in sections 40 to 50 for the establishment of a system of conciliation under which it is hoped a large number of disputes will be settled out of court; and in sections 36 to 39 for the appointment of village-munsifs, like those in the Madras Presidency, to dispose of petty cases. A further addition to the machinery for the disposal of suits will be made by an increase of the number of Subordinate Judges; but as this is a matter which it is competent to the Local Government to deal with under the existing law no reference to it will be found in the Bill.

5. As regards procedure, it is proposed, with a view to a more rapid despatch of business and to diminishing the cost of litigation, to simplify the record in certain respects (sections 10 and 11); to discourage the employment of pleaders in petty suits (section 69); and to substitute for the present system of appeals a very strict and searching supervision (sections 51 to 54).

6. Sections 12 to 16 provide in certain cases for a thorough investigation into the history of the transaction between the parties (the third of the four objects mentioned above). They prescribe the system in which the raiyat's account is to be made up in cases where the Court finds it necessary to set aside oppressive or inequitable arrangements between the parties, and they guard especially against exorbitant demands for interest.

7. The presence of the defendant being essential for the thorough investigation proposed, and the raiyats being, through various difficulties, apt to leave their suits undefended, it has been provided (in section 9) that, except for special reasons, no suit shall be decided *ex parte*, but that the Court shall compel the defendant to appear.

8. The last of the four objects proposed will be found provided for by sections 25 and 33, which enact that land shall not be sold to pay the debt of the owner except where it has been specifically pledged, but admit of its profits being made available to the creditor for a term of years, and by the sections relating to insolvency.

9. The chief points in which the provisions of the insolvency-chapter differ from those of the Code are that they allow an agriculturist to apply to be adjudicated an insolvent, though no process in execution has been issued against him; that they entitle him to an adjudication in all cases in which, as a matter of fact, he may be insolvent, leaving any misconduct on his part to be punished under the Code of Civil Procedure; and that they similarly entitle him in all cases to a complete discharge from debts which, after all reasonable enforcement, he is unable fully to pay.

10. This insolvency procedure is further supplemented by section 20, which gives the Court a summary power in petty cases to discharge a judgment-debtor who is clearly insolvent, and by section 22, which abolishes imprisonment for debt.

11. The only other provisions of the Bill which appear to call for special notice are section 70, which empowers the Court to direct the Government pleader to appear on behalf of a raiyat when he is unable to engage the services of a professional advocate and the opposite side is represented by a pleader, and section 72, which extends the period of limitation in suits for debt instituted against agriculturists. This latter provision has been introduced into the Bill, as there appears to be a pretty general consensus of opinion to the effect that the difficulties of the raiyat are much aggravated by the present law of limitation which compels the money-lender at very short intervals to sue him or take a fresh bond, either of which steps commonly entails a considerable addition to the debt.

SIMLA;

The 7th July 1879.

(Signed) T. C. HOPE.

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 7th August 1879.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 17th July 1879, and was referred to a Select Committee;—

Bill No. 12 of 1879.

THE DEKKHAN AGRICULTURISTS RELIEF BILL, 1879.

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A Bill for the Relief of Indebted Agriculturists in certain parts of the Dekkhan.

WHEREAS it is expedient to relieve the agricultural classes in certain parts of the Dekkhan from indebtedness; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Dekkhan Agriculturists Relief Act 1879";
Short title.

It extends only to the districts of Poona, Sátára, Sholápur, and Ahmednagar, and it shall come into force on the first day

of October 1879.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "agriculturist" means a person who earns his livelihood wholly or principally by agriculture.

(2) "money" includes grain and any other agricultural produce.

(3) "special judge" means the officer appointed under section fifty-one.

CHAPTER II.

OF THE HEARING OF CERTAIN SUITS BY SUBORDINATE JUDGES.

3. The provisions of this chapter shall apply to—

(a) suits for an account instituted on or after the first day of October 1879, by an agriculturist in the Court of a Subordinate Judge under the provisions hereinafter contained, and

(b) suits of the descriptions next hereinafter mentioned and instituted on or after the same date—

(1) when such suits are heard by Subordinate Judges of the first class and the subject-matter thereof does not exceed in amount or value five hundred rupees, or

(2) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof does not exceed in amount or value one hundred rupees, or

(3) when such suits are heard by Subordinate Judges of the second class and the subject-matter thereof exceeds one hundred rupees, but does not exceed five hundred rupees in amount or value, and the parties agree that such provisions shall apply.

The descriptions of suits referred to in clause (b) are the following (namely):—

suits of the nature cognizable by Courts of Small Causes, and

suits between mortgagors, being agriculturists, and mortgagees for the foreclosure or redemption of the mortgage, for the enforcement of the mortgage lien or for the possession of the property mortgaged.

4. Where a Subordinate Judge of the first class and a Subordinate Judge of the second class have jurisdiction in the same local area, every suit referred to in section 3, clause (b), to be instituted in such local area shall, if the amount or value of the subject-matter of such suit exceeds

one hundred rupees and does not exceed five hundred rupees, be instituted in the Court of the Subordinate Judge of the first class.

5. Notwithstanding anything contained in the Subordinate Judges Bombay Civil Courts Act, 1869, section 28, no Subordinate Judge shall, while this Act continues in force, be invested with the jurisdiction of a Judge of a Court of Small Causes; and any such jurisdiction heretofore conferred on any Subordinate Judge shall be deemed, except as regards suits instituted before the said first day of October 1879, to have been withdrawn.

6. The Local Government may from time to time by notification in the local Gazette direct that any class of suits which a Subordinate Judge would be precluded from hearing by section twelve of 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 Court of Judicature*) shall be heard and determined by him and not otherwise, and may by a like notification cancel any such direction.

7. In every case in which it seems to the Court possible to dispose of a suit at the first hearing, the summons shall be for the final disposal of the suit.

8. If the officer employed to serve a summons on a defendant cannot find such defendant and there is no agent empowered to accept the service of the summons in his behalf, nor any person on whom the service can be made, the serving officer may, instead of proceeding in manner prescribed by section 80 of the Code of Civil Procedure, leave such summons for service with the Patel of the defendant's village.

A Patel with whom a summons is left under this section shall, if he within one week from the date on which the summons is so left finds the defendant in the village, serve such summons on the defendant in manner prescribed by section 79 of the said Code, endorse the same or cause the same to be endorsed in manner prescribed by section 81 of the said Code, sign such endorsement and return the summons by post or otherwise to the Court.

An endorsement made on a summons under this section shall be *prima facie* proof of the facts stated therein, and the Court shall take judicial notice of the signature thereto.

9. No suit shall be heard *ex parte*, unless the Court, for reasons to be recorded in writing, thinks that it ought to be so heard.

In any suit which the Code of Civil Procedure directs to be heard *ex parte*, but which the Court does not think ought to be so heard, the Court shall adjourn the hearing and take steps to secure the attendance of the defendant by the issue of a fresh summons or of a warrant of arrest.

10. In suits of the nature cognizable by Courts of Small Causes no party shall be entitled to file a written statement without the permission of the Court.

11. When the subject-matter of any suit does not exceed ten rupees in amount or value, it shall not be necessary to take down the evidence or make a memorandum thereof in manner provided by the Code of Civil Procedure; but in cases where the evidence is not so taken down and no memorandum is so made, the substance of the evidence shall be stated in the judgment.

CHAPTER III.

OF SUITS AND OTHER PROCEEDINGS TO WHICH AGRICULTURISTS ARE PARTIES.

12. When any suit is brought for the recovery of money alleged to be due on account of money lent or advanced to, or paid for, the defendant, or as the price of goods sold or on an account stated, or on a written or unwritten engagements for the payment of money, or for the foreclosure of a mortgage, or for the possession of mortgaged property, and the defendant or any one of the defendants, not being merely a surety of the actual debtor, is an agriculturist,

and when any suit is brought for the redemption of a mortgage and the plaintiff or any one of the plaintiffs is an agriculturist,

the Court shall, if the amount of the creditor's claim is disputed, enquire into the history and merits of the case, from the commencement of the transactions between the parties out of which the suit has arisen, first, with a view of ascertaining whether there is any defence to the suit on the ground of fraud, mistake, accident, undue influence or otherwise; and secondly, with a view (if necessary) to taking an account between the parties in manner hereinafter provided.

When the amount of the claim is admitted, and the Court sees no reason to doubt the truth of such admission, the Court shall not be bound so to enquire, but may do so if it thinks fit.

When the Court sees reason to doubt the truth of such admission, it shall be bound to enquire as aforesaid.

Nothing herein contained shall affect the right of the parties to require that any matter in difference between them be referred to arbitration.

13. When the Court enquires into the history and merits of a case under section twelve, it shall, if it considers any agreement between the parties as to interest or the profits of mortgaged property or determining in any way the manner of taking the account fair and equitable, give effect to such agreement and take the account on the footing thereof; but if it does not consider such agreement fair and equitable, it shall, notwithstanding the same,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

determine the amount due according to the following rules (that is to say):—

(a) separate accounts of principal and interest shall be taken:

(b) in the account of principal there shall be debited to the debtor only such money as may from time to time have been actually received by him or on his account from the creditor:

(c) in the account of interest there shall be debited to the debtor monthly simple interest on the balance of principal for the time being outstanding at the rate allowed by the Court as hereinafter provided:

(d) all payments by or on account of the debtor, and all profits or advantages of every description received by the creditor in the course of the transactions, shall be credited, first, on account of interest; and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payment shall be credited to the debtor in the account of principal;

(e) the accounts of principal and interest shall be made up to the date of suit, and the aggregate of the balances (if any) of both such accounts against the debtor on that date shall be deemed to be the amount due, except when the balance of the interest account exceeds that of the principal account, in which case double the latter balance shall be deemed to be the amount due.

14. The interest to be awarded in taking an account according to the rules set forth in section thirteen shall be—

(a) the rate, if any, agreed upon between the parties, unless such rate is deemed by the Court to be unreasonable; or

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, such rate as the Court deems reasonable:

Provided that, in any case in which the parties have agreed that the profits of mortgaged property shall be taken by the mortgagee in lieu of interest and such agreement has been set aside under section thirteen, the rate of interest to be allowed shall be nine per cent. per annum.

15. Instead of enquiring into the history and merits of a case under section twelve, or if upon so enquiring the Court is unable to satisfy itself as to the amount which should be allowed on account of principal or interest or both, the Court may, of its own motion, direct that the question be referred to arbitration.

If the parties are willing to nominate arbitrators, the arbitrators shall be nominated by them in such manner as may be agreed upon between them: if the parties are unwilling to nominate arbitrators or cannot agree in respect of such nomination, the Court shall appoint any three persons it thinks fit:

Provided that if both parties reside in the same village, town or city, and, in the opinion of the Court, three fit persons can be found among the residents of such village, town or city, it shall appoint residents of such village, town, or city.

The provisions of sections 508 to 522 (both inclusive) of the Code of Civil Procedure shall apply to every reference to arbitration under this section.

16. If the debt, or any portion thereof, was

In the case of ancestral not contracted by the debts interest to be dis- person from whom the allowed or limited. creditor seeks to obtain recovery, but by such person's father or other ancestor, the said person shall be called upon to state whether he is willing to accept the full responsibility for such debt or for such portion thereof;

and, if he accepts such responsibility, shall be held liable for the full amount payable on account of such debt, or of such portion thereof subject to the other provisions of this Act, or of any law for the time being in force relating to ancestral debts;

but if he declines to accept such responsibility, he shall not be held liable for more than the principal amount of such debt, or of such portion thereof, with interest up to the date of the death of the person who incurred such debt, or of such portion thereof, if such person was related to him in the first degree, and otherwise only for the principal amount of such debt or of such portion thereof.

17. Any agriculturist may sue for an account

Agriculturist debtors may sue for accounts. of monies lent or advanced to or paid for him by a creditor or due by him to such creditor as the price of goods sold or on a written or unwritten engagement for the payment of money and of monies paid by him to such creditor, and for a decree declaring the amount, if any, still payable by him to such creditor.

When any such suit is brought, the amount payable by the plaintiff

Amount of debts in such cases to be determined according to foregoing provisions. shall be determined under the same rules as would be applicable if the creditor had himself sued

for recovery of the debt.

18. A decree passed under section seventeen

Decree may provide for payment by instalments. may, besides declaring the amount due, direct that such amount shall be paid by instalments, with or without interest; and, when any such decree so directs, the plaintiff may pay the amount

Execution of decrees under this section. of such decree, or the amount of each instalment fixed by such decree, as it falls due, into court, in default whereof execution of the decree may be enforced by the defendant in the same manner as if he had obtained the decree in a suit to recover the debt.

19. The plaintiff in any suit instituted under

Payment into court in cases under section 17. section seventeen may at any stage of such suit deposit in court such

sum of money as he considers a satisfaction in full of the defendant's claim against him.

Notice of the deposit shall be given by the Court to the defendant, and the amount of the deposit shall (unless the Court otherwise directs) be paid to the defendant on his application.

No interest shall be allowed to the defendant on any sum so deposited from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

20. When a decree has been passed, whether before or after this Act comes into force, under which any sum less than fifty rupees is recoverable from an agriculturist, the Court may, whether in the course of execution of the said decree or otherwise, if it is satisfied that there is no other claim against him and that he is unable to pay the whole of such sum, direct the payment of a portion of the same, and grant him a discharge from such balance.

Power to discharge judgment-debtor. When the sum payable under the decree amounts to fifty rupees or upwards, or when there are other claims against the debtor, the Court may direct proceedings to be taken with respect to him as nearly as may be as if he had applied to be declared an insolvent under the provisions hereinafter contained.

Power to direct institution of insolvency proceedings. 21. The Court may at any time direct that the amount of any decree against an agriculturist or the portion of the same which it directs under section twenty to be paid, shall be paid by instalments with or without interest.

Power to fix instalments in execution. 22. Except as provided in the Code of Civil Procedure, section 359, no agriculturist shall be arrested or imprisoned on account of debt.

Arrest and imprisonment for debt abolished. 23. No agriculturist's land shall be attached or sold in execution of any decree or order unless it has been specifically pledged as security for the payment of the debt to which such decree or order relates, and the mortgage lien still subsists.

Land exempted from attachment and sale unless specifically pledged. But the Court may, when passing a decree or at any subsequent time, direct the Collector to take possession, for any period not exceeding seven years, of any land of an agriculturist judgment-debtor to the possession of which such judgment-debtor is entitled, and which, in the opinion of the Collector, is not required for the support of such judgment-debtor and the members of his family dependent on him, and deal with the same for the benefit of the decree-holder in manner provided by section thirty-one.

24. If, upon application being made for the execution of a decree for the payment of money against an agriculturist, it appears that the person against whom execution is sought is not the person made liable by the decree for the amount

Ancestral debt. 25. If, upon application being made for the execution of a decree for the payment of money against an agriculturist, it appears that the person against whom execution is sought is not the person made liable by the decree for the amount

thereof, but the heir of such person, the amount recoverable under the decree shall be limited in accordance with the provisions of section sixteen.

CHAPTER IV. OF INSOLVENCY.

25. Every Subordinate Judge shall have the

Subordinate Judges to have jurisdiction in agriculturist's cases.

powers conferred by sections 344 to 359 (both inclusive) of the Code of Civil Procedure, as modified

by the provisions next hereinafter contained, for the purpose of dealing with applications under the Code of Civil Procedure or under this Act to have agriculturists residing within the local limits of his jurisdiction declared insolvent and proceedings taken under orders passed by him under the second clause of section twenty, and no such application or proceeding shall be dealt with by any other Court.

26. Any agriculturist who is in debt to the

Agriculturist may apply for adjudication in cases not provided for by Code.

amount of fifty rupees or upwards and who resides within the said districts may apply to

any Subordinate Judge within the local limits of whose jurisdiction he resides to be declared an insolvent, though he has not been arrested or imprisoned, and though no order of attachment has issued against his property in execution of decree.

27. Notwithstanding anything contained in

Modification of section 351 of the Code.

section 351 of the Code of Civil Procedure, the Court shall declare an

agriculturist an insolvent if it is satisfied that he is in insolvent circumstances, and that the application to have him declared an insolvent has been properly made under section 344 of the said Code or section twenty-six of this Act.

28. No person other than the Názir of the

Receiver.

Court shall be appointed as receiver, and no

receiver shall be entitled to commission.

29. In determining under section 352 of the

Proof of debts.

said Code the amount of any claim of the nature

referred to in section twelve of this Act due by an insolvent agriculturist, the Court shall proceed in the manner prescribed by sections twelve to sixteen of this Act, both inclusive.

30. Whenever any moveable property of an

Power to make over moveable property to creditor at valuation.

insolvent is liable to be sold by a receiver under section 356 of the said Code, the Court may

direct that it shall not be so sold, and may, after recording the opinions of two Assessors appointed by the Court in this behalf, determine the value of such property and direct the receiver to transfer it to any of the scheduled creditors who may be entitled to receive in the distribution under the said section 356 an amount equal to or greater than the value so determined; and such creditor shall accept such property in full or partial liquidation (as the case may be) of the amount to which he is so entitled.

31. No immoveable property of the insolvent

Immoveable property not to vest in receiver, but may be managed for benefit of creditors.

shall vest in the receiver; but the Court may direct the Collector to take into his possession, for any period not exceeding

seven years from the date on which the receiver has been appointed, any such property to the possession of which the insolvent is entitled, and which, in the opinion of the Collector, is not required for the support of the insolvent and the members of his family dependent on him, and, subject to any rules the Local Government may from time to time make in this behalf, to manage the same for the benefit of the creditors, by letting it on lease or otherwise:

Provided that if the insolvent or his heir at any time pays into court the balance of the scheduled debts then unpaid, he shall, subject to any rights created in favour of other persons by the Collector, be entitled to recover possession of such property.

32. When any scheduled debt is secured by a

Secured debts.

mortgage of any portion of the insolvent's immoveable property, the Court may direct the Collector, if he can obtain a premium equal to the amount of such debt by letting such property rent-free for a term not exceeding twenty years, to let such property, and, if he cannot so obtain such premium, to sell such property by public auction or otherwise as he thinks fit.

Where property is let under this section, the premium shall be applied to the payment of the debt.

When property is sold under this section, the sale proceeds shall be applied, first, to the payment of the debt; and the balance, if any, shall be paid to the receiver.

33. So long as any management under section

Insolvent incompetent to sell, &c., property dealt with under sections 31 and 32.

thirty-one or letting under section thirty-two continues, the insolvent and his representative in interest shall be incompetent to mortgage, charge, lease or alienate the property or any part thereof.

34. When the balance available for distribu-

Scheduled debts discharged.

tion among the scheduled creditors under section

356 of the said Code has been distributed, the claims of such creditors shall be deemed to have been discharged, except as regards the right to share in the profits of any property managed by the Collector under section thirty-one.

35. No Subordinate Judge exercising the

Limitation to powers of Subordinate Judges under section 359 of the Code.

powers conferred by section twenty-five, if he is a Subordinate Judge of the first class, shall sentence

any person under section 359 of the said Code to imprisonment for a term longer than three months, or if he is a Subordinate Judge of the second class, shall so sentence any person for a term longer than one month.

CHAPTER V. OF VILLAGE-MUNSIFS.

36. The Local Government may from time to time appoint any Patel of a village to be a Village-Munsif for such village or for such village and for any other villages the sites of which are situate not more than two miles from the site of such village, and may cancel any such appointment.

37. Every Village-Munsif so appointed shall take cognizance of suits, for money lent, or advanced to or paid for, the defendant, or due as the price of goods sold or on an account stated, or on a written or unwritten engagement for the payment of money when the amount or value of the claim does not exceed ten rupees, and all the defendants at the time of the commencement of the suit actually and voluntarily reside or carry on business or personally work for gain within the local area for which such Village-Munsif is appointed.

A suit cognizable by a Village-Munsif shall Jurisdiction of other not be heard by any Courts excluded. other Court:

Provided that the Special Judge may from time to time transfer any suit instituted before a Village-Munsif to any other Civil Court in the district for trial:

Provided also that no Village-Munsif shall try any suit in which he is a party or is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

38. The Special Judge may on a petition being presented within thirty days from the date of any decree or order of a Village Munsif by any party aggrieved by such decree or order, set aside such decree or order on the ground of corruption, gross partiality or misconduct of the Village-Munsif.

Except as herein provided and as provided in section 622 of the Code of Civil Procedure, every decree and order of a Village-Munsif shall be final.

39. The Local Government may from time to time, by notification in the local Gazette make rules for regulating the procedure of Village-Munsifs and for conferring on them any of the powers for the trial of suits or the execution of decrees exercised by a Civil Court under the Code of Civil Procedure or any other enactment for the time being in force.

CHAPTER VI. OF CONCILIATION.

40. The Local Government may from time to time appoint any person to be a Conciliator and cancel any such appointment.

Every Conciliator so appointed shall exercise his functions under this Act in respect of matters affecting agriculturists residing within such local limits as the Local Government may from time to time determine.

41. When any dispute arises as to, or there is a prospect of litigation regarding, any matter within the cognizance of a Civil Court between two or more parties, one of whom is an agriculturist residing within any local limits for which a Conciliator has been appointed, any of such parties may apply to such Conciliator to effect an amicable settlement between them.

42. If the application be made by one of the parties only, the Conciliator shall take down, or cause to be taken down, in writing a general statement of the applicant's case, and shall thereupon, by summons or by such other means as he deems fit, invite the person against whom such application is made to attend before him upon a day to be fixed for this purpose, and shall direct the applicant also to be present on such day.

If the said person fails to appear on the day first fixed, the Conciliator may, if he thinks fit, from time to time extend the period for his appearance.

43. Whenever all the parties are present, the Conciliator shall call upon each in turn to explain his case regarding the matter in question, and shall use his best endeavours to induce them to agree to an amicable settlement or to submit such matter to arbitration.

44. The Conciliator shall hear the statement of any witness and peruse any book of account or other document produced by the parties, and if any party or witness consents in writing to affirm any statement upon oath or solemn affirmation in any form not repugnant to justice or decency and not purporting to affect any third person, shall arrange for such oath or solemn affirmation being duly taken in the presence of all the parties.

45. If on the day on which the case is first heard by the Conciliator or on any subsequent day to which he may adjourn the hearing, the parties come to any agreement, either finally disposing of the matter or for referring it to arbitration, such agreement shall be forthwith reduced to writing, and shall be read and explained to the parties, and shall be signed or otherwise attested by the Conciliator and the parties or their representatives respectively.

46. When the agreement is one finally disposing of the matter, the Conciliator shall forward the same in original to the Court of the Subordinate Judge of lowest grade having jurisdiction in the place where the agriculturist who is a party thereto resides.

The Court which receives the agreement shall order it to be filed; and it shall then take effect as if it were a decree of the said Court passed on the day on which it is ordered to be filed and from which no appeal lies.

47. When the agreement is one for referring the matter to arbitration, the Conciliator shall forward it to the Court having jurisdiction in the matter, and such Court shall cause it to be filed and proceed thereon in manner provided by sections 523 and 524 of the Code of Civil Procedure.

48. If the person against whom any application is made before a Conciliator cannot be found, or if he refuses or neglects, after such period as the Conciliator thinks reasonable has been allowed for his appearance, to appear before the Conciliator, or if he appears but the attempt to reconcile the parties or to induce them to resort to arbitration fails, the Conciliator shall, on demand, give to the applicant, or when there are several applicants to each applicant, a certificate under his signature to that effect.

49. No suit and no application for execution of a decree passed before the date on which this Act comes into force to which any agriculturist residing within any local limits for which a Conciliator has been appointed is a party shall be entertained by any Civil Court, unless the plaintiff or decree-holder produces a certificate as aforesaid.

50. The Local Government may from time to time make rules—

(a) regulating the proceedings of Conciliators in matters not provided for by this Act;

(b) fixing the charges to be made by Conciliators for anything done by them under this Act; and

(c) determining what record and accounts shall be kept by Conciliators and what returns shall be framed and furnished by them.

CHAPTER VII.

SUPERINTENDENCE AND REVISION.

51. The Local Government shall appoint an officer, as special Judge, to inspect, supervise and control the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators under this Act, and to discharge in respect of such proceedings, before Subordinate Judges all the functions of the District Court.

The officer so appointed shall not, without the previous sanction of the Government of India, discharge any public function except those which he is required by this Act to discharge.

If any conflict of authority arises between the Special Judge and the District Judge in regard

to any matter, the High Court shall pass such order thereon consistent with this Act as it thinks fit.

52. The Special Judge may—

(a) transfer to his own file, and himself as if he were a Subordinate Judge dispose of any suit or other matter pending before the Court of any Subordinate Judge; or

(b) stay the proceedings in any such suit or matter, and sit together with such Judge as a Bench for trial of any case. Bench to dispose of such suit or matter in accordance with the provisions of this chapter.

If the members of any Bench sitting under this section differ in opinion, the opinion of the Special Judge shall prevail.

53. The Local Government may appoint any Assistant or Subordinate Judge to inspect and supervise, subject to the control of the Special Judge, the proceedings of all Subordinate Judges, Village-Munsifs and Conciliators under this Act in one or more districts. Any Assistant or Subordinate Judge so appointed may, in the districts for which he is so appointed, if the Special Judge so directs, exercise the powers of the Special Judge under section fifty-two of this Act, and transfer any suit under section 25 of the Code of Civil Procedure.

54. The Special Judge may call for and examine therecord of any suit or other matter tried by a Subordinate Judge for the purpose of satisfying himself of the legality or propriety of any decree or order passed, and as to the regularity of the proceedings, and may pass such order thereon as he thinks fit; and any Assistant Judge or Subordinate Judge appointed by the Local Government under section fifty-three may similarly in the districts for which he is appointed call for and examine the record of any such case, and if he see cause therefor, may refer the same, with his remarks, for the orders of the Special Judge:

Provided that no decision or order shall be reversed or altered for any error or defect, or otherwise, unless a failure of justice appears to have taken place.

CHAPTER VIII.

REGISTRATION BY VILLAGE-REGISTRARS.

55. The Local Government may—

(a) appoint such persons as it thinks fit, whether public officers or not, to be Village-Registrars, for such local areas as it may from time to time prescribe;

(b) direct that the Village-Registrar for any local area may discharge the functions of a Village-Registrar for any other local areas concurrently with the Village-Registrars of such other local areas; and

(c) delegate to any person by name or in virtue of his office the powers conferred on it by this section.

56. No instrument purporting to create, modify, transfer or evidence

Instruments executed by agriculturist not to be deemed valid unless executed before a Village-Registrar.

an obligation for the payment of money or a charge upon any property executed after the passing of this Act by an agriculturist residing in any local area for which a Village-Registrar has been appointed shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon by any such person or by any public officer unless such instrument is written by, or under the superintendence of, and is attested by a Village-Registrar :

Provided that nothing herein contained shall prevent the admission of any instrument in evidence in any criminal proceeding.

57. When any persons, one or more of whom

Such instruments to be written by or under the superintendence of a Village-Registrar and executed in his presence.

is an agriculturist, desire to execute any such instrument, they shall present themselves before the Village-Registrar appointed by the Local Government for the area in which the said agriculturist or any one of the said agriculturists resides, and such Registrar, after satisfying himself in such manner as he deems fit as to the identity of the parties, and receiving from them the fee (if any) prescribed by the Local Government and the stamp (if any) which may be necessary, shall write the instrument, or cause the same to be written under his superintendence, and require the parties to execute it in his presence.

Every instrument so written and executed shall be attested by the Village-Registrar, and also if any of the parties thereto is unable to read and write, by two respectable witnesses.

58. Every Village-Registrar shall keep a register of instruments executed before him in such form as shall from time to time be prescribed by the Inspector General of Registration under section sixty-one of this Act.

As soon as any instrument has been completely executed before a Village-Registrar, he shall make or cause a copy of it to be made in his register and shall deliver the original instrument to the party entitled to the custody of the same, and a certified copy thereof to the other party, or to each of the other parties, if there be more than one.

Previous to delivery, the original instrument and each such copy shall be endorsed under the Village-Registrar's signature with the date of registration, the name and residence of the Village Registrar and the volume and page of the register in which the instrument has been registered.

59. In every instrument written by or under the superintendence of the Village-Registrar, the amount and nature of the consideration, if any, shall be fully stated.

The Village-Registrar shall also endorse upon the instrument a note, under his signature, re-

cording whether or not the transfer of the consideration stated therein, or of any part thereof, took place in his presence.

If the instrument is to be executed in supersession, or partly in supersession, of a previous instrument, such instrument shall be produced before the Village-Registrar and shall be fully described in the instrument to be executed, and shall be marked by the Village-Registrar under his signature for identification.

60. Every instrument executed and registered in accordance with the foregoing provisions shall be deemed to have been duly registered under the provisions of the Indian Registration Act, 1877 ; and no instrument which ought to have been executed before a Village-Registrar, but has been otherwise executed, shall be registered by any officer acting under the said Act, or in any public office, or shall be authenticated by any public officer.

61. The said Inspector-General shall exercise, by himself and his subordinates, a general superintendence over all Village-Registrars, and shall have power from time to time to make rules consistent with this Act for regulating their proceedings and for providing for the custody of their records.

62. Nothing in this Act shall be deemed to require any instrument to which the Government or any officer of Government in his official capacity is a party to be executed before a Village-Registrar.

63. The Local Government may from time to time make rules regulating the appointment, suspension, dismissal and remuneration of Village-Registrars, and prescribing the fees to be levied by them.

64. Every agriculturist who makes any payment of money in liquidation of a debt shall be entitled to receive at the time of such payment a written receipt from the person to whom such payment is made.

CHAPTER IX.

OF RECEIPTS AND STATEMENTS OF ACCOUNT.

65. Any agriculturist by whom any money is due under any instrument shall be entitled to receive from the person claiming under such instrument, within one month after the date on which by local custom annual accounts are balanced, a statement of his accounts up to that date.

66. Any agriculturist by whom any money is due under any instrument shall be entitled to receive from the person claiming under such instrument, within one month after the date on which by local custom annual accounts are balanced, a statement of his accounts up to that date.

The Local Government may, by notification in the local Gazette, declare what date shall in any district or portion of a district be taken to be the date on which annual accounts are balanced for the purpose of this section.

66. Any agriculturist in whose name an account is kept by any trader or money-lender and to have his accounts made up from time to time in a pass-book, shall be entitled to receive from such trader or money-lender, on demand, a pass-book, and to require from time to time that his account up to date be written therein and attested by the signature or mark of the said trader or money-lender.

An entry so made in any such pass-book of any payment made to the trader or money-lender shall be deemed to be equivalent for the purposes of section sixty-four to the grant of a receipt for the amount so entered.

67. Any person who, in contravention of section sixty-four, sixty-five or sixty-six refuses or neglects to give a receipt or a statement of account or a pass-book, or to write, or cause to be written, any account or any part of an account in a pass-book, or to attest the same when so written, shall be punished for each such offence with fine which may extend to one hundred rupees.

CHAPTER X.

LEGAL PRACTITIONERS.

68. No pleader, vakil, mukhtár, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to a case before a Village-Munsif or a Conciliator:

Provided that any party to any such case may be permitted, on reasonable cause being shown to the satisfaction of the Conciliator or Munsif, to employ any relative, servant or dependent, who is not, and has not previously been, a pleader or a mukhtár or vakil to appear either conjointly with or in lieu of such party.

When a relative, servant or dependent appears in lieu of a party, he shall be furnished by him with a power of attorney defining the extent to which he is empowered to act.

69. In awarding costs to any party in any suit or proceeding before a Subordinate Judge under this Act in which the subject-matter does not exceed one hundred rupees in amount or value, nothing shall be allowed on account of the fees of any pleader, vakil, mukhtár, or of any advocate or attorney of a High Court, unless the Court, for reasons to be recorded by it in writing, thinks that professional assistance was necessary to the proper conduct of such party's case.

70. When in any suit or proceeding before a Subordinate Judge under this Act to which an agriculturist is a party, any pleader, vakil or

mukhtár, or any advocate or attorney of a High Court appears on behalf of any party opposed to such agriculturist, the Subordinate Judge, if he is of opinion that such agriculturist has not the means of obtaining proper professional assistance may, with the consent of such agriculturist, direct the Government pleader or some other competent person (who is willing so to do) to appear on his behalf.

CHAPTER XI.

MISCELLANEOUS.

71. No mortgage, lien or charge of or upon Mortgages, &c., to be any immoveable property belonging to an agriculturist shall be valid unless it is created by an instrument in writing signed by the person creating such mortgage, lien or charge.

72. In any suit against an agriculturist under this Act for the recovery of money the following periods of limitation shall be deemed to be substituted for those prescribed in the second column of the second schedule annexed to the Indian Limitation Act, 1877 (that is to say):—

(a) when such suit is based on a written instrument registered under this Act or any other law in force at the date of the execution of such instrument,—twelve years;

(b) in any other case,—six years:

Provided that nothing herein contained shall revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before the passing of this Act.

73. No appeal shall lie from any decision or order in any suit or proceeding before a Subordinate Judge under this Act.

74. The decision of any Court of first instance that any person is or is not an agriculturist shall be final.

75. Except in so far as it is inconsistent with this Act, the Code of Civil Procedure shall apply in all suits and proceedings before Subordinate Judges.

76. The Local Government may from time to time make all such rules as it may deem necessary for carrying out the provisions of this Act.

77. All rules made by the Local Government under this Act shall be published in the local official Gazette, and shall thereupon, in so far as they are consistent with this Act, have the force of law.

STATEMENT OF OBJECTS AND REASONS.

1. THE inquiries made into the causes of the riots which occurred in the Dekkhan districts in 1875 and the discussions which have since taken place show that the difficulties under which the agriculturists in those districts labour are due, in a great measure, to the unsatisfactory nature of the relations at present subsisting between them and the money-lending classes.

2. In order to put those relations on a better footing, it is deemed necessary—

first, to provide some safeguards against the money-lenders committing frauds in their accounts and obtaining from ignorant peasants bonds for larger amounts than are actually paid to or due from them ;

secondly, to arrange disputes by conciliation as far as possible ; to increase the number of Courts, and to simplify and cheapen the administration of justice, and thus to afford facilities to the agriculturist to defend any suit that may be brought against him ;

thirdly, to insist that in suits against agriculturists the Court shall in certain cases of its own motion investigate the entire history of the transactions between the parties, and do substantial justice between them ;—

fourthly, to restrict the sale of the raiyat's land in execution of decree, and to provide an insolvency-procedure more liberal to the debtor, than that of the Code of Civil Procedure.

The present Bill has been drafted with a view to securing these objects, in so far as they can be secured by legislation. It extends only to the four districts in which the agricultural distress has been most felt.

3. An attempt has been made to secure the first object by sections 55 to 63, providing for the appointment of village-registrars before whom every written obligation for the payment of money by an agriculturist must be registered ; by sections 64 to 67, requiring money-lenders to give receipts to agriculturists for all payments made by them, to render accounts, and to furnish a pass-book in which the agriculturist's account will be periodically written up ; and by section 71, which invalidates all mortgages created by an agriculturist otherwise than by a written instrument.

4. With a view to the second of the proposed objects, the Bill provides in sections 40 to 50 for the establishment of a system of conciliation under which it is hoped a large number of disputes will be settled out of court ; and in sections 36 to 39 for the appointment of village-munsifs, like those in the Madras Presidency, to dispose of petty cases. A further addition to the machinery for the disposal of suits will be made by an increase of the number of Subordinate Judges ; but as this is a matter which it is competent to the Local Government to deal with under the existing law no reference to it will be found in the Bill.

5. As regards procedure, it is proposed, with a view to a more rapid despatch of business and to diminishing the cost of litigation, to simplify the record in certain respects (sections 10 and 11) ; to discourage the employment of pleaders in petty suits (section 69) ; and to substitute for the present system of appeals a very strict and searching supervision (sections 51 to 54).

6. Sections 12 to 16 provide in certain cases for a thorough investigation into the history of the transaction between the parties (the third of the four objects mentioned above). They prescribe the system in which the raiyat's account is to be made up in cases where the Court finds it necessary to set aside oppressive or inequitable arrangements between the parties, and they guard especially against exorbitant demands for interest.

7. The presence of the defendant being essential for the thorough investigation proposed, and the raiyats being, through various difficulties, apt to leave their suits undefended, it has been provided (in section 9) that, except for special reasons, no suit shall be decided *ex parte*, but that the Court shall compel the defendant to appear.

8. The last of the four objects proposed will be found provided for by sections 25 and 33, which enact that land shall not be sold to pay the debt of the owner except where it has been specifically pledged, but admit of its profits being made available to the creditor for a term of years, and by the sections relating to insolvency.

9. The chief points in which the provisions of the insolvency-chapter differ from those of the Code are that they allow an agriculturist to apply to be adjudicated an insolvent, though no process in execution has been issued against him ; that they entitle him to an adjudication in all cases in which, as a matter of fact, he may be insolvent, leaving any misconduct on his part to be punished under the Code of Civil Procedure ; and that they similarly entitle him in all cases to a complete discharge from debts which, after all reasonable enforcement, he is unable fully to pay.

10. This insolvency procedure is further supplemented by section 20, which gives the Court a summary power in petty cases to discharge a judgment-debtor who is clearly insolvent, and by section 22, which abolishes imprisonment for debt.

11. The only other provisions of the Bill which appear to call for special notice are section 70, which empowers the Court to direct the Government pleader to appear on behalf of a raiyat when he is unable to engage the services of a professional advocate and the opposite side is represented by a pleader, and section 72, which extends the period of limitation in suits for debt instituted against agriculturists. This latter provision has been introduced into the Bill, as there appears to be a pretty general consensus of opinion to the effect that the difficulties of the raiyat are much aggravated by the present law of limitation which compels the money-lender at very short intervals to sue him or take a fresh bond, either of which steps commonly entails a considerable addition to the debt.

SIMLA ;

The 7th July 1879. }

(Signed) T. C. HOPE.

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.