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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 preliminary Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th January 1879 :—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Pleaders, Mukhtárs and Revenue Agents Act, 1865, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Secretary for Birár to Resident, Haidarábád, No. 10B, dated 19th November 1878.
,, Secretary to Chief Commissioner, Mysore, No. 7039—13J, dated 25th November 1878.
Memorandum by Pandit Srikishen, Pleader, Judicial Commissioner's Court, Oudh, dated 30th November 1878.
From Officiating Chief Secretary to Government, Fort St. George, No. 2440, dated 3rd December 1878.
,, Secretary to Chief Commissioner, Assam, No. 2296, dated 10th December 1878.
,, Under Secretary to Government, Bombay, No. 7183, dated 10th December 1878, and enclosures.
,, Chief Commissioner, Ajmer and Merwára, No. 19, dated 3rd January 1879.
,, Officiating Secretary to Chief Commissioner, Central Provinces, No. 119-255, dated 9th January 1879.
Note by the Hon'ble the Chief Justice, High Court, Calcutta, dated 22nd January 1879.

2. We have deemed it well, instead of adding a fifth Act to the four Acts already in force relating to pleaders, mukhtárs and revenue-agents, to frame a consolidation measure embracing the entire law.

3. We have, at the instance of the Hon'ble the Chief Justice of Bengal, restored in section 16 of the Bill now submitted, the power of the High Courts to make rules for the admission and control of mukhtárs practising on the appellate side of those Courts, which was conferred by section 44 of Act XX. of 1865, but which has been held by the Calcutta High Court to have been *ultra vires*.

4. We have made the Bill applicable to the Courts of Small Causes in the Presidency towns where we understand some such law is needed.

5. We have substituted, for the stamp-duties on certificates prescribed by Act XX of 1865, fees fixed according to the scale which was proposed in the Bill to amend the law relating to stamps and court-fees recently before the Council. The alterations here made are of no substantial importance.

6. We have made several amendments in arrangement and drafting, with a view to clearness and simplicity.

7. We recommend that the Bill now submitted be published.

8. The publication ordered by the Council has been made.

W. STOKES.
F. R. COCKERELL.
T. H. THORNTON.

The 29th January 1879.

THE LEGAL PRACTITIONERS BILL, 1879.

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No. II.

A Bill to consolidate and amend the law relating to Legal Practitioners.

WHEREAS it is expedient to consolidate and amend the law relating to legal Practitioners, in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh and Assam; and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows:—

Preamble.

CHAPTER I.—*Preliminary.*

1. This Act may be called "The Legal Practitioners Act, 1879:" and shall come into force on the first day of April 1879.

Short title.

Commencement of Act.

This section and section two extend to the whole of British India.

Local extent.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

Repeal of enactments.

2. On and from the first day of April 1879, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

Saving of rules, &c.

All rules, and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

References to repealed enactments.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, subsequently thereto, shall be read as if made to this Act.

Interpretation-clause.

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

"Judge."

"Judge" means the presiding judicial officer in every civil and criminal Court by whatever title he is designated:

"Subordinate Court."

"Subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. IX. of 1850 or Act No. XI. of 1865:

"Officer subordinate to such Authority."

"Subordinate Revenue-officer."

"Revenue-office."

"Officer subordinate to such Authority," "Subordinate Revenue-officer" and "Revenue-office" include all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents.

CHAPTER II.—*Of Advocates, Vakils and Attorneys.*

Advocates and Vakils of chartered High Court.

4. Every person now or hereafter entered as an Advocate or Vakil on the roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything herein contained, be entitled as such to practise in any Court in British India other than a High Court on whose roll he is not entered, or in any such Court with the permission of the Court, and in any Revenue-office subject nevertheless to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents:

Provided that no such Vakil shall be entitled to practise under this section before a Judge of the High Court, Division Court, or High Court exercising original jurisdiction.

Attorneys of High Court.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall, notwithstanding anything herein contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue-office.

CHAPTER III.—*Of Pleaders and Mukhtárs.*

Power to make rules as to qualification, &c., of pleaders and mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act—

(*a*) for the qualification, admission and certificates of proper persons to be pleaders of the subordinate Courts, and of the revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court:

(*b*) for the qualification, admission and certificates of proper persons to be mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court:

(*c*) for the fees to be paid for the examination and admission of such persons; and

(*d*) for their suspension and dismissal.

Publication of rules.

All such rules shall be published in the local official Gazette and shall thereupon have the force of law; provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Certificates to pleaders and mukhtárs.

7. On the admission, under section six of any person as a pleader or mukhtár, the High Court shall cause a certificate, signed by such officer as the Court from time to time appoints in this behalf, to be issued to such person, authorizing him to practise for the period of one year from its date in the Courts and, in the case of a pleader, the offices, specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court from time to time appoints in this behalf.

On every such renewal, the certificate then in possession of such pleader or mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

Pleaders on enrolment may practise in Courts and revenue-offices.

8. Every pleader holding a certificate issued under section seven, may apply to be enrolled in any Court or office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted, and on being so enrolled, may appear, plead and act in such Court or office.

Mukhtárs on enrolment may practise in Courts.

9. Every mukhtár holding a certificate issued under section seven, may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits, and, on being so enrolled, may appear and

act in any such civil Court, and may (subject to the provisions of the Code of Criminal Procedure, section 186) appear, plead and act in any such criminal Court.

No person to practise as pleader or mukhtár unless qualified.

10. Except as provided by the Code of Civil Procedure, section 37, or any other enactment for the time being in force, no person shall appear, plead or act as a pleader or mukhtár in any Court not established by Royal Charter, unless he holds a certificate issued under section seven and has been enrolled in such Court:

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII. of 1869.

Provided that persons holding certificates as revenue-agents under this Act in the territories subject to the Lieutenant-Governor of Bengal may, on being enrolled in any Munsif's Court, appear, plead and act in such Court in suits under Bengal Act No. VIII. of 1869 (*to amend the procedure in suits between Landlord and Tenant*) or under any other Act for the time being in force, regulating the procedure in suits between landholders and their tenants or agents.

Dismissal of pleader or mukhtár convicted of a criminal offence.

11. The High Court may suspend or dismiss any pleader or mukhtár holding a certificate issued under this Act, who is convicted of any criminal offence.

Dismissal of High Court pleader or mukhtár guilty of unprofessional conduct.

12. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss any pleader or mukhtár holding a certificate as aforesaid, who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or of giving, receiving or retaining commission on remuneration paid to any legal practitioner or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in a subordinate Court or revenue-office.

13. If any such pleader or mukhtár practising in any subordinate Court or in any revenue-office, is charged in such Court or office with any such conduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the pleader or mukhtár at least ten days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive all evidence properly produced in support of the charge, or by the pleader or mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established, and considers that the pleader or mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the pleader or mukhtár.

Suspension pending investigation.

Any Judge or Chief Controlling Revenue-Authority acting under this section may, and, with the previous sanction of the Chief Controlling Revenue-Authority, any subordinate revenue-officer so acting may, pending the investigation and the orders of the High Court, suspend the pleader or mukhtár from practising as such in his Court or office.

Every report made to the High Court under this section shall—

(*a*) when made by any Civil Judge other than the District Judge, be made through the Judge;

(*b*) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(*c*) when made by the Magistrate of the District, be made through the Sessions Judge;

(*d*) when made by any subordinate revenue-officer, be made through the Revenue-Authorities to which he is subordinate.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue-Authority through whom or which it is made.

Power to call for record in case of acquittal under section 13.

14. The High Court, in any case in which a pleader or mukhtár has been acquitted under section thirteen otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Report when dismissed mukhtár is also a revenue-agent.

15. Whenever a mukhtár who has been suspended or dismissed by order of the High Court is also a revenue-agent holding a certificate under this Act, the High Court shall forward a report of the case to the Chief Controlling Revenue-Authority.

Such Authority, after making any enquiry which it thinks necessary, may suspend or dismiss him as such revenue-agent.

Power to make rules for mukhtárs on appellate side of High Court.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (*a*), any High Court established by Royal Charter may from time to time make rules consistent with this Act—

(*a*) for the qualification, admission, suspension and dismissal of proper persons to be mukhtárs practising on the appellate side of such Court;

(*b*) for the security which they may be required to give for their honesty and good conduct; and

(*c*) as to their powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.—*Of Revenue-Agents.*

17. The Chief Controlling Revenue-Authority may from time to time make rules consistent with this Act—

Power to make rules as to qualifications, &c., of revenue-agents.

(*a*) for the qualification, admission and certificates of proper persons to be revenue-agents;

(*b*) for the fees to be paid for the examination and admission of such persons; and

(*c*) for their suspension and dismissal.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.

18. On the admission of any person as a revenue-agent under section seventeen, the Chief Controlling Revenue-Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise for the period of one year from its date in such offices as may be specified therein.

Certificates to revenue-agents.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue Authority, or by any other officer authorized by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue-Authority.

19. Every revenue-agent holding a certificate issued under section eighteen, may apply to be enrolled in any revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue-Authority, and, on being so enrolled, may practise in such office as a revenue-agent.

Enrolment of revenue-agent.

20. Except as provided by any enactment for the time being in force, no person, other than a pleader duly qualified under the provisions hereinbefore contained, shall practise as a revenue-agent in any revenue-office, unless he holds a certificate issued under section eighteen, and has been enrolled in such office:

No person to act as agent in revenue-offices, unless qualified.

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue-Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his employer may be concerned in any revenue-office:

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by such Authority or officer.

21. The Chief Controlling Revenue-Authority may suspend or dismiss any revenue-agent holding a certificate issued under this Act, who is convicted of any criminal offence.

Dismissal of revenue-agent convicted of criminal offence.

22. The Chief Controlling Revenue-Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or of giving, receiving or retaining commission on remuneration paid to any legal practitioner, or for any other reasonable cause.

Dismissal of revenue-agent guilty of unprofessional conduct.

23. If any revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue-Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Procedure when revenue-agent is so charged in subordinate office.

Such copy and notice shall be served upon the person charged at least ten days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding, and the grounds thereof, and report the same to the Chief Controlling Revenue-Authority; and such Authority shall proceed to acquit, suspend or dismiss him.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall forward the repert through such Commissioner, who shall accompany the same with an expression of his own opinion on the case.

24. The Chief Controlling Revenue-Authority, in any case in which a revenue-agent has been acquitted under section twenty-three, otherwise than by an order of the Chief Controlling Revenue-Authority, may call for the record and pass such order thereon as seems fit.

Power to Chief Controlling Revenue-Authority to call for record.

25. Whenever a revenue-agent who has been dismissed or suspended by order of the Chief Controlling Revenue-Authority is also a mukhtár holding a certificate under this Act, the Chief Controlling Revenue-Authority shall forward a report of the case to the High Court by which he was admitted.

Report to High Court when dismissed revenue-agent is also a mukhtár.

Such Court, after making any enquiry which it thinks necessary, may suspend or dismiss him as such mukhtár.

CHAPTER V.—*Of Certificates.*

Fee for certificates.

26. For every certificate, whether original or renewed, issued under this Act, a fee of the amount prescribed therefor in the second schedule hereto annexed, shall be paid by the person entitled to such certificate.

Dismissed practitioners to surrender certificates.

27. When any pleader, mukhtár or revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court, or officer at the head of the office, before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue-Athority (as the case may be) orders him to deliver the same.

CHAPTER VI.—*Of the Remuneration of Pleaders Mukhtárs and Revenue-Agents.*

High Court and Chief Controlling Revenue-Authority to fix fees on civil and revenue proceedings.

28. The High Court shall from time to time fix and regulate the fees payable by any party in respect of the fees of his adversary's pleader or vakil upon all proceedings (*a*) on the appellate side of such Court, (*b*) in the case of a High Court not established by Royal Charter, on its original side, and (*c*) in the subordinate Courts.

The Chief Controlling Revenue-Authority shall from time to time fix and regulate the fees payable upon all proceedings in the revenue-offices by any party in respect of the fees of his adversary's pleader or revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in section 20.

Nothing in this section applies to the agents mentioned in the proviso to section twenty.

Agreements with pleaders &c.

29. All persons employing pleaders, mukhtárs or revenue-agents shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreements in the power under which such pleaders, mukhtárs or revenue-agents for the time being act.

Such agreements shall not be enforced otherwise than by suit.

CHAPTER VII.—*Penalties.*

On persons illegally practising as pleaders, mukhtárs or revenue-agents.

30. Any person who appears, pleads, acts or practises in any Court or office in contravention of the provisions of section ten or section twenty, shall be liable, by order of such Court, or the officer at the head of such office, to a fine not exceeding ten times the amount of the fee required by this Act to be paid for a certificate authorizing him to appear, plead, act or practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for, or enforcing any lien in respect of, any fee or reward for, or in respect of, anything done, or any disbursement made, by him as pleader or mukhtár or revenue-agent whilst he has been contravening the provisions of either of such sections.

On suspended or dismissed pleader, &c., failing to deliver certificate.

31. Any pleader, mukhtár or revenue-agent failing to deliver up his certificate as required by section twenty-seven, shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed practitioner practising during suspension or after dismissal.

32. Any pleader, mukhtár or revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a pleader or mukhtár or revenue-agent in any Court or office, shall be liable, by order of such Court, or the officer at the head of such office, to a fine not exceeding five hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

Revision of fines.

33. Every order under section thirty, thirty-one or thirty-two shall be subject to revision, by the High Court, where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue-Authority, where the order has been passed by an officer subordinate to such Authority.

CHAPTER VIII.—*Miscellaneous.*

Local Government to appoint examiners.

34. To facilitate the ascertainment of the qualifications respectively mentioned in sections six and seventeen, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Exemption of High Court practitioners from certain part of Act.

35. Except as provided by sections four, five, sixteen and twenty-eight, nothing in this Act applies to advocates, vakils and attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to mukhtárs practising in such Court.

FIRST SCHEDULE.

(*See section 2.*)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865.	To amend the Pleaders, Mukhtárs and Revenue-Agents Act, 1865.	So much as has not been repealed.
Act IX of 1866 ...	To extend to the Sudder Court of the North-Western Provinces certain provisions of "the Pleaders, Mukhtárs and Revenue Agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-Agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877.	The Panjáb Courts Act, 1877.	Section forty-five.

SECOND SCHEDULE.

(*See section 26*).

FEES FOR CERTIFICATES.

I.

For a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—rupees fifty :

(*b.*) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(*c.*) In all other subordinate Courts—rupees twenty-five :

(*d.*) In the Courts of Subordinate Judges, Munsifs, Magistrates, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, and in Courts of Small Causes outside the Presidency-towns—rupees fifteen :

(*e.*) In the Munsifs' Courts and any Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a Mukhtár—

(*f.*) In the High Court and any subordinate Court—rupees twenty-five :

(*g.*) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(*h.*) In all other subordinate Courts—rupees fifteen :

(*i.*) In the Courts of Subordinate Judges, Munsifs, Magistrates, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, and in Courts of Small Causes outside the Presidency Towns—rupees ten :

(*j.*) In the Munsifs' Courts and any Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a Revenue-Agent—

(*k*) In the office of the Chief Controlling Revenue-Authority and in any office subordinate to such Authority—rupees fifteen :

(*l*) In the office of a Commissioner and in any office subordinate to a Commissioner—rupees ten :

(*m*) In the office of a Collector and in any office subordinate to a Collector—rupees five.

D. FITZPATRICK,
Secy. to the Govt. of India.

14-2-79

[*Published with the "Bombay Government Gazette" on the 13th February* 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 29th January 1879, and was referred to a Select Committee :—

Bill No. 3 of 1879.

A Bill for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Hackney-Carriage Act, 1879,"

Commencement.

and it shall come into force at once;

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities.

Interpretation-clause.

2. In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of human beings, which is kept, or offered, or plies for hire, and

"Committee" means a Municipal Committee, or a body of Municipal Commissioners constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

3. The Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Power of Committees to make rules.

When this Act has been so applied to any municipality, the Committee of such municipality may from time to time make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Sanction and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may from time to time prescribe, have the force of law.

Power of Local Government to rescind rule.

Provided that the Local Government may at any time rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may, from time to time, with the previous sanction of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it, and

the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India but not in British India, in which British troops are cantoned.

What rules under sections 3 and 4 may provide for.

5. The rules to be made under section three or section four may, among other matters,

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness, and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness, and other things used therewith, shall be kept;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness, and other things are kept;

(*f*) fix the time for which such licenses shall continue in force and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let such carriage to any person requiring the same, and any driver of a hackney-carriage, being with such car-

riage in a public place, shall be bound to go with any person desirous of hiring such carriage;

(*h*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*i*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and

(*j*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage.

Penalty for breach of rules.

6. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Fees and expenses in municipalities.

7. The amount of any fees received, and the amount of any expenses incurred, by any Committee in giving effect to this Act shall respectively be credited and debited to the Municipal Fund, and in any cantonment where there is a Cantonment Fund, to such Fund.

Power of Magistrate to decide disputes regarding fares.

8. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by a Magistrate or bench of Magistrates, and the decision of such Magistrate or bench shall be final.

When any such dispute is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

STATEMENT OF OBJECTS AND REASONS.

THE want of a law to regulate hackney-carriages in towns and cantonments in the interior of India has long been felt, and has lately been pressed upon the notice of the Government of India by the Lieutenant-Governor of the Panjáb and His Excellency the Commander-in-Chief.

2. The present Bill has been prepared to supply this want in the case of municipalities in those parts of India which have not local Legislatures, and in all cantonments, whether in British India or in Native States.

3. It gives power to the Municipal Committee, in the case of a municipality, and to the Local Government, in the case of a cantonment, to make rules (subject, in the former case, to the sanction of the Local Government, and in the latter, to that of the Governor General in Council) to ensure that carriages offered for hire, and the animals and harness used with them, shall be in proper condition; that fit persons shall be employed as drivers; that the fares charged shall be reasonable, and that the carriages shall not be over-laden.

4. It further provides that breach of these rules shall be punishable with fine which may extend to fifty rupees, and that disputes between the hirer and owner of a carriage, as to the amount of a fare, shall be determinable by a Magistrate.

(Signed) T. H. THORNTON.

The 20th January 1879.

D. FITZPATRICK,
Secretary to the Government of India.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

[*Published with the "Bombay Government Gazette" on the 20th February* 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 29th January 1879, and was referred to a Select Committee :—

Bill No. 3 of 1879.

A Bill for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

Preamble.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows :—

Short title.

1. This Act may be called "The Hackney-Carriage Act, 1879,"

Commencement.

and it shall come into force at once;

Saving.

but nothing herein contained shall affect any power conferred by any law relating to municipalities.

Interpretation-clause.

2. In this Act—

"Hackney-carriage" means any wheeled vehicle drawn by animals and used for the conveyance of human beings, which is kept, or offered, or plies for hire, and

"Committee" means a Municipal Committee, or a body of Municipal Commissioners constituted under the provisions of any enactment for the time being in force.

Application of Act to municipalities.

3. The Lieutenant-Governors of the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh, the Central Provinces, British Burma, Assam, Ajmer and Coorg may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Power of Committees to make rules.

When this Act has been so applied to any municipality, the Committee of such municipality may from time to time make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Sanction and publication of rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may from time to time prescribe, have the force of law.

Power of Local Government to rescind rule.

Provided that the Local Government may at any time rescind any such rule.

Power to make rules for cantonments.

4. The Local Government of any of the said territories may, from time to time, with the previous sanction of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it, and

the Governor General in Council may, from time to time, make rules for the regulation and control of hackney-carriages in any place in India but not in British India, in which British troops are cantoned.

What rules under sections 3 and 4 may provide for.

5. The rules to be made under section three or section four may, among other matters,

(*a*) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf;

(*b*) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness, and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness, and other things used therewith, shall be kept;

(*e*) provide for the inspection of the premises on which any such carriages, animals, harness, and other things are kept;

(*f*) fix the time for which such licenses shall continue in force and the events (if any) upon which within such time they shall be subject to revocation or suspension;

(*g*) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let such carriage to any person requiring the same, and any

driver of a hackney-carriage, being with such carriage in a public place, shall be bound to go with any person desirous of hiring such carriage;

(*h*) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places;

(*i*) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage; and

(*j*) limit the number of persons, and the weight of property, which may be conveyed by any such carriage.

Penalty for breach of rules.

6. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Fees and expenses in municipalities.

7. The amount of any fees received, and the amount of any expenses incurred, by any Committee in giving effect to this Act shall respectively be credited and debited to the Municipal Fund, and in any cantonment where there is a Cantonment Fund, to such Fund.

Power of Magistrate to decide disputes regarding fares.

8. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by a Magistrate or bench of Magistrates, and the decision of such Magistrate or bench shall be final.

When any such dispute is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

STATEMENT OF OBJECTS AND REASONS.

THE want of a law to regulate hackney-carriages in towns and cantonments in the interior of India has long been felt, and has lately been pressed upon the notice of the Government of India by the Lieutenant-Governor of the Panjáb and His Excellency the Commander-in-Chief.

2. The present Bill has been prepared to supply this want in the case of municipalities in those parts of India which have not local Legislatures, and in all cantonments, whether in British India or in Native States.

3. It gives power to the Municipal Committee, in the case of a municipality, and to the Local Government, in the case of a cantonment, to make rules (subject, in the former case, to the sanction of the Local Government, and in the latter, to that of the Governor General in Council) to ensure that carriages offered for hire, and the animals and harness used with them, shall be in proper condition; that fit persons shall be employed as drivers; that the fares charged shall be reasonable, and that the carriages shall not be over-laden.

4. It further provides that breach of these rules shall be punishable with fine which may extend to fifty rupees, and that disputes between the hirer and owner of a carriage, as to the amount of a fare, shall be determinable by a Magistrate.

(Signed) T. H. THORNTON.

The 20th January 1879.

D. FITZPATRICK,
Secretary to the Government of India.

The following preliminary Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th January 1879:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Pleaders, Mukhtárs and Revenue Agents Act, 1865, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Secretary for Birár to Resident, Haidarábád, No. 10B, dated 19th November 1878.
,, Secretary to Chief Commissioner, Mysore, No. 7039—13J, dated 25th November 1878.
Memorandum by Pandit Srikishen, Pleader, Judicial Commissioner's Court, Oudh, dated 30th November 1878.
From Officiating Chief Secretary to Government, Fort St. George, No. 2440, dated 3rd December 1878.
,, Secretary to Chief Commissioner, Assam, No. 2296, dated 10th December 1878.
,, Under Secretary to Government, Bombay, No. 7183, dated 10th December 1878, and enclosures.
,, Chief Commissioner, Ajmer and Merwára, No. 19, dated 3rd January 1879.
,, Officiating Secretary to Chief Commissioner, Central Provinces, No. 119-255, dated 9th January 1879.
Note by the Hon'ble the Chief Justice, High Court, Calcutta, dated 22nd January 1879.

2. We have deemed it well, instead of adding a fifth Act to the four Acts already in force relating to pleaders, mukhtárs and revenue-agents, to frame a consolidation measure embracing the entire law.

3. We have, at the instance of the Hon'ble the Chief Justice of Bengal, restored in section 16 of the Bill now submitted, the power of the High Courts to make rules for the admission and control of mukhtárs practising on the appellate side of those Courts, which was conferred by section 44 of Act XX. of 1865, but which has been held by the Calcutta High Court to have been *ultra vires*.

4. We have made the Bill applicable to the Courts of Small Causes in the Presidency towns where we understand some such law is needed.

5. We have substituted, for the stamp-duties on certificates prescribed by Act XX of 1865, fees fixed according to the scale which was proposed in the Bill to amend the law relating to stamps and court-fees recently before the Council. The alterations here made are of no substantial importance.

6. We have made several amendments in arrangement and drafting, with a view to clearness and simplicity.

7. We recommend that the Bill now submitted be published.

8. The publication ordered by the Council has been made.

W. STOKES.
F. R. COCKERELL.
T. H. THORNTON.

The 29th January 1879.

THE LEGAL PRACTITIONERS BILL, 1879.

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No. II.

A Bill to consolidate and amend the law relating to Legal Practitioners.

WHEREAS it is expedient to consolidate and amend the law relating to legal Practitioners, in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh and Assam; and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows:—

Preamble.

CHAPTER I.—*Preliminary.*

1. This Act may be called "The Legal Practitioners Act, 1879:" and shall come into force on the first day of April 1879.

Short title.

Commencement of Act.

This section and section two extend to the whole of British India.

Local extent.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

2. On and from the first day of April 1879, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

Repeal of enactments.

All rules, and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

Saving of rules, &c.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, subsequently thereto, shall be read as if made to this Act.

References to repealed enactments.

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

Interpretation-clause.

"Judge" means the presiding judicial officer in every civil and criminal Court by whatever title he is designated:

"Judge."

"Subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. IX. of 1850 or Act No. XI. of 1865:

"Subordinate Court."

"Officer subordinate to such Authority," "Subordinate Revenue-officer" and "Revenue-office" include all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents.

"Officer subordinate to such Authority."

"Subordinate Revenue-officer."

"Revenue-office."

CHAPTER II.—*Of Advocates, Vakils and Attorneys.*

4. Every person now or hereafter entered as an Advocate or Vakil on the roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything herein contained, be entitled as such to practise in any Court in British India other than a High Court on whose roll he is not entered, or in any such Court with the permission of the Court, and in any Revenue-office subject nevertheless to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents:

Advocates and Vakils of chartered High Court.

Provided that no such Vakil shall be entitled to practise under this section before a Judge of the High Court, Division Court, or High Court exercising original jurisdiction.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall, notwithstanding anything herein contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue-office.

Attorneys of High Court.

CHAPTER III.—*Of Pleaders and Mukhtárs.*

Power to make rules as to qualification, &c., of pleaders and mukhtárs.

6. The High Court may, from time to time, make rules consistent with this Act—

(*a*) for the qualification, admission and certificates of proper persons to be pleaders of the subordinate Courts, and of the revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court:

(*b*) for the qualification, admission and certificates of proper persons to be mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court:

(*c*) for the fees to be paid for the examination and admission of such persons; and

(*d*) for their suspension and dismissal.

Publication of rules.

All such rules shall be published in the local official Gazette and shall thereupon have the force of law; provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Certificates to pleaders and mukhtárs.

7. On the admission, under section six, of any person as a pleader or mukhtár, the High Court shall cause a certificate, signed by such officer as the Court from time to time appoints in this behalf, to be issued to such person, authorizing him to practise for the period of one year from its date in the Courts and, in the case of a pleader, the offices, specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court from time to time appoints in this behalf.

On every such renewal, the certificate then in possession of such pleader or mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

Pleaders on enrolment may practise in Courts and revenue-offices.

8. Every pleader holding a certificate issued under section seven, may apply to be enrolled in any Court or office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted, and on being so enrolled, may appear, plead and act in such Court or office.

Mukhtárs on enrolment may practise in Courts.

9. Every mukhtár holding a certificate issued under section seven, may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits, and, on being so enrolled, may appear and act in any such civil Court, and may (subject to the provisions of the Code of Criminal Procedure, section 186) appear, plead and act in any such criminal Court.

No person to practise as pleader or mukhtár unless qualified.

10. Except as provided by the Code of Civil Procedure, section 37, or any other enactment for the time being in force, no person shall appear, plead or act as a pleader or mukhtár in any Court not established by Royal Charter, unless he holds a certificate issued under section seven and has been enrolled in such Court:

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII. of 1869.

Provided that persons holding certificates as revenue-agents under this Act in the territories subject to the Lieutenant-Governor of Bengal may, on being enrolled in any Munsif's Court, appear, plead and act in such Court in suits under Bengal Act No. VIII. of 1869 (*to amend the procedure in suits between Landlord and Tenant*) or under any other Act for the time being in force, regulating the procedure in suits between landholders and their tenants or agents.

Dismissal of pleader or mukhtár convicted of a criminal offence.

11. The High Court may suspend or dismiss any pleader or mukhtár holding a certificate issued under this Act, who is convicted of any criminal offence.

Dismissal of High Court pleader or mukhtár guilty of unprofessional conduct.

12. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss any pleader or mukhtár holding a certificate as aforesaid, who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or of giving, receiving or retaining commission on remuneration paid to any legal practitioner or for any other reasonable cause.

Procedure when charge of unprofessional conduct is brought in a subordinate Court or revenue-office.

13. If any such pleader or mukhtár practising in any subordinate Court or in any revenue-office, is charged in such Court or office with any such conduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the pleader or mukhtár at least ten days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive all evidence properly produced in support of the charge, or by the pleader or mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established, and considers that the pleader or mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the pleader or mukhtár.

Any Judge or Chief Controlling Revenue-Authority acting under this section may, and, with the previous sanction of the Chief Controlling Revenue-Authority, any subordinate revenue-officer so acting may, pending the investigation and the orders of the High Court, suspend the pleader or mukhtár from practising as such in his Court or office.

Suspension pending investigation.

Every report made to the High Court under this section shall—

(*a*) when made by any Civil Judge other than the District Judge, be made through the Judge;

(*b*) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(*c*) when made by the Magistrate of the District, be made through the Sessions Judge;

(*d*) when made by any subordinate revenue-officer, be made through the Revenue-Authorities to which he is subordinate.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue-Authority through whom or which it is made.

14. The High Court, in any case in which a pleader or mukhtár has been acquitted under section thirteen otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to call for record in case of acquittal under section 13.

15. Whenever a mukhtár who has been suspended or dismissed by order of the High Court is also a revenue-agent holding a certificate under this Act, the High Court shall forward a report of the case to the Chief Controlling Revenue-Authority.

Report when dismissed mukhtár is also a revenue-agent.

Such Authority, after making any enquiry which it thinks necessary, may suspend or dismiss him as such revenue-agent.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (*a*), any High Court established by Royal Charter may from time to time make rules consistent with this Act—

Power to make rules for mukhtárs on appellate side of High Court.

(*a*) for the qualification, admission, suspension and dismissal of proper persons to be mukhtárs practising on the appellate side of such Court;

(*b*) for the security which they may be required to give for their honesty and good conduct; and

(*c*) as to their powers and duties;

and may prescribe and impose fines for the infringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.—*Of Revenue-Agents.*

17. The Chief Controlling Revenue-Authority may from time to time make rules consistent with this Act—

Power to make rules as to qualifications, &c., of revenue-agents.

(*a*) for the qualification, admission and certificates of proper persons to be revenue-agents;

(*b*) for the fees to be paid for the examination and admission of such persons; and

(*c*) for their suspension and dismissal.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.

18. On the admission of any person as a revenue-agent under section seventeen, the Chief Controlling Revenue-Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise for the period of one year from its date in such offices as may be specified therein.

Certificates to revenue-agents.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue-Authority, or by any other officer authorized by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue-Authority.

19. Every revenue-agent holding a certificate issued under section eighteen, may apply to be enrolled in any revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue-Authority, and, on being so enrolled, may practise in such office as a revenue-agent.

Enrolment of revenue-agent.

20. Except as provided by any enactment for the time being in force, no person, other than a pleader duly qualified under the provisions hereinbefore contained, shall practise as a revenue-agent in any revenue-office, unless he holds a certificate issued under section eighteen, and has been enrolled in such office;

No person to act as agent in revenue-offices, unless qualified.

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue-Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his employer may be concerned in any revenue-office:

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by such Authority or officer.

Dismissal of revenue-agent convicted of criminal offence.

21. The Chief Controlling Revenue-Authority may suspend or dismiss any revenue-agent holding a certificate issued under this Act, who is convicted of any criminal offence.

Dismissal of revenue-agent guilty of unprofessional conduct.

22. The Chief Controlling Revenue-Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or of giving, receiving or retaining commission on remuneration paid to any legal practitioner, or for any other reasonable cause.

Procedure when revenue-agent is so charged in subordinate office.

23. If any revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue-Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least ten days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding, and the grounds thereof, and report the same to the Chief Controlling Revenue-Authority; and such Authority shall proceed to acquit, suspend or dismiss him.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with an expression of his own opinion on the case.

Power to Chief Controlling Revenue-Authority to call for record.

24. The Chief Controlling Revenue-Authority, in any case in which a revenue-agent has been acquitted under section twenty-three, otherwise than by an order of the Chief Controlling Revenue-Authority, may call for the record and pass such order thereon as seems fit.

Report to High Court when dismissed revenue-agent is also a mukhtár.

25. Whenever a revenue-agent who has been dismissed or suspended by order of the Chief Controlling Revenue-Authority is also a mukhtár holding a certificate under this Act, the Chief Controlling Revenue-Authority shall forward a report of the case to the High Court by which he was admitted.

Such Court, after making any enquiry which it thinks necessary, may suspend or dismiss him as such mukhtár.

CHAPTER V.—*Of Certificates.*

Fee for certificates.

26. For every certificate, whether original or renewed, issued under this Act, a fee of the amount prescribed therefor in the second schedule hereto annexed, shall be paid by the person entitled to such certificate.

Dismissed practitioners to surrender certificates.

27. When any pleader, mukhtár or revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court, or officer at the head of the office, before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue-Authority (as the case may be) orders him to deliver the same.

CHAPTER VI.—*Of the Remuneration of Pleaders Mukhtárs and Revenue-Agents.*

High Court and Chief Controlling Revenue-Authority to fix fees on civil and revenue proceedings.

28. The High Court shall from time to time fix and regulate the fees payable by any party in respect of the fees of his adversary's pleader or vakil upon all proceedings (*a*) on the appellate side of such Court, (*b*) in the case of a High Court not established by Royal Charter, on its original side, and (*c*) in the subordinate Courts.

The Chief Controlling Revenue-Authority shall from time to time fix and regulate the fees payable upon all proceedings in the revenue-offices by any party in respect of the fees of his adversary's pleader or revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in section 20.

Nothing in this section applies to the agents mentioned in the proviso to section twenty.

Agreements with pleaders, &c.

29. All persons employing pleaders, mukhtárs or revenue-agents shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreements in the power under which such pleaders, mukhtárs or revenue-agents for the time being act.

Such agreements shall not be enforced otherwise than by suit.

CHAPTER VII.—*Penalties.*

On persons illegally practising as pleaders, mukhtárs or revenue-agents.

30. Any person who appears, pleads, acts or practises in any Court or office in contravention of the provisions of section ten or section twenty,

shall be liable, by order of such Court, or the officer at the head of such office, to a fine not exceeding ten times the amount of the fee required by this Act to be paid for a certificate authorizing him to appear, plead, act or practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for, or enforcing any lien in respect of, any fee or reward for, or in respect of, anything done, or any disbursement made, by him as pleader or mukhtár or revenue-agent whilst he has been contravening the provisions of either of such sections.

On suspended or dismissed pleader, &c., failing to deliver certificate.

31. Any pleader, mukhtár or revenue-agent failing to deliver up his certificate as required by section twenty-seven, shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed practitioner practising during suspension or after dismissal.

32. Any pleader, mukhtár or revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a pleader or mukhtár or revenue-agent in any Court or office, shall be liable, by order of such Court, or the officer at the head of such office, to a fine not exceeding five hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

Revision of fines.

33. Every order under section thirty, thirty-one or thirty-two shall be subject to revision, by the High Court, where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue-Authority, where the order has been passed by an officer subordinate to such Authority.

CHAPTER VIII.—*Miscellaneous.*

Local Government to appoint examiners.

34. To facilitate the ascertainment of the qualifications respectively mentioned in sections six and seventeen, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Exemption of High Court practitioners from certain parts of Act.

35. Except as provided by sections four, five, sixteen and twenty-eight, nothing in this Act applies to advocates, vakíls and attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to mukhtárs practising in such Court.

FIRST SCHEDULE.

(*See section 2.*)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865.	To amend the Pleaders, Mukhtárs and Revenue-Agents Act, 1865.	So much as has not been repealed.
Act IX of 1866 ...	To extend to the Sudder Court of the North-Western Provinces certain provisions of "the Pleaders, Mukhtárs and Revenue Agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-Agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877.	The Panjáb Courts Act, 1877.	Section forty-five.

SECOND SCHEDULE.

(*See section 26*).

FEES FOR CERTIFICATES.

I.

For a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—rupees fifty :

(*b.*) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(*c.*) In all other subordinate Courts—rupees twenty-five :

(*d.*) In the Courts of Subordinate Judges, Munsifs, Magistrates, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, and in Courts of Small Causes outside the Presidency-towns—rupees fifteen :

(*e.*) In the Munsifs' Courts and any Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a Mukhtár—

(*f.*) In the High Court and any subordinate Court—rupees twenty-five :

(*g.*) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(*h.*) In all other subordinate Courts—rupees fifteen :

(*i*.) In the Courts of Subordinate Judges, Munsifs, Magistrates, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, and in Courts of Small Causes outside the Presidency Towns—rupees ten :

(*j*.) In the Munsifs' Courts and any Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a Revenue-Agent—

(*k*) In the office of the Chief Controlling Revenue-Authority and in any office subordinate to such Authority—rupees fifteen :

(*l*) In the office of a Commissioner and in any office subordinate to a Commissioner—rupees ten :

(*m*) In the office of a Collector and in any office subordinate to a Collector—rupees five.

D. FITZPATRICK,
Secy. to the Govt. of India.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

[*Published with the "Bombay Government Gazette" on the 27th February* 1879.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following preliminary Report of a Select Committee, together with the Bill as settled by them, is presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th January 1879:—

WE, the undersigned Members of the Select Committee to which the Bill to amend the Pleaders, Mukhtárs and Revenue Agents Act, 1865, was referred, have the honour to report that we have considered the Bill and the papers noted in the margin.

From Secretary for Birár to Resident, Haidarábád, No. 10B, dated 19th November 1878.
,, Secretary to Chief Commissioner, Mysore, No. 7039—13J, dated 25th November 1878.
Memorandum by Pandit Srikishen, Pleader, Judicial Commissioner's Court, Oudh, dated 30th November 1878.
From Officiating Chief Secretary to Government, Fort St. George, No. 2440, dated 3rd December 1878.
,, Secretary to Chief Commissioneer, Assam, No. 2296, dated 10th December 1878.
,, Under Secretary to Government, Bombay, No. 7183, dated 10th December 1878, and enclosures.
,, Chief Commissioner, Ajmer and Merwára, No. 19, dated 3rd January 1879.
,, Officiating Secretary to Chief Commissioner, Central Provinces, No. 119-255, dated 9th January 1879.
Note by the Hon'ble the Chief Justice, High Court, Calcutta, dated 22nd January 1879.

2. We have deemed it well, instead of adding a fifth Act to the four Acts already in force relating to pleaders, mukhtárs and revenue-agents, to frame a consolidation measure embracing the entire law.

3. We have, at the instance of the Hon'ble the Chief Justice of Bengal, restored in section 16 of the Bill now submitted, the power of the High Courts to make rules for the admission and control of mukhtárs practising on the appellate side of those Courts, which was conferred by section 44 of Act XX. of 1865, but which has been held by the Calcutta High Court to have been *ultra vires*.

4. We have made the Bill applicable to the Courts of Small Causes in the Presidency towns where we understand some such law is needed.

5. We have substituted, for the stamp-duties on certificates prescribed by Act XX of 1865, fees fixed according to the scale which was proposed in the Bill to amend the law relating to stamps and court-fees recently before the Council. The alterations here made are of no substantial importance.

6. We have made several amendments in arrangement and drafting, with a view to clearness and simplicity.

7. We recommend that the Bill now submitted be published.

8. The publication ordered by the Council has been made.

W. STOKES.
F. R. COCKERELL.
T. H. THORNTON.

The 29th January 1879.

THE LEGAL PRACTITIONERS' BILL, 1879.

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No. II.

A Bill to consolidate and amend the law relating to Legal Practitioners.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to legal Practitioners, in the Lower Provinces of Bengal, the North-Western Provinces, the Panjáb, Oudh and Assam; and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows:—

CHAPTER I.—*Preliminary.*

Short title. Commencement of Act.

1. This Act may be called "The Legal Practitioners' Act, 1879:" and shall come into force on the first day of April 1879.

Local extent.

This section and section two extend to the whole of British India.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal, the North-Western Provinces and the Panjáb, and the Chief Commissioners of Oudh and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

Repeal of enactments.

2. On and from the first day of April 1879, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

Saving of rules, &c.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

References to repealed enactments.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, subsequently thereto, shall be read as if made to this Act.

Interpretation-clause.

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

"Judge."

"Judge" means the presiding judicial officer in every civil and criminal Court by whatever title he is designated:

"Subordinate Court."

"Subordinate Court" means all Courts subordinate to the High Court, including Courts of Small Causes established under Act No. IX. of 1850 or Act No. XI. of 1865:

"Officer subordinate to such Authority," "Subordinate Revenue-officer" and "Revenue-office" include all Courts (other than civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents.

"Officer subordinate to such Authority."
"Subordinate Revenue-officer."
"Revenue-office."

CHAPTER II.—*Of Advocates, Vakíls and Attorneys.*

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding anything herein contained, be entitled as such to practise in any Court in British India other than a High Court on whose roll he is not entered, or in any such Court with the permission of the Court, and in any Revenue-office subject nevertheless to the rules in force relating to the language in which the Court or office is to be addressed by Pleaders or Revenue-agents:

Advocates and Vakíls of chartered High Court.

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court, or High Court exercising original jurisdiction.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall, notwithstanding anything herein contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue-office.

Attorneys of High Court.

CHAPTER III.—*Of Pleaders and Mukhtárs.*

6. The High Court may, from time to time, make rules consistent with this Act—

Power to make rules as to qualification, &c., of pleaders and mukhtárs.

(*a*) for the qualification, admission and certificates of proper persons to be pleaders of the subordinate Courts, and of the revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court:

(*b*) for the qualification, admission and certificates of proper persons to be mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court:

(*c*) for the fees to be paid for the examination and admission of such persons; and

(*d*) for their suspension and dismissal.

All such rules shall be published in the local official Gazette and shall thereupon have the force of law; provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Publication of rules.

7. On the admission, under section six, of any person as a pleader or mukhtár, the High Court shall cause a certificate, signed by such officer as the Court from time to time appoints in this behalf, to be issued to such person, authorizing him to practise for the period of one year from its date in the Courts and, in the case of a pleader, the offices, specified therein.

Certificates to pleaders and mukhtárs.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court from time to time appoints in this behalf.

On every such renewal, the certificate then in possession of such pleader or mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

8. Every pleader holding a certificate issued under section seven, may apply to be enrolled in any Court or office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted, and on being so enrolled, may appear, plead and act in such Court or office.

Pleaders on enrolment may practise in Courts and revenue-offices.

9. Every mukhtár holding a certificate issued under section seven, may apply to be enrolled in any civil or criminal Court mentioned therein and situate within the same limits, and, on being so enrolled, may appear and act in any such civil Court, and may (subject to the provisions of the Code of Criminal Procedure, section 186) appear, plead and act in any such criminal Court.

Mukhtárs on enrolment may practise in Courts.

10. Except as provided by the Code of Civil Procedure, section 37, or any other enactment for the time being in force, no person shall appear, plead or act as a pleader or mukhtár in any Court not established by Royal Charter, unless he holds a certificate issued under section seven and has been enrolled in such Court:

No person to practise as pleader or mukhtár unless qualified.

Provided that persons holding certificates as revenue-agents under this Act in the territories subject to the Lieutenant-Governor of Bengal may, on being enrolled in any Munsif's Court, appear, plead and act in such Court in suits under Bengal Act No. VIII. of 1869 (*to amend the procedure in suits between Landlord and Tenant*) or under any other Act for the time being in force, regulating the procedure in suits between landholders and their tenants or agents.

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under Bengal Act VIII. of 1869.

11. The High Court may suspend or dismiss any pleader or mukhtár holding a certificate issued under this Act, who is convicted of any criminal offence.

Dismissal of pleader or mukhtár convicted of a criminal offence.

12. The High Court may also, after such enquiry as it thinks fit, suspend or dismiss any pleader or mukhtár holding a certificate as aforesaid, who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or of giving, receiving or retaining commission on remuneration paid to any legal practitioner or for any other reasonable cause.

Dismissal of High Court pleader or mukhtár guilty of unprofessional conduct.

13. If any such pleader or mukhtár practising in any subordinate Court or in any revenue-office, is charged in such Court or office with any such conduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Procedure when charge of unprofessional conduct is brought in a subordinate Court or revenue-office.

Such copy and notice shall be served upon the pleader or mukhtár at least ten days before the day so appointed.

On such day or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive all evidence properly produced in support of the charge, or by the pleader or mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established, and considers that the pleader or mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the pleader or mukhtár.

Any Judge or Chief Controlling Revenue-Authority acting under this section may, and, with the previous sanction of the Chief Controlling Revenue-Authority, any subordinate revenue-officer so acting may, pending the investigation and the orders of the High Court, suspend the pleader or mukhtár from practising as such in his Court or office.

Suspension pending investigation.

Every report made to the High Court under this section shall—

(*a*) when made by any Civil Judge other than the District Judge, be made through the Judge;

(*b*) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District and the Sessions Judge;

(*c*) when made by the Magistrate of the District, be made through the Sessions Judge;

(*d*) when made by any subordinate revenue-officer, be made through the Revenue-Authorities to which he is subordinate.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue-Authority through whom or which it is made.

14. The High Court, in any case in which a pleader or mukhtár has been acquitted under section thirteen otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to call for record in case of acquittal under section 13.

15. Whenever a mukhtár who has been suspended or dismissed by order of the High Court is also a revenue-agent holding a certificate under this Act, the High Court shall forward a report of the case to the Chief Controlling Revenue-Authority.

Report when dismissed mukhtár is also a revenue-agent.

Such Authority, after making any enquiry which it thinks necessary, may suspend or dismiss him as such revenue-agent.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (*a*), any High Court established by Royal Charter may from time to time make rules consistent with this Act—

Power to make rules for mukhtárs on appellate side of High Court.

(*a*) for the qualification, admission, suspension and dismissal of proper persons to be mukhtárs practising on the appellate side of such Court;

(*b*) for the security which they may be required to give for their honesty and good conduct; and

(*c*) as to their powers and duties;

and may prescribe and impose fines for the infiringement of such rules not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.—*Of Revenue-Agents.*

17. The Chief Controlling Revenue-Authority may from time to time make rules consistent with this Act—

Power to make rules as to qualifications, &c., of revenue-agents.

(*a*) for the qualification, admission and certificates of proper persons to be revenue-agents;

(*b*) for the fees to be paid for the examination and admission of such persons; and

(*c*) for their suspension and dismissal.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.

18. On the admission of any person as a revenue-agent under section seventeen, the Chief Controlling Revenue-Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise for the period of one year from its date in such offices as may be specified therein.

Certificates to revenue-agents.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue-Authority, or by any other officer authorized by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue-Authority.

Enrolment of revenue-agent.

19. Every revenue-agent holding a certificate issued under section eighteen, may apply to be enrolled in any revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue-Authority, and, on being so enrolled, may practise in such office as a revenue-agent.

No person to act as agent in revenue-offices, unless qualified.

20. Except as provided by any enactment for the time being in force, no person, other than a pleader duly qualified under the provisions hereinbefore contained, shall practise as a revenue-agent in any revenue-office, unless he holds a certificate issued under section eighteen, and has been enrolled in such office:

Provided that any person duly authorized in this behalf may, with the sanction of the Chief Controlling Revenue-Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his employer may be concerned in any revenue-office:

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by such Authority or officer.

Dismissal of revenue-agent convicted of criminal offence.

21. The Chief Controlling Revenue-Authority may suspend or dismiss any revenue-agent holding a certificate issued under this Act, who is convicted of any criminal offence.

Dismissal of revenue-agent guilty of unprofessional conduct.

22. The Chief Controlling Revenue-Authority may also, after making such enquiry as it thinks fit, suspend or dismiss any revenue-agent holding a certificate issued under this Act who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or of giving, receiving or retaining commission on remuneration paid to any legal practitioner, or for any other reasonable cause.

Procedure when revenue-agent is so charged in subordinate office.

23. If any revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue-Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least ten days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding, and the grounds thereof, and report the same to the Chief Controlling Revenue-Authority; and such Authority shall proceed to acquit, suspend or dismiss him.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with an expression of his own opinion on the case.

Power to Chief Controlling Revenue-Authority to call for record.

24. The Chief Controlling Revenue-Authority, in any case in which a revenue-agent has been acquitted under section twenty-three, otherwise than by an order of the Chief Controlling Revenue-Authority, may call for the record and pass such order thereon as seems fit.

Report to High Court when dismissed revenue-agent is also a mukhtár.

25. Whenever a revenue-agent who has been dismissed or suspended by order of the Chief Controlling Revenue-Authority is also a mukhtár holding a certificate under this Act, the Chief Controlling Revenue-Authority shall forward a report of the case to the High Court by which he was admitted.

Such Court, after making any enquiry which it thinks necessary, may suspend or dismiss him as such mukhtár.

CHAPTER V.—*Of Certificates.*

Fee for certificates.

26. For every certificate, whether original or renewed, issued under this Act, a fee of the amount prescribed therefor in the second schedule hereto annexed, shall be paid by the person entitled to such certificate.

Dismissed practitioners to surrender certificates.

27. When any pleader, mukhtár or revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court, or officer at the head of the office, before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue-Authority (as the case may be) orders him to deliver the same.

CHAPTER VI.—*Of the Remuneration of Pleaders, Mukhtárs and Revenue-Agents.*

High Court and Chief Controlling Revenue-Authority to fix fees on civil and revenue proceedings.

28. The High Court shall from time to time fix and regulate the fees payable by any party in respect of the fees of his adversary's pleader or vakíl upon all proceedin

(*a*) on the appellate side of such Court, (*b*) in the case of a High Court not established by Royal Charter, on its original side, and (*c*) in the subordinate Courts.

The Chief Controlling Revenue-Authority shall from time to time fix and regulate the fees payable upon all proceedings in the revenue-offices by any party in respect of the fees of his adversary's pleader or revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in section 20.

Nothing in this section applies to the agents mentioned in the proviso to section twenty.

Agreements with pleaders, &c.

29. All persons employing pleaders, mukhtárs or revenue-agents shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be necessary to specify such agreement in the power under which such pleaders, mukhtárs or revenue-agents for the time being act.

Such agreements shall not be enforced otherwise than by suit.

CHAPTER VII.—*Penalties.*

On persons illegally practising as pleaders, mukhtárs or revenue-agents.

30. Any person who appears, pleads, acts or practises in any Court or office in contravention of the provisions of section ten or section twenty, shall be liable, by order of such Court, or the officer at the head of such office, to a fine not exceeding ten times the amount of the fee required by this Act to be paid for a certificate authorizing him to appear, plead, act or practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

He shall also be incapable of maintaining any suit for, or enforcing any lien in respect of, any fee or reward for, or in respect of, anything done, or any disbursement made, by him as pleader or mukhtár or revenue-agent whilst he has been contravening the provisions of either of such sections.

On suspended or dismissed pleader, &c., failing to deliver certificate.

31. Any pleader, mukhtár or revenue-agent failing to deliver up his certificate as required by section twenty-seven, shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended or dismissed practitioner practising during suspension or after dismissal.

32. Any pleader, mukhtár or revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a pleader or mukhtár or revenue-agent in any Court or office, shall be liable, by order of such Court, or the officer at the head of such office, to a fine not exceeding five hundred rupees and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

Revision of fines.

33. Every order under section thirty, thirty-one or thirty-two shall be subject to revision, by the High Court, where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue-Authority, where the order has been passed by an officer subordinate to such Authority.

CHAPTER VIII.—*Miscellaneous.*

Local Government to appoint examiners.

34. To facilitate the ascertainment of the qualifications respectively mentioned in sections six and seventeen, the Local Government shall from time to time appoint persons to be examiners for the purposes aforesaid, and make regulations for conducting such examinations.

Exemption of High Court practitioners from certain parts of Act.

35. Except as provided by sections four, five, sixteen and twenty-eight, nothing in this Act applies to advocates, vakíls and attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to mukhtárs practising in such Court.

FIRST SCHEDULE.

(*See section 2.*)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865...	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865.	To amend the Pleaders, Mukhtárs and Revenue-Agents Act, 1865.	So much as has not been repealed.
Act IX of 1866 ...	To extend to the Sudder Court of the North-Western Provinces certain provisions of "the Pleaders, Mukhtárs and Revenue Agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 ...	To authorize Revenue-Agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877.	The Panjáb Courts Act, 1877.	Section forty-five.

SECOND SCHEDULE.

(*See section 26*).

FEES FOR CERTIFICATES.

I.

For a certificate authorizing the holder to practise as a Pleader—

(*a.*) In the High Court and any subordinate Court—rupees fifty :

(*b.*) In any Court of Small Causes in a Presidency-town—rupees twenty-five :

(*c.*) In all other subordinate Courts—rupees twenty-five :

(*d.*) In the Courts of Subordinate Judges, Munsifs, Magistrates, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, and in Courts of Small Causes outside the Presidency-towns—rupees fifteen :

(*e.*) In the Munsifs' Courts and any Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorizing the holder to practise as a Mukhtár—

(*f.*) In the High Court and any subordinate Court—rupees twenty-five :

(*g.*) In any Court of Small Causes in a Presidency-town—rupees fifteen :

(*h.*) In all other subordinate Courts—rupees fifteen :

(*i.*) In the Courts of Subordinate Judges, Munsifs, Magistrates, Assistant Commissioners, Extra Assistant Commissioners and Tahsíldárs, and in Courts of Small Causes outside the Presidency Towns—rupees ten :

(*j.*) In the Munsifs' Courts and any Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorizing the holder to practise as a Revenue-Agent—

(*k*) In the office of the Chief Controlling Revenue-Authority and in any office subordinate to such Authority—rupees fifteen :

(*l*) In the office of a Commissioner and in any office subordinate to a Commissioner—rupees ten :

(*m*) In the office of a Collector and in any office subordinate to a Collector—rupees five.

D. FITZPATRICK,
Secy. to the Govt. of India.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

[*Published with the "Bombay Government Gazette" on the 6th March* 1879.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following further Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th of February, 1879 :—

WE, the undersigned Members of the Select Committee to which the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques was referred, have considered the Bill and the papers noted in the margin, and have the honour to present this further Report.

From Secretary to Chief Commissioner, Mysore, No. 3193—4 J, dated 26th July, 1878.
,, Acting Under Secretary to Government of Bombay, No. 4405, dated 30th July, 1878.
,, Assistant Secretary to Chief Commissioner, Central Provinces, No. 3012—147, dated 31st July, 1878.
,, Officiating Chief Commissioner, Ajmer and Merwára, No. 500, dated 5th August, 1878, and enclosure.
,, Under Secretary to Government of Bengal, No. 1745, dated 13th August, 1878.
,, Acting Under Secretary to Government, Bombay, No. 4792, dated 17th August, 1878, and enclosures.
,, Secretary to Chief Commissioner, Mysore, No. 3765—6, dated 15th August, 1878, and enclosure.
,, Secretary to Government, North-Western Provinces and Oudh, No. 626 A, dated 24th August, 1878, and enclosures.
,, Junior Secretary to Chief Commissioner, British Burma, No. 1440—51, dated 28th September, 1878, and enclosures.
,, Under Secretary to Government, Bombay, No. 6570, dated 15th November, 1878, and enclosure.
Note by Sir Richard Garth, Chief Justice, High Court, Calcutta, dated 21st November, 1878.
Remarks on the above note by A. Phillips, Esq., dated 30th November, 1878.
From Secretary to Government, Panjáb, No. 4404, dated 23rd December, 1878, and enclosures.
,, Government of Bengal, No. 260—24 M, dated 1st February, 1879, and enclosures.
,, Government of Bombay, No. 838, dated 6th February, 1879, and enclosures.

2. We have carefully considered the arguments urged on the one side by the learned Chief Justice of Bengal and the Bank of Bengal for the immediate application of the measure in its entirety to hundís, and, on the other side, by the Government of the Panjáb for the total exclusion of hundís from any part of the measure. We have come to the conclusion that the Bill should in this respect be left substantially as it stands. Admitting with the Chief Justice that one main principle of Indian codification is to reconcile and assimilate, as far as possible, the Native and European law on each subject, we would point out that this principle must be applied so as to produce as little friction as possible, and we feel assured that any sudden abolition of the numerous local usages (there is no general custom) as to hundís, uncertain and undefined as they often are, would cause much and justifiable dissatisfaction among Native bankers and merchants in certain parts of the country. But we believe that the effect of the Bill, if passed with a saving of the local usages in question, will be, not as the Chief Justice fears, to stereotype and perpetuate these usages, but to induce the Native mercantile community gradually to discard them for the corresponding rules contained in the Bill. The desirable uniformity of mercantile usage will thus be brought about without any risk of causing hardship to Native bankers and merchants. How long this change will take it is of course impossible to prophesy. But the Bank of Bengal has supplied evidence that the Native usages as to negotiable paper have of recent years been greatly changing, and that the tendency is to assimilate them more and more to the European custom.

3. We do not share the apprehension of the Bank of Bengal that the recognition of Native usages would result in large withdrawal of European capital from operations in Native bills. For in this respect the Bill simply states the law as it stands. Such usages are now and have always been recognized by our Courts in all parts of India:* but the Bank itself admits that, for upwards of seventy years, its business in hundís has invariably been conducted according to the same laws and usages as apply to European bills, and that with one exception (the alleged duty of the holder of a dishonoured hundí to exhaust the acceptor before having recourse to the drawer or endorser) Natives have made no difficulty about conforming to the Bank's requirements. It is, we understand, the practice of the Bank and, probably, of other large European purchasers of hundís to notify that they will not be bound by any local usage which contravenes the English law as to bills of exchange. Though the Bill should pass in its present form, this practice will remain legal and unaffected. It operates of course to bind only the seller to waive a defence which he might otherwise have made. But the other parties to the hundí are practically precluded from setting up any such usage by the knowledge that if they did so their credit would be destroyed by refusal of the Bank to buy hundís on which their names appear.

* See, for example, 1 Suth. W. R. 75 : 2 *ibid.* 214 : 6 *ibid.* 301 : 2 Hyde 259 ; 3 Beng. A. C. 198 : 7 Beng. 275, 289, 431, 687, 9 Beng. Appendix I. : 2 Sevestre 621, n. : N. W. P. 1868, p. 268 : Perry 296 : 6 Bomb. O. C. J. 24 : 7 Bomb. O. C. J. 137, 140 : 12 Bomb. 113.

4. To exclude totally (as the Panjáb Government propose) hundís from any part of the Bill would be to render the proposed legislation to a great extent inoperative, and would probably result in withdrawal of the Bill. Considering the fact that the carrying on of the internal trade of India is becoming more and more dependent on English capital, and that the use in the Mufassal of bills in the English form is therefore largely increasing, we think that such withdrawal would be highly inexpedient. We are supported in this opinion by the fact that the Local Governments of Bengal, Bombay, the North-Western Provinces and Ajmer have all reported in favour of the Bill; that the Chambers of Commerce at Calcutta, Madras, and Bombay, the Bank of Bombay, and the Calcutta Trades Association, have done the same; and that the Directors of the Bank of Bengal bear testimony as to the ability with which it was framed by Mr. Phillips.

5. Turning now to the details of the Bill, we have, in the first place, expressly saved the provisions of the Indian Paper-Currency Act, 1871, section 21, which prohibits the issue of private bills or notes payable to bearer on demand.

6. We have struck out from section 16 the words "the whole or any part of," as they might have been taken to imply that there may be a special indorsement expressly directing payment of part of the amount mentioned in the instrument.

7. Section 21 was taken from the Law Commissioners' draft, and deals with a promissory note signed by two persons, and shewing that one of them subscribes only to an alternative liability. We think it very doubtful whether such an informal instrument is a promissory note at all, and for this and other reasons we have omitted the section.

8. We have also omitted section 33, as the matter appears to us to be sufficiently provided for by the Indian Contract Act; for the same reason we have omitted the first half of section 43.

9. We have omitted, as unlikely to be practically useful, sections 55 and 56, which provide for the delivery without indorsement, but with intent to transfer title, of bills payable to the order of a specified person or to a specified person or order.

10. We have omitted section 59, as the matter is sufficiently covered by the preceding section.

11. We do not think that the Bill should deal with collateral agreements, and have therefore struck out section 66.

12. We have amended the section (73, now 67) as to the drawee's term for deliberation. It now provides that the holder may allow the drawee twenty-four hours (exclusive of public holidays) to consider whether he will accept the Bill.

13. We think that, in order to charge the drawer of a cheque, the holder should only be bound to present it at the bank on which it is drawn before the relation between the drawer and the banker has been altered to the prejudice of the drawer. We have altered section 82 accordingly.

14. We have omitted from section 97 the explanation relating to material alterations.

15. We have made some changes in wording and arrangement.

16. The Bill No. III. and the second report of the Select Committee have been published in English in all the local Gazettes except those for Assam and Rájputana. Publication of the Bill and report in the vernacular has been reported only by the Governments of Madras, Bengal and the North-Western Provinces and Oudh and the Chief Commissioner of the Central Provinces.

17. With the exception of our Hon'ble Colleague Mr. Morgan, we think that the Bill might now be passed as amended. Mr. Morgan would omit the clause saving local usages as to hundís. In other respects he approves of the Bill. We recommend that its further consideration be stayed until the new Law Commission has reported thereon. Meanwhile, we think the Bill, as now amended, should be published with this report in the *Gazette of India*.

WHITLEY STOKES.
G. C. PAUL.
G. H. P. EVANS.
F. R. COCKERELL.

CALCUTTA,
The 19th February, 1879.

Although I think that this Bill is, on the whole, a very good one, I cannot approve of the recognition which it accords to local usages relating to hundís. From a careful consideration of the papers which have been received with reference to the Bill, and from my own experience as regards the existing practice regarding hundís, I do not believe that there are any usages which call for special recognition at the hands of the Legislature, and I think that the proposed recognition may put an arm into the hands of those who are dishonestly disposed, which they do not at present possess.

E. C. MORGAN.

No. IV.

THE NEGOTIABLE INSTRUMENTS BILL, 1879.

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SCHEDULE.

No. IV.

A Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

Preamble.

WHEREAS it is expedient to define and amend the law relating to Promissory Notes, Bill of Exchange and Cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called "the Negotiable Instruments Act, 1879:"

Local extent.

It extends to the whole of British India; but nothing herein contained affects any local usage

Saving of usages relating to hundis, &c.

relating to any instrument in an oriental language or affects the Indian Paper Currency Act, 1871, section twenty-one:

Commencement.

And it shall come into force on the first day of January, 1880.

Repeal of enactments.

2. On and from that day the enactments specified in the schedule hereto annexed shall be repealed to the extent mentioned in the third column thereof.

Interpretation clause.

3. In this Act—

"Banker."

"Banker" includes also persons or a corporation or company acting as Bankers, and

"Notary Public."

"Notary Public" includes also any officer appointed by the Governor General in Council to perform the functions of a Notary Public under this Act.

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

Promissory Note.

4. A promissory note is an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument.

Illustrations.

A signs instruments in the following terms:—

(*a*). "I promise to pay B or order Rs. 500."

(*b*) "I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand, for value received."

(*c*) "Mr. B, I O U Rs. 1,000."

(*d*) "I promise to pay B Rs. 500 and all other sums which shall be due to him."

(*e*) "I promise to pay B Rs. 500, first deducting thereout any money which he may owe me."

(*f*) "I promise to pay B Rs. 500 seven days after my marriage with C."

(*g*) "I promise to pay B Rs. 500 on D's death, provided D leaves me enough to pay that sum."

(*h*) "I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next."

The instruments respectively marked (*a*), and (*b*) are promissory notes. The instruments respectively marked (*c*), (*d*), (*e*), (*f*), (*g*) and (*h*) are not promissory notes.

Bill of exchange.

5. A bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

Cheque.

6. A cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

"Drawer." "Drawee."

7. The maker of a bill of exchange or cheque is called the "drawer;" the person thereby directed to pay is called the "drawee."

"Drawee in case of need."

When the bill gives the name of any person in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Acceptor."

After the drawee of a bill has signed his assent upon the bill, or if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

"Acceptor for honour."

When acceptance is refused and the bill is protested for non-acceptance, and any person accepts it *supra protest* for honour, of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Payee."

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Holder."

8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

"Holder in due course."

9. "Holder in due course" means any person who became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to, or to the order of, a payee, for consideration before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

"Payment in due course."

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

Inland instrument.

11. A promissory note, bill of exchange or cheque drawn or made in British India, and made payable in, or drawn upon any person resident in, British India shall be deemed to be an inland instrument.

Foreign instrument.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

Negotiable instrument.

13. A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to a specified person or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person, or the bearer thereof.

Negotiation.

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

Indorsement.

15. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

Indorsement "in blank" and "in full."

16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;"

"Indorsee."

and the person so specified is called the "indorsee" of the instrument.

Ambiguous instruments.

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

Where amount is stated differently in figures and words.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

Instruments payable on demand.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque are payable on demand.

Blank stamped instruments.

20. Where a stamped paper, which is intended to be completed as a negotiable instrument, is signed and delivered by a competent person as maker, drawer, acceptor or indorser, the holder thereof may complete the same by filling up any blanks therein, and the person so signing shall be liable upon such instrument, in the capacity in which he signed the same, for any amount which may be specified therein not exceeding the amount covered by the stamp thereon: provided that as between the person delivering and the person receiving the instrument nothing in excess of the amount intended by them to be paid shall be recovered.

Illustration.

A stamped paper intended to be completed as a negotiable instrument is made payable to " or order:" the holder of such instrument may fill up the blank with his own name, or that of any other person.

"At sight."
"On presentment."
"After sight."

21. In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and in a bill of exchange, after acceptance or protest for non-acceptance.

"Maturity."

22. The maturity of a promissory note or bill of exchange is the date at which it falls due.

Days of grace.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight, or on presentment, is at maturity on the third day after the day on which it is expressed to be payable.

Calculating maturity of bill or note payable so many months after date or sight.

23. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for

acceptance or sight or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(*a*) A negotiable instrument dated 29th January 1878 is made payable at one month after date. The instrument is at maturity on the third day after the 28th February 1878.

(*b*) A negotiable instrument dated 30th August 1878 is made payable three months after date. The instrument is at maturity on the 3rd December 1878.

(*c*) A promissory note or bill of exchange, dated 31st August 1878, is made payable three months after date. The instrument is at maturity on the 3rd December 1878.

Calculating maturity of bill or note payable so many days after date or sight.

24. In calculating the date at which a promissory note or bill of exchange, made payable a certain number of days after date or after sight or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

When day of maturity is a holiday.

25. When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

Explanation.—The expression "public holiday" includes Sundays: New-Year's day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good-Friday; and any other day declared by the Local Government, by notification in the official Gazette, to be a public holiday.

Presumptions as to negotiable instruments;

26. Until the contrary is proved, the following presumptions shall be made:—

of consideration;

(*a*) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration:

as to date;

(*b*) that every negotiable instrument bearing a date was made or drawn on such date:

as to time of acceptance;

(*c*) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity:

as to time of transfer;

(*d*) that every transfer of a negotiable instrument was made before its maturity:

as to order of endorsements;

(*e*) that the endorsements appearing upon a negotiable instrument were made in the order in which they appear thereon:

as to stamp;

(*f*) that a lost promissory note, bill of exchange or cheque was duly stamped:

that holder is a holder in due course.

(*g*) that the holder of a negotiable instrument is a holder in due course: provided that where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burthen of proving that the holder is a holder in due course lies upon him.

CHAPTER III.

Parties to Notes, Bills and Cheques.

Capacity to make, &c., promissory notes, &c.

27. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Minor.

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

Agency.

28. Every person capable of binding himself or of being bound, as mentioned in section 27, may so bind himself or be bound by a duly authorized agent acting in his name.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

Liability of agent signing.

29. An agent who signs his name to a promissory note, bill of exchange or cheque, without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Liability of legal representative signing.

30. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque, is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

Acceptance by several drawees not partners.

31. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

Liability of drawer.

32. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder for any loss or damage caused thereby, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

Liability of drawee of cheque.

33. The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque, must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

Liability of maker of note and acceptor of bill.

34. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange, are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him, and caused by such default.

The provisions of this section are subject to those of sections 27, 29, 48, 49, 50, 62, 68, 72, 73 and 86.

Only drawee can be acceptor except in need or for honour.

35. No person except the drawee of a bill of exchange, or all or some of several joint drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

Liability of indorser.

36. In the absence of a contract to the contrary, whoever endorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

The provisions of this section are subject to those of sections 27, 29, 48, 49, 50, 59, 60, 62, 65, 66, 68, 72, 76, 86, 87, 88, 90, 91 and 101, clause (*a*).

Liability of prior parties to holder in due course.

37. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Maker, drawer and acceptor principals.

38. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer, or acceptor, as the case may be.

Prior party a principal in respect of each subsequent party.

39. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Illustration.

A draws a bill payable to his own order on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

Suretyship.

40. When the holder of an accepted bill of exchange enters into any contract with the acceptor which under section 134 or 135 of the Indian Contract Act, 1872, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

Discharge of indorser's liability.

41. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:—

First indorsement "B."

Second indorsement, "Peter Williams."

Third indorsement, "Wright and Co."

Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright and Co. A is not entitled to recover anything from John Rozario.

Estoppel against denying original validity of instrument.

42. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying capacity of payee to indorse.

43. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

Estoppel against denying signature or capacity of prior party.

44. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Acceptor bound, although indorsement forged.

45. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

Acceptance of bill drawn in fictitious name.

46. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Party receiving consideration liable to subsequent parties.

47. If at any time there has been consideration between any parties to a negotiable instrument for the making, drawing, acceptance, indorsement, negotiation or transfer thereof, the party receiving such consideration is, in the absence of a contract to the contrary, liable upon the instrument to all subsequent parties thereto, and every subsequent holder is, as against him, a holder for consideration.

The provisions of this section are subject to those of sections 27, 49, 50, 59, 65, 66, 68, 72, 73, 76, 86, 87, 88, 89, 90, and 91.

Illustrations.

(*a*) A indorses a bill of exchange to B, at the request of C, for C's account with B. B is a holder of the bill for consideration, and if he indorses it as a present to D, D is a holder for consideration as against A.

(*b*) A, the holder of a negotiable instrument, indorses it in full to B, in the belief that B has done something which he has not done. B, for consideration proceeding from C, indorses the instrument in blank to C, and C indorses it to D. D strikes out C's indorsement. D is a holder of the instrument for consideration as against B.

Party not liable to one from whom no consideration moved.

48. When there was no consideration for the making, drawing, acceptance or indorsement of a negotiable instrument, or when the consideration has wholly failed, the maker, drawer, acceptor or indorser is not liable thereon to the party in whose favour the instrument was so made, drawn, accepted or indorsed, or to any party claiming through him, unless consideration was given by the claimant or by some party through whom he derives title. But the maker, drawer, acceptor or indorser is liable to compensate any subsequent party who, being liable on such instrument, pays the amount due thereon.

Partial absence or failure of money-consideration.

49. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque, stands in immediate relation with the payee, and the indorser with the indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Partial failure of consideration not consisting of money.

50. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

CHAPTER IV.

Of Negotiation.

Negotiation by delivery.

51. Subject to the provisions of section 62, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Illustrations.

(*a*) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(*b*) A, the holder of a negotiable instrument payable to bearer which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Negotiation by indorsement.

52. Subject to the provisions of section 62, a promissory note, bill of exchange or cheque payable to the order of a specified person, or to a specified person or order is negotiable by the holder by indorsement and delivery thereof.

Conversion of indorsement in blank into indorsement in full.

53. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature

a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Effect of indorsement.

54. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Illustrations.

B signs the following indorsements on different negotiable instruments payable to bearer:—

(*a*) "Pay the contents to C only."

(*b*) "Pay C for my use."

(*c*) "Pay C or order for the account of B."

(*d*) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

(*e*) "Pay C."

(*f*) "Pay C value in account with the Oriental Bank."

(*g*) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

Who may negotiate.

55. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument, may, if the negotiability of such instrument has not been restricted or excluded, as mentioned in section 54, indorse and negotiate the same.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

Indorser who excludes his own liability or makes it conditional.

56. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon, depend upon the happening of a specified event although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(*a*) The indorser of a negotiable instrument signs his name, adding the words—

"Without recourse."

Upon this indorsement he incurs no liability.

(*b*.) A is the payee and holder of a negotiable instrument. Excluding personal liability by an endorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

Holder deriving title from holder in due course.

57. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Instrument indorsed in blank.

58. Subject to the provisions of sections 121 and 122, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Conversion of indorsement in blank into indorsement in full.

59. If a negotiable instrument after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Indorsement for part of sum due.

60. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount of the instrument.

Legal representative cannot by delivery only negotiate instrument indorsed by deceased.

61. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Instrument obtained by unlawful means or for unlawful consideration.

62. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is or some person through whom he claims, was a holder thereof in due course.

Instrument acquired after dishonour or when overdue.

63. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor:

Accommodation note or bill.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Illustration.

The acceptor of a bill of exchange, when he accepted it deposited with the drawer certain goods as a collateral security for the payment of the bill, with

power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

Instrument negotiable till payment or satisfaction.

64. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee, or acceptor at or after maturity, but not after such payment or satisfaction.

CHAPTER V.

Of Presentment.

Presentment for acceptance.

65. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place, and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

Presentment of promissory note for sight.

66. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight, by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Drawee's time for deliberation.

67. The holder may allow the drawee of a bill of exchange presented to him for acceptance twenty-four hours (exclusive of public holidays) to consider whether he will accept it.

Presentment for payment.

68. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Exception.—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

Hours for presentment.

69. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Presentment for payment of instrument payable after date or sight.

70. A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity.

Presentment for payment of promissory note payable by instalments.

71. A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of instrument payable at specified place and not elsewhere.

72. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

Instrument payable at specified place.

73. A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Presentment where no exclusive place specified.

74. A promissory note or bill of exchange, not made payable as mentioned in sections 72 and 73, must be presented for payment at one of the places specified (if any), or at the place of business (if any), or at the usual residence of the maker, drawee or acceptor thereof, as the case may be.

Presentment when maker, &c., has no known place of business or residence.

75. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment of cheque to charge drawer.

76. A cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge any other person.

77. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

Presentment of instrument payable on demand.

78. Subject to the provisions of section 33, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment by or to agent, representative of deceased, or assignee of insolvent.

79. Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or where the drawee, maker or acceptor has died, to his legal representative, or where he has been declared an insolvent, to his assignee.

When presentment unnecessary.

80. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases :—

(*a*) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument,

or if the instrument being payable at his place of business, he closes such place on a business day during the usual business-hours, or

if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business hours, or

if the instrument not being payable at any specified place, he cannot after due search be found ;

(*b*) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment ;

(*c*) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

Liability of banker for negligently dealing with bill presented for payment.

81. When a bill of exchange, accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

CHAPTER VI.

Of Payment and Interest.

To whom payment should be made.

82. Subject to the provisions of section 86, clause (*c*), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

Interest when rate specified.

83. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount and from the date of the instrument, until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

Interest when no rate specified.

84. When no rate of interest is specified in the instrument, interest on the amount thereof shall, except in cases provided for by the Code of Civil Procedure, section 532, be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon or until such date after the institution of a suit to recover such amount as the Court directs.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

Delivery of instrument on payment, or indemnity in case of loss.

85. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

CHAPTER VII.

Of discharge from Liability on Notes, Bills and Cheques.

Discharge from liability,

86. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

by cancellation,

(*a*) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder,

by release,

(*b*) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge ;

by payment.

(*c*) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

Discharge by allowing drawee more than twenty-four hours to accept.

87. If the holder of a bill of exchange allows the drawee more than twenty-four hours to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

When cheque not duly presented and drawer damaged thereby.

88. When the holder of a cheque fails to present it for payment, and the drawer thereof sustains loss or damage from such failure, he is discharged from liability to the holder.

Cheque payable to order.

89. Where a cheque payable to order, purports to be indorsed by or on behalf of the payee the drawee is discharged by payment in due course.

Parties not consenting discharged by conditional or limited acceptance.

90. If the holder of a bill of exchange acquiesces in a conditional acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for

payment, or which, where the drawers are not partners is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him.

Effect of material alteration.

91. Save as provided in sections 20, 53, 90 and 120, any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties;

Alteration by endorsee.

and any such alteration if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

The provisions of this section are subject to those of sections 20, 53, 90 and 120.

Acceptor or indorser bound notwithstanding previous alteration.

92. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Payment of instrument on which alteration is not apparent.

93. Where a promissory note, bill of exchange or cheque has been materially altered, but does not appear to have been so altered,

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated,

payment thereof by a person or banker liable to pay and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon, and such payment shall not be questioned by reason of the instrument having been altered, or the cheque crossed.

CHAPTER VIII.

Of Notice of Dishonour.

Dishonour by non-acceptance.

94. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill.

Where the drawee is incompetent to contract the bill may be treated as dishonoured.

Dishonoured by non-payment.

95. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill, or drawee of the cheque makes default in payment upon being duly required to pay the same.

By and to whom notice should be given.

96. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

Mode in which notice may be given.

97. Notice of dishonour may be given to a duly authorised agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business, or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is sent by post and miscarries, such miscarriage does not render the notice invalid.

Party receiving must transmit notice of dishonour.

98. Any party receiving notice of dishonour must, in order to render any prior party liable to himself, transmit it to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 96.

Agent for presentment.

99. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

When party to whom notice given is dead.

100. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When notice of dishonour is unnecessary.

101. No notice of dishonour is necessary—

(*a*) when it is dispensed with by the party entitled thereto;

(*b*) in order to charge the drawer, when he has countermanded payment;

(*c*) when the party charged could not suffer damage for want of notice;

(*d*) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;

(*e*) to charge the drawers, when the acceptor is also a drawer;

(*f*) in the case of a promissory note which is not negotiable;

(*g*) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX.

Of Noting and Protest.

Noting.

102. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

Protest.

103. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest, and in a suit upon the instrument, on proof of the protest, the Court shall presume the fact of dishonour, unless and until such fact is disproved.

Protest for better security.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Contents of protest.

104. A protest under section 103 must contain—

(*a*) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon;

(*b*) the name of the person for whom and against whom the instrument has been protested;

(*c*) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;

(*d*) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal;

(*e*) the subscription of the notary public making the protest;

(*f*) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

Notice of protest.

105. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

Protest for non-payment after dishonour by non-acceptance.

106. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before or at maturity.

CHAPTER X.

Of Reasonable Time.

Reasonable time.

107. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, public holidays shall be excluded.

Reasonable time for presentment.

108. Presentment is made within a reasonable time, within the meaning of sections 65, 77 and 78, if it is made on the business day next after that on which the holder received the instrument referred to, or when there is no more delay than is occasioned by the residence of the parties to the instrument in different places.

Illustration.

A draws on B, resident at Calcutta, a bill of exchange in favour of C payable at sight, and sends it to C at Benares. C, the day after he receives it, indorses it to D, and despatches it to D at Calcutta. D, the day after he receives the bill, presents it for payment. The delay which has taken place in presenting the bill is not unreasonable.

Reasonable time of giving notice of dishonour.

109. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable time for transmitting such notice.

110. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

CHAPTER XI.

Of Acceptance and Payment for Honour.

Acceptance for honour.

111. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

Acceptance not specifying for whose honour it is made.

112. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Liability of acceptor for honour.

113. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill

if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

When acceptor for honour may be charged.

114. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment and has been dishonoured by him, and noted or protested for such dishonour.

Payment for honour.

115. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Right of payer for honour.

116. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid with interest thereon and with all expenses properly incurred in making such payment.

CHAPTER XII.

Of Compensation.

Rules as to compensation.

117. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall (except in cases provided for by the Code of Civil Procedure, section 532) be determined by the following rules:—

(*a*) The holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it;

(*b*) When the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places;

(*c*) An indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment;

(*d*) When the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places;

(*e*) The party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

Of Crossed Cheques.

Cheque crossed generally.

118. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed specially.

119. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Crossing after issue.

120. Where a cheque is uncrossed, the holder may cross it generally or specially.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

Payment of cheque crossed generally.

121. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed specially.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially more than once.

122. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment in due course of crossed cheque.

123. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Payment of crossed cheque out of due course.

124. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially other-

wise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Cheque bearing "not negotiable."

125. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

But a banker who has in good faith and without negligence received payment from a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

CHAPTER XIV.

Of Foreign Bills.

Set of bills.

126. Foreign bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he is liable on each part as if it were a separate bill.

Holder of first acquired part entitled to all.

127. As between holders in due course of different parts of the same set, he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

Drawee in case of need.

128. Where a drawee in case of need is named in a foreign bill of exchange, the bill is not dishonoured until dishonoured by such drawee.

Protest of foreign bills.

129. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

CHAPTER XV.

Of International Law.

Law governing liability of maker, acceptor or indorser of foreign instrument.

130. In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

Illustrations.

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent, and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is endorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Law of place of payment governs dishonour.

131. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument made, &c., out of British India, but in accordance with its law.

132. If a negotiable instrument is made, drawn, accepted or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into, does not invalidate any subsequent acceptance or endorsement made thereon in British India.

Presumption as to foreign law.

133. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India, unless and until the contrary is proved.

SCHEDULE.

(*a*) Statutes.

Year and chapter.	Title.	Extent of repeal.
9 Wm. III. c. 17.	An Act for the better payment of Inland Bills of Exchange.	The whole.
3 & 4 Anne, c. 8.	An Act for giving like remedy upon promissory notes as is now used upon Bills of Exchange, and for the better payment of Inland Bills of Exchange.	The whole.

(*b*) Acts of the Governor General in Council.

No. and year.	Title.	Extent of repeal.
VI of 1840 ...	An Act for the amendment of the law concerning the negotiation of Bills of Exchange.	The whole.
V of 1866 ...	An Act to amend in certain respects the Commercial Law of British India.	Sections 11, 12 and 13.
XV of 1874 ...	The Laws Local Extent Act, 1874.	The first schedule so far as relates to Act VI of 1840 and Act V of 1866, sections 11, 12 and 13.

D. FITZPATRICK,
Secy. to the Govt. of India.