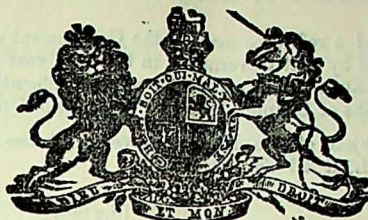


THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 29TH MARCH 1894.

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

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd March 1894 :—

No. 6 of 1894.

A Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend sections 366 and 371 of the Code of Criminal Procedure, 1882 ; It is hereby enacted as follows :—

1. For section 366 of the said Code the following shall be substituted, namely :—
Substitution of new section for section 366, Act X, 1882.

“366. The judgment in every trial in any Criminal Court of original jurisdiction shall be pronounced, or the substance of such judgment shall be explained,—

- (a) in open Court either immediately after the termination of the trial or at some subsequent time of which notice shall be given to the parties or their pleaders, and
- (b) in the language of the Court, or in some other language which the accused or his pleader understands.

The accused shall, if he is in custody and the judgment is not one of discharge or acquittal, be

brought up, or may, if he is not in custody and the judgment is not one of discharge or acquittal, be required by the Court to attend, to hear the judgment delivered.

For any cause which may appear to the Court to be sufficient and shall be recorded by it in writing, the Court may delegate its functions under this section with respect to the delivery of any judgment to any other Court within the limits of the jurisdiction of which the accused may be, and such other Court shall cause notice to be given to the parties or their pleaders of the day and place on and at which the judgment will be delivered as in this section authorised and required, and, when the judgment has been delivered, shall certify thereon the date and mode of delivery.

No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

And nothing in this section shall be construed to limit in any way the extent of the provisions of section 537.” [L. R. 21 Cal. 121.]

2. In section 371 of the said Code, for the words “The judgment shall be explained to the accused and on his application” the words “On the application of the accused” shall be substituted.

STATEMENT OF OBJECTS AND REASONS.

THIS Bill is the outcome of a reference made to the Government of India from the North-Western Provinces in 1892, and circulated by that Government in the same year for the opinions of Local Governments, High Courts and other authorities, respecting certain difficulties which in practice arise in the application of some of the provisions of Chapter XXVI of the Code of Criminal Procedure, 1882.

In connection with the subject of the Bill the Government has recently had the opportunity of perusing the case published at I. L. R. 21 Cal. 121.

(Signed) ALEX. EDW. MILLER.

The 17th March 1894.

S. HARVEY JAMES,
Secretary to the Government of India.

THURSDAY, 29th MARCH 1894

PART VI
BILLS OF THE GOVERNMENT OF INDIA

[Faint, mostly illegible text from the reverse side of the page, including a table of contents and bill details.]

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd March 1894:—

No. 5 of 1894.

A Bill to amend the Indian Penal Code and Act VI of 1864.

WHEREAS it is expedient to amend the Indian Penal Code and Act VI of 1864; It is hereby enacted as follows:—

Indian Penal Code.

[I. L. R. 19
Cal. 389 and
cases there
cited.]
XLV of 1860,
XLV of 1860,

1. For section 182 of the Indian Penal Code the following shall be substituted, namely:—
Substitution of new section for section 182, Act XLV, 1860.

"182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

- (a) to do or omit anything which he ought not to do or omit if the true state of facts respecting which such information is given were known to him, or
- (b) to use any lawful power or authority of such public servant for the benefit of such information in a manner in which he would not have used it but for the receipt of such false information, or
- (c) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

"*Explanation.*—It shall not be necessary for the purpose of clause (c) to show an intention on the part of the informant to injure or annoy any particular person if a reasonable and natural consequence of the receipt of such information as aforesaid would be that the public servant would so act as to cause injury or annoyance to some person or persons.

Illustrations.

"(a) A informs a Magistrate that Z, a police-officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.

"(b) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

"(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village, but does not mention the name of any person as one of his assailants. As a natural consequence of this information, the Police make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section.

"(d) A applies to be admitted as a pleader in a Court, and in support of his application falsely alleges in writing or otherwise that he has been admitted as an advocate in some other Court, his intention being thereby to obtain authority to practise the profession of a pleader for gain or reward. A has committed an offence under this section."

Addition of section to Chapter XII, Act XLV, 1860.

2. To Chapter XII of the said Code the following shall be added namely:—

Prohibition of fictitious stamps.

"263A. (Z) Whoever— [47 & 48
Vict., c. 7
s. 7.]

- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp, or
- (b) has in his possession, without lawful excuse, any fictitious stamp, or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

"(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

"(3) In this section—

- (a) 'fictitious stamp' means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose; and
- (b) 'Government' shall, notwithstanding anything in section 17, be deemed to denote the person or persons authorised by law to administer executive government, not only in any part of British India, but also in any part of Her Majesty's dominions or in any foreign country."

3. For section 294 of the said Code the following shall be substituted, namely:—

Substitution of new section for section 294, Act XLV, 1860.

"294. Whoever in or near any public place, to the annoyance of others, does any obscene act, or sings, recites or utters any obscene song, ballad or words, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

[The an
ment has
reference
an unrep
case
occurred
the Mad
President

4. After section 477 of the said Code the following shall be added, namely:—

477A. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or concurs in making any false entry in, or omits or alters or concurs in omitting or altering any material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation—It shall be sufficient in any charge under this section to allege a general intent

to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud."

Act VI of 1864.

5. After section 6 of Act VI of 1864 (*an Act to authorise the punishment of whipping in certain cases*) the following shall be added, namely:—

"7. (1) In sections 3 and 4 of this Act the words 'same offence' include a minor offence made up of some or any of the particulars of which the offence for which the subsequent conviction is obtained consists.

(2) In section 5 of this Act, the expression 'juvenile offender' means an offender who in the opinion of the Court is under sixteen years of age, the opinion of the Court on such matter being final and conclusive."

STATEMENT OF OBJECTS AND REASONS.

The object of section 2 of this Bill is to give effect to the provisions of the Vienna Postal Convention which came into force on the 1st July 1892. The other sections of the Bill are explained by the marginal notes against them. Section 4 has been inserted on the recommendation of Local Governments and Chambers of Commerce, the existing law having been held to be defective.

The 21st March 1894.

(Signed) ALEX. EDW. MILLER.

S. HARVEY JAMES,
Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 22nd March 1894 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Code of

From Chief Commissioner, Coorg, No. 452—14-91, dated 3rd March, 1894 [Paper No. 1].
 Telegram from Agent to Governor General in Baluchistan, No. 23, dated 9th March, 1894 [Paper No. 2].
 From Government, Punjab, No. 306, dated 7th March, 1894 [Paper No. 3].
 From Chief Commissioner, Burma, No. 145 L.—9, dated 6th March, 1894 [Paper No. 4].
 Telegram from Chief Commissioner, Ajmere-Merwara, No. 402 C., dated 12th March, 1894 [Paper No. 5].
 From Resident, Hyderabad, No. 77, dated 9th March, 1894 [Paper No. 6].
 From High Court, Calcutta, No. 771, dated 12th March, 1894, and enclosures [Papers No. 7].
 From Chief Commissioner, Assam, No. 23 L. L.—1549 J., dated 9th March, 1894, and enclosures [Papers No. 8].
 From Government, Bombay, No. 1817, dated 10th March, 1894, and enclosures [Papers No. 9].
 From Government, Madras, No. 595, dated 9th March, 1894 [Paper No. 10].
 From Chief Commissioner, Central Provinces, No. 1533, dated 10th March, 1894 [Paper No. 11].
 From Government, Bengal, No. 1572 J., dated 13th March, 1894, and enclosures [Papers No. 12].
 From Government, Bengal, No. 1620 J., dated 16th March, 1894, and enclosure [Papers No. 13].
 Telegram from Government, North-Western Provinces and Oudh, dated 13th March, 1894 [Paper No. 14].

Criminal Procedure, 1882, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as revised by us, and with sections 44, 45 and 45A of the Code as they

will stand if our recommendations with respect to this Bill are accepted, annexed

2. We have, with reference to certain remarks in letters from the Government of Bengal, provided in proposed section 45A for rules being made by the Local Government for the guidance of District Magistrates in the appointment of village-headmen for the purposes of section 45 where such headmen are not appointed under any existing law.

3. The publication ordered by the Council has been made as follows :—

In English.

<i>Gazette.</i>	<i>Date.</i>
Gazette of India	17th February 1894.
Fort Saint George Gazette	6th March 1894.
Bombay Government Gazette	22nd February 1894.
Calcutta Gazette... ..	21st February 1894.
North-Western Provinces and Oudh Government Gazette	24th February 1894.
Punjab Government Gazette	1st March 1894.
Central Provinces Gazette	24th February 1894.
Burma Gazette	3rd March 1894.
Assam Gazette	3rd March 1894.
Coorg District Gazette	1st March 1894.
Sind Official Gazette	8th March 1894.

In the Vernaculars.

<i>Province.</i>	<i>Language.</i>	<i>Date.</i>
Madras	Tamil	6th March 1894.
	Telugu	6th March 1894.
Bombay	Marathi	8th March 1894.
	Gujarathi	8th March 1894.
	Kanarese	8th March 1894.
	Bengali	27th March 1894.
Bengal	Uriya	1st March 1894.
	Hindi	6th March 1894.
	Burmese	10th March 1894.
Burma	Burmese	10th March 1894.
Assam	Bengali	10th March 1894.

4. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

(Signed) A. P. MACDONNELL.
 „ ALEX. EDW. MILLER.
 „ RASHBEHARY GHOSE.
 „ G. H. P. EVANS.
 „ C. C. STEVENS.

The 19th March 1894.

No. II.

A Bill to amend the Code of Criminal Procedure, 1882.

X of 1882. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. In section 44 of the said Code the figures "143, 144, 145, 147, 148," shall be inserted between the figures "130" and the figures "302."

2. (1) For the part of section 45 of the said Code beginning with the words "Every village-headman" and ending with the words "under suspicious circumstances" the following shall be substituted, namely:—

"45. Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;
- (b) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;
- (c) the commission of, or intention to commit, in or near such village, any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code;
- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;"

(2) In the same section, after clause (e), added by section 2 of Act III of 1894, the following shall be inserted, namely:—

"(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information."

(3) After the same section the following section shall be added, namely:—

"45A. Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-head-

men for the purposes of the last foregoing section in any village for which there is no such headman appointed under any other law."

SECTIONS 44, 45 AND 45A OF THE CODE OF CRIMINAL PROCEDURE, 1882, AS AMENDED BY ACT III OF 1894 AND PROPOSED TO BE FURTHER AMENDED BY THIS BILL.

44. Every person, whether within or without the presidency-towns, Public to give information aware of the commission of, or of the intention of

any other person to commit, any offence punishable under the following sections of the Indian Penal Code (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 332, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, and 460, shall in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

Any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, and 460, shall be deemed to be an offence for the purposes of this section.

45. Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

- (a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;
- (b) the resort to any place within, or the passage through, such village, of any person whom he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender;
- (c) the commission of, or intention to commit, in or near such village, any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code;
- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances;
- (e) the commission of, or intention to commit, at any place out of British India near such village any act which, if committed

XLV of 1860.

XLV of 181

XLV of 1860

in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460 ;

- (v) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.

In this section—

- (i) "village" includes village-lands ; and
 (ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Governor

General in Council in any part of India in respect of any act which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

45A. Subject to rules in this behalf to be made by the Local Government, Appointment of village-headmen by District Magistrate in certain cases for purposes of section 45. the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of the last foregoing section in any village for which there is no such headman appointed under any other law.

S. HARVEY JAMES,
 Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the Presidency Small Cause Courts Act, 1882, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th March 1894:—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Presidency Small Cause

- From High Court, Calcutta, No. 450, dated 22nd February 1893, and enclosures [Papers No. 1].
 From Government, Bombay, No. 1478, dated 8th March 1893, and enclosures [Papers No. 2].
 From N. N. Mitra, Esq., Barrister-at-Law, Calcutta, dated 21st March 1893 [Paper No. 3].
 From Government, Madras, No. 534, dated 11th March 1893, and enclosures [Papers No. 4].
 From High Court, Calcutta, No. 733, dated 29th March 1893, and enclosure [Papers No. 5].
 From European and Anglo-Indian Defence Association, No. 383, dated 3rd March 1893 [Paper No. 6].
 From Government, Bombay, No. 2484, dated 24th April 1893, and enclosure [Papers No. 7].
 From Government, Bombay, No. 2060, dated 2nd May 1893, and enclosure [Papers No. 8].
 From Government, Bengal, No. 52 J.—D., dated 6th September 1893, and enclosures [Papers No. 9].
 From Government, Bengal, No. 265 J.—D., dated 26th September 1893, and enclosure [Papers No. 10].
 Endorsement by Home Department, No. 32, dated 9th January 1894, and accompaniments [Papers No. 11].
 From Government, Bengal, No. 462 J., dated 24th January 1894, and enclosures [Papers No. 12].
 From Pleaders' Association, Western India, Bombay, No. 1, dated 25th January 1894 [Paper No. 13].
 From Mr. Rastamji Merwanji Patell, Second Judge, Court of Small Causes, Bombay, dated 17th March 1894 [Paper No. 14].
 From Bar Library, Calcutta, dated 21st March 1894 [Paper No. 15].

Courts Act, 1882, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

2. *Section 2 of Bill as revised*.—We

have proposed to subject legal practitioners in Presidency Small Cause Courts to the same disciplinary authority as practitioners in other subordinate Courts.

3. *Section 3 of Bill as revised*.—We have proposed to amend this section so as to dispense, in the case of advocates, vakils and attorneys of a Chartered High Court, with any specified period of standing at the bar as a qualification for appointment to Small Cause Court judgeships.

4. *Section 4 of Bill as revised*.—We have deemed it expedient to maintain this section in the form in which it was originally proposed, that is to say, to leave the procedure and practice of Presidency small Cause Courts to be regulated by the High Court.

5. *Section 5 of Bill as revised*.—We have proposed to make it possible for Registrars to deal, under Chapter VII of the Act, with applications for the recovery of possession of immoveable property of Small value.

6. *Section 7 of Bill as revised*.—We have so modified proposed section 19A as to bring it into closer accord with the actual practice of the Presidency Small Cause Courts.

7. *Sections 8, 9 and 11 of Bill as revised*.—These are the most important sections in the Bill. It is proposed by them to leave it to a plaintiff to institute a suit of value exceeding one thousand rupees in the Small Cause Court or in the High Court at his election, and to a defendant to move the High Court to bring such a suit on to its own file.

8. We have removed the last two sections of the Bill as it was last before the Council.

9. The publication ordered by the Council has been made as follows:—

Gazette.		<i>In English.</i>		Date.	
Gazette of India	14th January 1893.
Fort Saint George Gazette	24th January 1893.
Bombay Government Gazette	26th January 1893.
Calcutta Gazette...	25th January 1893.

Province.		<i>In the Vernaculars.</i>		Date.	
		Language.			
Madras	Tamil	...	14th February 1893.
		...	Telugu	...	14th February 1893.
Bombay	Maráthi	...	2nd March 1893.
		...	Gujaráthi	...	2nd March 1893.
Bengal	Bengali	...	28th February 1893.
		...	Uriya	...	2nd March 1893.
		...	Hindi	...	7th March 1893.

(Signed) ALEX. EDW. MILLEE.
 " A. P. MACDONNELL.
 " G. H. P. EVANS.
 " RASHBEHARY GHOSH.
 " P. PLAYFAIR.

The 28th March 1894.

No. II.

A Bill to amend the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:—

1. (1) This Act may be called the Presidency Small Cause Courts Act, 1894; and

(2) It shall come into force on the first day of

2. In section 6 of the Presidency Small Cause Courts Act, 1882, hereinafter referred to as "the said Act," after the words "Code of Civil Procedure" the following shall be added, namely:—

"and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879."

3. (1) For the proviso to the first paragraph of section 7 of the said Act the following shall be substituted, namely:—

"Provided that no person shall be appointed to be a Judge of such Court, or be authorised to exercise the powers of a Judge of such Court, unless he is—

(a) an advocate of a High Court of Judicature established under the Indian High Courts Act, 1861, or

(b) a vakil or attorney of any such High Court, or

(c) a Judge of a Court of Civil Judicature of not less than five years' standing:

and that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts."

(2) The last paragraph of section 7 of the said Act is hereby repealed.

4. For section 9 of the said Act the following shall be substituted, namely:—

"9. (1) The High Court may from time to time, by rules having the force of law, —

(a) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December 1893, in or under the Presidency Small Cause Courts Act, 1882, or any other enactment for the time being in force, and

(b) cancel or vary any such rule or rules.

"Rules made under this section may provide, among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act or any other enactment for the time being in force.

"(2) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December 1893, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section."

5. To section 14 of the said Act the following Addition to section 14, shall be added, namely:— Act XV, 1882.

"Explanation.—For the purposes of this section an application for possession under section 41 shall be deemed to be a suit."

6. After section 18 of the said Act the following Addition to section 18, shall be added, namely:— Act XV, 1882.

"18A. The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on a cause of action arising either wholly or in part within the local limits of the jurisdiction of the Court to abandon the suit as against any defendant who does not reside or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain."

7. To section 19 of the said Act the following Addition to section 19, shall be added, namely:— Act XV, 1882.

"19A. Whenever the Court finds that for want of jurisdiction it cannot finally determine the

question at issue in the suit, it may at any stage of the proceedings return the plaintiff, to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaintiff, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure and make such order with respect to costs as it may think just, and the Court shall, for the purposes of the Indian Limitation Act, 1877, be deemed to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaintiff so returned is afterwards presented to a High Court, credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaintiff in the levy of any fees which according to the practice of the High Court are credited to the Government."

8. In section 21 of the said Act, after the words "or value thereof" the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be inserted.

XV of 1882.

XV of 1882.

XVIII of 1879.

24 & 25 Viet., c. 104.

XIV of 1882.

XV of 1877.

V of 1882.

9. In section 22 of the said Act, for the words "two thousand" the words "one thousand" shall be substituted.

Amendment of section 22, Act XV, 1882.

Repeal of Act XV, 1882, section 23 and second schedule.

Substitution of new Chapter for Chapter VI, Act XV, 1882.

ed, namely :—

10. Section 23 of and the second schedule to the said Act are hereby repealed.

11. For Chapter VI of the said Act the following shall be substituted.

"CHAPTER VI.

"NEW TRIALS AND APPEALS.

"37. Save as otherwise provided by this Chapter or by any other enactments for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive.

"38. Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section 522 of the Code of Criminal Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

"*Explanation.*—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

"39. (1) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last

expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

"(2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right, but it shall be lawful for the Judge, if he shall think fit, in and by such order to require the applicant to give security to a reasonable amount to be specified in the order for the payment of any costs which may become payable by him to the plaintiff in respect of the said suit, and such Judge may also, if he shall think fit, declare that the removal directed by such order shall be conditional upon the completion of such security within a reasonable time to be prescribed in the order.

"(3) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

"40. (1) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

"(2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the Code of Civil Procedure unless the Court shall otherwise order.

"(3) In every suit so removed as aforesaid credit shall be given to the plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are payable to the Government."

S. HARVEY JAMES,

Secretary to the Government of India.