

They must be unanimous in their Judgment, or the Case is referred in Course to the General Assembly; but the Intention of this Reference is defeated, by the Importance which is given to it, and the insurmountable Difficulties attending the Use of it, few Cases of disputed Inheritance will happen, in which the Opinions of Three independent Judges shall be found to concur: There is therefore a Necessity, either that One shall overrule the other Two, which destroys the Purpose of their Appointment, or that daily Appeals must be made to the Nazim, and his Warrant issued to summon all learned in the Law, from their Homes, their Studies, and necessary Occupations, to form a tumultuous Assembly, to hear and give Judgment upon them: The Consequence is, that the General Assembly is rarely held, and only on Occasions which acquire their Importance from that of the Parties, rather than from the Nicety of the Case itself: The Cázee therefore either advises with his Colleagues in his own particular Court, and gives Judgment according to his own Opinion, or more frequently decides without their Assistance or Presence.

Another great and capital Defect in these Courts is the want of a Substitute or Subordinate Jurisdiction, for the Distribution of Justice in such Parts of the Province, as lie out of their Reach, which in effect confines their Operations to a Circle, extending but a very small Distance beyond the Bounds of the City of Moorshedabad: This indeed is not universally the Case, but perhaps it will not be difficult to prove the Exceptions to be an Accumulation of the Grievance, since it is true that the Courts of Adawlut are open to the Complaints of all Men; yet it is only the rich, or the vagabond Part of the People who can afford to travel so far for Justice; and if the industrious Labourer is

called from the farthest Part of the Province to answer their Complaints, and wait the tedious Process of the Courts, to which they are thus made amenable, the Consequences in many Cases will be more ruinous and oppressive, than an arbitrary Decision could be, if passed against them without any Law or Process whatever.

This Defect is not however left absolutely without a Remedy, the Zemindars, Farmers, Shicdars, and other Officers of the Revenue assuming that Power, for which no Provision is made by the Laws of the Land, but, which in whatever Manner it is exercised, is preferable to a total Anarchy: It will however be obvious, that the judicial Authority lodged in the Hands of Men, who gain their Livelihood by the Profits on the Collections of the Revenue, must unavoidably be converted to Sources of private Emolument, and in effect the greatest Oppressions of the Inhabitants owe their Origin to this necessary Evil: The Câzee has also his Substitutes in the Districts, but their legal Powers are too limited to be of general Use, and the Powers which they assume being warranted by no lawful Commission, but depending on their own Pleasure, or the Ability of People to contest them, is also an Oppression.

From this Variety of Materials we have endeavoured to form the Plan of a more compleat, but more extensive System of Judicature, by constituting Two Superior Courts at the Capital, the one composed of the united Magistracy of the Adawlut al Aalea, the Adawlut Dewannee and the Câzee (or Câzee's Office) for the Decision of Civil Causes, the other corresponding to the Phoujdaree, for the Trial of Criminal Cases. To prevent the Abuse of the Power vested in these Courts, and to give Authority to their Decrees, each instead of a single Judge is made to consist of several Members, and

and their Enquiries are to be conducted under the Inspection and Sanction of the Supreme Administration. To render the Distribution of Justice equal in every Part of the Province, similar but inferior Courts are also proposed for each separate District, and accountable to the superior. The usurped Power of the Officers of the Collections, and of the Creditors over the Persons of their Debtors, is abolished.

The Judicial Authority, which by the Tenth Regulation is still allowed to the Farmers of the Revenue, is a single Exception to the General Rule, which we have laid down of confining such Powers to the Two Courts of Adawlut; but as this is restricted to Cases of Property not exceeding Ten Rupees, and as they have no Power of inflicting Punishment, or levying Fines, we think an ill Use is not likely to be made of so inconsiderable a Privilege, especially as they themselves are amenable to the Courts of Justice, which will be always ready to receive Complaints against them, and some such Means of deciding the trifling Disputes of Riots upon the Spot, is absolutely necessary, as they cannot afford, nor ought to be allowed on every mutual Disagreement, to travel to the Sudder Cutcherry for Justice.

The detestible and authorized Exactions of the Phoujdaree Court, which had its exact Imitators in every Farmer and Aumil of the Province, under the Denomination of Bazée Jumma, have been prohibited, conformably to the wise and humane Injunctions of our Honourable Masters, who, from the same Spirit of Equity, have renounced the Right hitherto exercised by the Country Government, and authorized by the Mahometan Law, to a Commission on the Amount of all Debts, and on the Value of all Property recovered by the Decrees of its Courts, a Practice repugnant to every Principle

Principle of Justice, as it makes the Magistrate a Party in the Cause on which he decides, and becomes a legal Violation of the Rights of private Property, committed by that Power, which should protect and secure it.

It has also been our Aim to render the Access to Justice as easy as possible.

By keeping exact Records of all Judicial Proceedings, it is hoped that these Institutions, if they receive the Sanction of your Approbation, will remain free from the Neglects and Charges, to which they would be liable from a less frequent Inspection.

We have judged it necessary to propose some Exceptions to the Order of the Honourable Court of Directors, for the total Abolition of Fines in the Court of Phoujdaree. All Offences are not punishable by Stripes, and to sentence Men of a certain Rank in Life, or of a superior Cast to such a public Disgrace, would exceed the Proportion of the Offence, and extend the Punishment to all the Relations and Connections of the Delinquent; to suffer him to escape, with total Impunity, would be an Injustice in the other Extreme, in such Cases there is but the middle Way, which we can adopt with an equal Regard to the Spirit of our Honourable Masters Commands, and the Rights of Justice, and that is, by levying the Fine upon the Offender, but converting it to a Reparation of the Injury.

Our Motives for the Abolition of the Fees of the Castees and Mustrees, will best appear in the following Extract of a Minute of our Proceedings at Kithen Nagur, relating to the Haldarree, or Tax on Marriages, which, for the Reasons therein assigned, we forbade to be levied any longer, and deducted from the Settlement of Nuddea: Convinced of the pernicious Effects of so impolitic a

Tax, we propose to grant the same Exemption to the other Districts subject to our Direction, and submit to your Consideration, whether it will not be proper to make it general throughout the Province.

The same Reasons which have induced us to abolish the Haldarree, operate with equal Force against the Fees of the Castees and Mustees, which have always proved a heavy Grievance to the Poor, and an Impediment to Marriage: We have therefore determined on a total Abolition of these, and of the other less Dues hitherto allowed to these Officers, and to put them on the footing of Monthly Servants with fixed Salaries: We were led to this Resolution, not only by the speculative Advantages which it promised, but by the Experience which this Country has already had of its Effects, from a similar Institution of the Nabob Meer Cossim, about the Beginning of the Year 1763, which (as we are assured) was productive of more Marriages than had been known to take Place for Years before; and Instances have been even quoted of Men of Forty and Fifty Years of Age, who, till then had led a Life of Celibacy, immediately availed themselves of this Exemption to enter into a State, from which they had been before precluded, solely by the want of Means to support the various Expences attending it.

Extract of the Proceedings of the Committee at Kishen Nagur, dated the 28th June, 1772.

“ THE Collector explains the Haldarree or
 “ Custom of Marriage to be a Tax levied by
 “ Government, at the variable Rate of Three
 “ Rupees; Three Rupees Eight Annas, and Four
 “ Rupees Four Annas each: Besides the Hal-
 “ darree,

darree, there are Fees paid to the Cazees and
 Muftees : The former receive from the principal
 Inhabitants Two Rupees ; from the Second
 Class, One Rupee Eight Annas ; and from the
 lowest Class, One Rupee : The Fees of the
 Muftees are received from the Musicians, and
 other People who officiate at the Festival, so that
 on the whole, the Fees of Marriage may be estimated
 at Six Rupees for each, exclusive of the
 Dues, or voluntary Benefactions of the Gentoos
 to their Brahmins."

" The Committee are of Opinion, and resolve
 accordingly, that all the Fees and Taxes of this
 Article, which produce a Revenue to Government,
 be abolished, as tending to discourage
 Population, an Object at all Times of Importance
 to Government, but more especially at this
 Time, from the great Loss of Inhabitants,
 which the Country has sustained by the late Famine,
 and the Mortality which followed it :
 They are further of Opinion, that the abolishing
 of the Fees to the Cazees and Muftees, will afford
 a great Relief to the Inhabitants, as it will
 not only absolve them from the Fees themselves,
 but also from the effects of the oppressive Mode,
 in which these dues are exacted : But on this
 Subject, they judge it will be more proper to
 come to general Resolution at the City, and
 therefore postpone the farther Consideration of
 it, until their Arrival at that Place."

We have judged it necessary to add to the Regulations,
 with respect to the Courts of Phoujdaree, a Proposal
 for the Suppression and Extirpation of Decoits,
 which will appear to be dictated by a Spirit of Rigour
 and Violence, very different from the Caution and
 Lenity of our other Propositions, as it in some respect
 involves the innocent with the guilty. We wish a milder
 Expedient could be

suggested, but we much fear, that this Evil has acquired a great Degree of its Strength, from the Tenderness and Moderation, which our Government has exercised towards those Banditti, since it has interfered in the internal Protection of the Provinces. We confess that the Means which we propose, can in no wise be reconcileable to the Spirit of our own Constitution; but 'till that of Bengal shall attain the same Perfection, no Conclusion can be drawn from the English Law, that can be properly applied to the Manners or State of this Country. The Decoits of Bengal are not like the Robbers in England, Individuals driven to such desperate Courses by sudden Want: They are Robbers by Profession, and even by Birth: They are formed into regular Communities, and their Families subsist by the Spoils which they bring home to them; they are all therefore alike criminal: Wretches who have placed themselves in a State of declared War with Government, and are therefore wholly excluded from every Benefit of its Laws. We have many Instances of their meeting Death with the greatest Insensibility; it loses therefore its Effect as an Example, but when executed in all the Forms and Terrors of Law, in the midst of the Neighbours and Relations of the Criminal, when these are treated as Accessaries to his Guilt, and his Family deprived of their Liberty, and separated for ever from each other, every Passion, which before served as an Incentive to Guilt, now becomes subservient to the Purposes of Society, by turning them from a Vocation, in which all they hold dear, besides Life, becomes forfeited by their Conviction; at the same Time, their Families, instead of being lost to the Community, are made useful Members of it, by being adopted into those of the more civilized Inhabitants. The Ideas of Slavery, borrowed from our American Colonies, will make every

every Modification of it appear in the Eyes of our own Countrymen in England a horrible Evil: But it is far otherwise in this Country; here Slaves are treated as the Children of the Families to which they belong, and often acquire a much happier State by their Slavery, than they could have hoped for by the Enjoyment of Liberty; so that in effect, the apparent Rigour, thus exercised on the Children of convicted Robbers, will be no more than a Change of Condition, by which they will be no Sufferers, though it will operate as a Warning on others, and is the only Means, which we can imagine, capable of dissipating these desperate and abandoned Societies, which subsist on the Distress of the general Community.

ALEXANDER HIGGINSON, *Secretary.*

Revenue Department,
Fort William, 3d Nov. 1772.

A PLAN.

A P P L A N,

FOR THE

ADMINISTRATION OF JUSTICE,

Extracted from the Proceedings of the Committee of Circuit, 15th August, 1772.

I. **T**HAT in each District shall be established Two Courts of Judicature, one by the Name of Mofussil Dewannee Adawlut, or Provincial Court of Dewannee, for the Cognizance of Civil Causes; the other by the Name of Phoujdarree Adawlut, or Court of Phoujdarree, for the Trial of all Crimes and Misdemeanors.

II. That for the better ascertaining the Jurisdiction of each Court, and to prevent Confusion, and a Perversion of Justice, the Matters cognizable by each respectively are declared to be as follows.

All Disputes concerning Property, whether real or personal; all Causes of Inheritance, Marriage and Cast; all Claims of Debt, disputed Accounts, Contracts, Partnerships, and Demands of Rent, shall be judged by the Dewannee Adawlut.

But from this Distribution is excepted the Right of Succession to Zemindarrees and Talucdarrees, which shall be left to the Decision of the President and Council.

All Trials of Murder, Robbery and Theft, and all other Felonies, Forgery, Perjury, and all Sorts of Frauds and Misdemeanors, Assaults, Frays, Quarrels, Adultery, and every other Breach of the Peace, or violent Invasions of Property, shall be submitted to the Phoujdarree Adawlut.

III. That

III. That in the Provincial Court of Dewannee, the Collector of each District shall preside on the Part of the Company, in their Quality of King's Dewan, attended by the Provincial Dewan, appointed by the President and Council, and the other Officers of the Cutcherry; that the Court shall be regularly held on every Monday and Thursday, and oftner if Necessity require, and that no Causes shall be heard or determined, but in the open Court regularly assembled.

IV. That in the Phoujdaree Adawlut, the Cazeer and Mussee of the District, and Two Mou-lavies shall sit to expound the Law, and determine how far the Delinquents shall be guilty of a Breach thereof; but that the Collector shall also make it his Business to attend to the Proceedings of this Court, so far as to see that all necessary Evidences are summoned and examined, that due Weight is allowed to their Testimony, and that the Decision passed is fair and impartial, according to the Proofs exhibited in the Course of the Trial, and that no Causes shall be heard or determined, but in the open Court regularly assembled.

V. That in like Manner, Two Superior Courts of Justice shall be established at the Chief Seat of Government, the one under the Denomination of the Dewannee Sudder Adawlut, and the other the Nizamut Sudder Adawlut.

VI. That the Dewannee Sudder Adawlut shall receive and determine Appeals from the Provincial Dewannee Adawlut; that the President with Two Members of the Council shall preside therein, attended by the Dewan of the Khalsa, the Head Canongos, and other Officers of the Cutcherry; in case of the Absence of the President, a Third Member of the Council to sit, that is to say, not less than Three Members to decide on an Appeal, but the whole Council may sit if they chuse it.

VII. That

VII. That a Chief Officer of Justice, appointed on the Part of the Nazim, shall preside in the Nizamut Adawlut, by the Title of Darogo Adawlut, assisted by the Chief Cázee, the Chief Musfee, and Three capable Moulavies ; that their Duty shall be to revise all the Proceedings of the Phoujdaree Adawlut, and in Capital Cases by signifying their Approbation or Disapprobation thereof, with their Reasons at large, to prepare the Sentence for the Warrant of the Nazim, which shall be returned into the Mofussil, and there carried into Execution ; that with respect to the Proceedings in this Court, a similar Control shall be lodged in the Chief and Council, as is vested in the Collectors in the Districts, so that the Company's Administration in Character of King's Dewan may be satisfied ; that the Decrees of Justice, on which both the Welfare and Safety of the Country so materially depend, are not injured or perverted, by the Effects of Partiality or Corruption.

VIII. That in order to preserve the Dignity and Importance of the Two Superior Courts, there shall be Two Courts of Adawlut established at the Seat of Government, exactly on the same Plan as those of the Districts : In that of the Dewannee, a Member of the Council shall preside, and in that of the Phoujdaree, another Member of the Council shall exercise the Control, specified in the Fourth Regulation : these Duties to be performed by the Members in Rotation.

IX. That as nothing is more conducive to the Prosperity of any Country, than a free and easy Access to Justice and Redress, the Collectors shall at all Times be ready to receive the Petitions of the injured ; and further to prevent their being debarred this Access from Motives of Interest, Partiality, or Resentment in the Officers or Servants of the Cutcherry, that a Box shall be placed at the Door

of the Cutcherry, in which the Complainants may lodge their Petitions at any Time or Hour they please; that the Collector shall himself keep the Key of this Box, and each Court Day have such Arzees as he may find in it, read immediately in his Presence, by the Arizbeggy of the Cutcherry.

X. That in summoning from the Farmed Lands Persons complained against, or Evidences called on by the Parties, the Rule laid down in the Ninth Article of the Public Regulations is to be strictly adhered to. The Collector ought further to avoid, as studiously as possible, summoning any Persons from the Mofussil, who are any way connected with the Revenue, during the Months of Bhadoom, Assin, Aughun, and Poos, unless in Cases which call for immediate Enquiry and Example.

XI. That in Order to facilitate the Course of Justice in trivial Causes, and relieve the Ryot from the heavy Grievance of travelling to a great Distance, to seek for Redress, all Disputes of Property, not exceeding Ten Rupees, shall be decided by the Head Farmer of the Purgunnah, to which the Parties belong; and his Decree shall be final.

XII. That the Process observed for trying Causes, in the Provincial Dewannee Adawlut, shall be as follows.—First, To file and read the Petition of the Complainant.—Secondly, To allot a limited Time for the Defendant to give Answer, which when received shall also be filed and read.—Thirdly, To hear the Parties, *viva voce*, and if necessary examine Evidences; and lastly, To pass Decree.—That if in adhering to this Order of Process, the Defendant shall evade or delay giving Answer within the limited Time, Judgment shall pass against him.

XIII. That complete Records shall be kept in the Mofussil Dewannee Adawlut, in which shall be inserted the Petition of the Complainant, the

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Answer

Answer of the Defendant, the subsequent Process, and Examination of Evidence, and finally the Decree; that upon Decree being passed, both Parties shall be furnished with a Copy thereof, free of Expence, and that such Copies shall be authenticated under the Public Seal, and the signing of the Collector: That a Copy of the Records entire shall be also transmitted twice a Month, to the Sudder Dewannee Adawlut, through the Channel of the President and Council.

XIV. That each Collector shall also keep an Abstract Register of his Adawlut, in English, containing the Names of the Plaintiff and Defendant, the Substance of the Suit, the Substance of the Decree, the Date of the Cause being filed, and the Date of the Decree being passed; and this Abstract also shall be transmitted twice a Month, to the Sudder Dewannee Adawlut.

XV. That as the Litigiousness and Perseverance of the Natives of this Country, in their Suits and Complaints, is often productive not only of Inconvenience and Vexation to their Adversaries, but also of endless Expence and actual Oppression, it is to be observed as a standing Rule, that Complaints of so old a Date as Years shall not be actionable: And further, should they be found guilty, as is often the Case, from the Principles above-mentioned, of flying from the one Court to the other, in order to prevent and protract the Course of Justice, the Party, so transgressing, shall be considered as nonsuited, and shall according to his Degree in Life, and the Notoriety of the Offence, be liable to Fine or Punishment.

N. B. By the Mahometan Law, all Claims which have lain dormant for Twelve Years, whether for Land or Money, are invalid.—This also is the Law of the Hindoos, and the legal Practice of the Country.

XVI. That

XVI. That the Custom of levying Chout, Duffottra, Puchattra, or any other Fee or Commission on the Account of Money recovered, or Etlak on Decision of Causes, as well as all heavy arbitrary Fines, is absolutely and for ever abolished.

XVII. That as however Cases may occur, in which it will be highly necessary, for the Welfare of the Community, to curb and restrain trivial and groundless Complaints, and to deter Chicane and Intrigue, which Passions amongst these People often work to the undoing of their Neighbours, a Discretion shall in such Cases be left to the Court, either to impose a Fine, not exceeding Five Rupees, or inflict Corporal Punishment, not exceeding Twenty Lashes with a Rattan, according to the Degree of the Offence, and the Person's Station in Life.

XVIII. That in adjusting the Claim of old Debts, it shall be observed as a Rule, that they bear no further Interest after such Adjustment, but that the Amount shall be payable by Kistbundee, according to the Circumstances of the Party: And as the Rates of Interest, hitherto authorised by Custom, have amounted to the most exorbitant Usury, the following Rates are now established to be received and paid, as well for past Debts, as on future Loans of Money, viz. On Sums not exceeding One Hundred Rupees Principal, an Interest of Three Rupees Two Annas *per Cent. per Menssem*, or Half an Anna in the Rupee; On Sums above One Hundred Rupees Principal, an Interest of Two Rupees *per Cent. per Menssem*, the Principal and Interest to be discharged according to the Condition of the Bond; and all Compound Interest, arising from an intermediate Adjustment of Accounts, to be deemed unlawful and prohibited: When a Debt is sued for upon a Bond, which shall be formed to specify a higher Interest than the established Rates,

the Interest shall be wholly forfeited to the Debtor, and the Principal only recoverable; and that all Attempts to elude this Law, by Deductions from the Original Loan, under whatever Denomination shall be punished, by a Forfeiture of One Moiety of the Amount of the Bond to the Government, and the other Half to the Debtor.

XIX. That all Bonds shall be executed in the Presence of Two Witnesses.

XX. That whereas it has been too much the Practice in this Country, for Individuals to exercise a Judicial Authority over their Debtors; a Practice, which is not only in itself unlawful and oppressive, seeing a Man thereby becomes the Judge in his own Cause, but which is also a direct Infringement of the Prerogative and Powers of the regular Government; that Publications shall therefore be made, forbidding the Exercise of all such Authority, and directing all Persons to prefer their Suits to the established Court of Adawlut, and that the Collector shall particularly attend to this Regulation, which it is apprehended, will prove a great Means of Relief to the helpless Ryot from his merciless Creditor, the Money Lender.

XXI. That in all Cases of disputed Property, regarding Lands, Houses, Landmarks, &c. where a local Investigation is required, an Amin shall be chosen with the mutual Consent of the Parties, or if they cannot agree in the Choice of one Person, each shall have the Privilege of nominating his own, and the Collector shall decide upon their joint Report of Circumstances. The Collector is also to attend, that the Amins do not accumulate Expences by unnecessary Delays, but that their Scrutinies and their Wages be limited to the Time he judges sufficient for performing the Service in Question. The Expence of the Enquiry to be defrayed by the Person who is cast.

XXII. That

XXII. That in all Cases of disputed Accounts, Partnerships, Debts, doubtful or contested Bargains, Non-Performances of Contracts, and so forth, it shall be recommended to the Parties to submit the Decision of their Cause to Arbitration, the Award of which shall become a Decree of the Dewannee Adawlut; the Choice of the Arbitrators is to rest with the Parties, but they are to decide the Cause without Fee or Reward. The Collector, on the Part of Government, is to afford every Encouragement in his Power to Inhabitants of Character and Credit, to become Arbitrators, but it is not to employ any coercive Means for that Purpose.

XXIII. That in all Suits regarding Inheritance, Marriage, Cast, and other religious Usages or Institutions, the Laws of the Koran with respect to Mahometans, and those of the Shaster with respect to Gentoos, shall be invariably adhered to: On all such Occasions, the Moulavies or Brahmins shall respectively attend to expound the Law, and they shall sign the Report, and assist in passing the Decree.

XXIV. That the Decree of the Provincial Dewannee Adawlut, on all Causes, for Sums not exceeding Five Hundred Rupees, shall be final; but that for all above that Amount, an Appeal shall lie to the Sudder.

XXV. That the Court shall have a Right of decreeing to the Party, in whose Favour Judgment is given, any specific Sum for Costs within the real Amount, or in general to decree with Costs. The Bill in both Cases to be taxed by the Court.

XXVI. That Persons found guilty of preferring groundless, litigious or vexatious Appeals, shall be punished at the Discretion of the Sudder Dewannee Adawlut, by an Enhancement of the Costs, which shall be given to the Respondent, as a Compensation

tion for the Trouble and Expence which he shall have sustained.

XXVII. That complete Records shall be kept and transmitted from the Provincial Phoujdarree Adawlut, to the Nizamut Sudder Adawlut, twice every Month, through the Channel of the President and Council. This exclusive of the Proceedings in Trials for Capital Crimes, which are to be transmitted as soon as closed.

XXVIII. That the Collector shall also keep an Abstract Register, in English, of the Proceedings of this Court, in which shall be inserted only the Names of the Prisoners, the Crimes or Offences of which they stand charged, and the Sentence or Acquittal, which shall be transmitted in like Manner, twice every Month; to the Sudder Adawlut.

XXIX. That the Authority of this Court shall extend to Corporal Punishment, Imprisonment, sentencing to the Roads and Fines, but not to the Life of the Criminal. In Capital Cases the Opinion of the Court, with the Evidences and Defence of the Prisoner, shall be transmitted to the Nizamut Adawlut, and having obtained their Confirmation, it shall be ultimately referred to the Nazim for his Sentence, which shall be carried into immediate Execution, as directed in the Seventh Article.

XXX. That Persons guilty of petty Misdemeanors, whose Rank, Cast or Station in Life, shall be thought to exempt them from Corporal Punishment, may be made liable to Fines; but should such Fines be laid for a larger Sum than One Hundred Rupees, they are not to be enforced or levied without the Confirmation of the Nizamut Adawlut; for which Purpose they are to be immediately reported, with a State of the Case, and the Cause of their being imposed.

XXXI. That as the Forfeiture and Confiscation of the Property and Effects of Delinquents, sentenced.

tenced to the Loss of Life may often occur, it is to be observed that such Forfeiture and Confiscation is not to depend on the Provincial Phoujdaree, but upon the Nizamut Adawlut: It is to be a standing Rule therefore, to transmit, with the Proceedings of the Trial, an Account of the Property and Effects of the Delinquent, and wait the Orders of the Sudder, whether they are to be surrendered to the Heirs, or confiscated to the State: In the latter Case a Sale is to be made, and the Amount brought to Public Account.

XXXII. That whereas the Honourable Company from Motives of Tendernefs and Solitude, for the Peace and Happiness of the Ryots, have determined to abolish the Revenue, which has hitherto arisen from the Collections of the Phoujdaree Bâzee Jumma, the same is accordingly to be made public; the Court is still to take Cognizance of all such Offences, but shall inflict no other Punishment for them than Stripes or Imprisonment, or Damages to the Party injured.

XXXIII. That the same Motives of Regard for the Tranquility and Happiness of the Ryots, having induced the Government to relinquish the Revenue arising from the Rassoons, or Fees of the Câzee and his inferior Officers, of which the Inhabitants have long complained as a severe Grievance: The Câzee and Musfee are therefore introduced in the List of Adawlut Officers at a Monthly Salary: In this Capacity they are to continue to attest all Writings, to perform all Ceremonies of Marriages, Births and Funerals, and to discharge all their other Functions as was customary heretofore; and as they are thus to be supported at the Expence of Government, they are to exact no Fees, Dues or Taxes whatsoever: Any Present or Gratification made with the entire free Will of the Party, on the Occasion of a Marriage or of a Funeral, is not prohibited

hibited by this Regulation : But if upon Complaint it shall appear that Force or any other undue Influence has been used to extort such Gratifications, the Cázee or Mustee so convicted, shall be *ipso facto* dismissed from his Office, with Marks of public Disgrace.

XXXIV. That the Office of Yerasaub having become obsolete is now totally abolished, but that the Cázee and Mustee shall be allowed each Two Deputies for performing the Duties of their Office in the Purgunnahs, these to be stationed by the Collector at such convenient Distances as that the Ryots may not have above One Day's Journey to perform, for calling in their Assistance.

XXXV. That whereas the Peace of this Country hath for some Years past been greatly disturbed by Bands of Decoits, who not only infest the High Roads, but often plunder whole Villages, burning the Houses, and murdering the Inhabitants : And whereas these abandoned Outlaws, have hitherto found Means to elude every Attempt, which the Vigilance of Government hath put in Force, for detecting and bringing such atrocious Criminals to Justice, by the Secrecy of their Haunts, and the wild State of the Districts, which are most subject to their Incurfions, it becomes the indispensable Duty of Government to try the most rigorous Means, since Experience has proved every lenient and ordinary Remedy to be ineffectual : That it be therefore resolved that every such Criminal, on Conviction, shall be carried to the Village to which he belongs, and be there executed for a Terror and Example to others ; and for the further Prevention of such abominable Practices, that the Village of which he is an Inhabitant shall be fined according to the Enormity of the Crime, and each Inhabitant according to his Substance, and that the Family of the Criminal shall become the Slaves of

of the States, and be disposed of for the general Benefit and Convenience of the People, according to the Discretion of the Government.

XXXVI. That the Tannadars and Pikes of the Districts shall be punished by Dismission, or Fines, if they neglect the Duties of their Charge, and as an Encouragement for them, to exert themselves in the Protection of the Villages committed to their Care, and in detecting, opposing and bringing to Justice all Decoits and other Offenders against the Public Peace, pecuniary Rewards, Grants of Lands, or particular Privileges and Immunities, shall be granted them, proportioned to their Deserts, and the Services which they shall have rendered the State.

XXXVII. That in Addition to these General Regulations, the Collector shall form such subsidiary ones, for promoting the due Course of Justice, and the Welfare and Prosperity of the Ryots, as the local Circumstances of their respective Districts shall point out and require, and that they shall report the same to the Committee of Circuit, in order to their being communicated to the Board, for their final Sanction and Confirmation.

That they shall in particular, and without Delay, regulate and transmit for Confirmation, the Fees to be received by all Peons and Pikes, employed in the Service of the Courts of Adawlut, which can only be done with Accuracy from Information on the Spot. And that they shall further establish such Rules, with Penalties annexed, as may serve effectually to eradicate the Practice among the Officers and Servants of the Crutchery, of exacting and receiving Bribes, from the Parties who have Causes in Suit; a Practice, not only criminal in the Persons who are guilty of it, but

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which

which reflects Discredit and Reproach on the Government under which they serve.

ALEXANDER HIGGINSON, *Secretary.*

Revenue Department,
Fort William, 3d Nov. 1772.

The Twelfth Paragraph of a Letter from the President and Council in Bengal, for the Department of the Revenues, to the Court of Directors, dated the 25th of March, 1773.

We on the 18th Instant opened the Court of the Dewannee Sudder Adawlut, where several Appeals were lodged from the Provincial Courts; at this Meeting it appearing to the Members of the Court, that in order to render more compleat the Judicial Regulations, to preclude arbitrary and partial Judgments, and to guide the Decisions of the several Courts, a well digested Code of Laws, compiled agreeably to the Laws and Tenets of the Mahometans and Gentoos, and according to the established Customs and Usages, in cases of the Revenue, would prove of the greatest public Utility; the Court resolved that such a Code should be prepared, and properly digested, and they accordingly appointed fit persons to execute this Work, by Three distinct Commissions, Two consisting of the present Officers of the Two Sudder Adawluts (or Supreme Courts of Justice) and a Third of Ten of the most learned Pundits, or Expounders of the Gentoo Law; we are aware that it will be a Work of Time; but as when compleated, it promises to contribute essentially to the Security of the Property and Person of the Subjects, we shall spare no Pains to see it accomplished.

The Thirteenth Paragraph of a Letter from the President and Council in Bengal, for the Department of the Revenues, to the Court of Directors, dated the 15th of March, 1774.

In the Twelfth Paragraph of our Letter by the Hestor, we advised you, that we had appointed proper Persons to compile a Code of the Mahometan and Gentoo Laws; and at our Consultation of the 10th of December, the President reported, that the Pundits had nearly completed the latter in the Shanscrit Language, and that a Translation of it was making into the Persian; as it appeared to the President, and to the Board, that a Translation of the Persian into the English would not only be serviceable in itself in enabling the Members to decide with Confidence, and without Reference to others, in such Cases as turn on Points of the Gentoo Law, in their Capacity of Judges of the Superior Court of Adawlut, but that it might also prove worthy of the Attention of the Public, and remove the false Prejudices which seem to have prevailed in *England*, respecting the Laws of this Country, we resolved that such a Translation should be made. The whole will be a Work of great Labour and Size, and require a considerable Time to complete; but to enable you to form some Idea of the Laws of the Gentoos, and to satisfy the Enquiries of the curious, we transmit in this Packet a Translation of the First Section.

*To the Honourable the Court of Directors, for the
Affairs of the Honourable United Company of Mer-
chants of England, Trading to the East-Indies.*

Fort William, 24th of March, 1774.

Honourable Sirs,

You have been informed, by the public Letter from the Revenue Department, of the Progress which has been made by the Pundits or Brahmins, whom the Board had employed in compiling from the Books of their Law, a Code, which might serve as a Guide to our Dewannee Courts; and we transmitted to you, in the Packet from that Office, as a Specimen of the projected Work, an English Translation of the First Chapter. I am indebted to the Ability and Industry of the Translator, for the Means of furnishing you with a Second Chapter, which I am desirous of transmitting to you, as it comprehends the most important Subject of their Laws, the Distribution of Property by Inheritance.

From the Labours of a People, however intelligent, whose Studies have been confined to the narrow Circle of their own Religion, and the Decrees founded upon its Superstitions, and whose Discussions in the Search of Truth have wanted that lively Aid, which it can only derive from a free Exertion of the Understanding, and an Opposition of opinions, a perfect System of Jurisprudence is not to be expected.

Yet if it shall be found to contain nothing hurtful to the Authority of Government, or to the Interests of Society, and is consonant to the Ideas, Manners, and Inclinations of the People, for whose Use it is intended, I presume, that on these Grounds it will be preferable to any which even a superior Wisdom could substitute in its room.

It

It is from this Conviction, and from an Apprehension of the Effects, which a contrary Opinion might produce, that I have been so earnest in transmitting these Sheets for your Information, as they will afford at least a Proof, that the People of this Country do not require our Aid to furnish them with a Rule for their Conduct, or a Standard for their Property.

I have ventured to say thus much on a Subject, which may possibly appear to have been irregularly obtruded upon your Notice, because Reports have a long Time prevailed, and been communicated to us by the best of private Authority, of an Intention to frame new Courts and Forms of Judicature, for the Inhabitants of these Provinces. Whatever Foundation these Reports may have in Truth, or whatever may be the Extent or Principles of the Jurisdiction herein supposed, I cannot but express my Hope, that nothing of this Kind may be finally concluded, without an Opportunity being given to the Members of your Administration, to communicate such Ideas as their Experience may suggest to them; and this I conceive to be my Duty, from the Consideration of the hurtful Effects, which an unadvised System might possibly produce, to the Quiet of the People, and the Security of your Revenue.

I have the Honour to be, with the greatest Respect,

Honourable Sirs,

Your most obedient and most humble Servant,

WARREN HASTINGS.

TRANSLATION

T R A N S L A T I O N

Of a W O R K

Compiled by the PUNDITS, &c.

C H A P. I.

Of Lending and Borrowing.

MEN are permitted to lend Money, but they should not lend to Women, Children, or Servants; and whenever they lend, it shall be upon the Credit of a Pledge, a Security, a Bond, or Witnesses, whichever of the Four is most to their Satisfaction, and not otherwise; the Pledge and Security are to answer the Payment of the Debt; the Bond and Witnesses to prove its Validity.

Section I. Of Interest.

Section II. Of Pledges.

Section III. Of Securities.

Section IV. Of Discharging Debts to whomsoever due.

Section V. Of the Methods of Recovering Debts.

SECTION

SECTION I.

Of Interest.

I. If a Loan be granted upon a Pledge to a Man of the Brahmin Cast, the Monthly Interest should be One Part in Eighty upon the Principal; at this Rate, if the Principal be Eighty Rupees, the Interest shall be One Rupee *per* Month.

II. If a Loan be granted upon Security to a Brahmin, First, One Part in Eighty upon the Principal is allowed, that is to say, One Rupee, and also One Eighth of One Eightieth of the Principal, which upon Eighty Rupees amounts to Two Annas; these Two Sums are to be added together for the Monthly Interest, so that, upon a Principal Debt of Eighty Rupees, the whole Interest at this Rate is Two Rupees Two Annas *per* Month.

III. If a Loan be granted to a Brahmin without Pledge or Security, the Monthly Interest shall be Two *per Cent*.

IV. If a Loan be granted to a Man of the Chehteree Cast, in that Case, where a Brahmin pays Interest One Rupee, the Chehteree shall pay One Rupee Eight Annas; where the Brahmin is charged One Rupee Two Annas, his Interest shall be One Rupee Eleven Annas; and in the place of Two Rupees, the Chehteree shall give Three.

V. If a Loan be granted to a Man of the Bice Cast, he shall be charged double the Interest of a Brahmin.

VI. If a Loan be granted to a Man of the Sooder Cast, in that Case, where a Brahmin pays Interest One Rupee, the Sooder shall pay Two Rupees Eight Annas; in the place of One Rupee Two Annas, he shall give Two Rupees Thirteen Annas;

Annas; and instead of Two Rupees, he shall be charged Five.

VII. It is allowed the Tribe of Bice to charge Interest, at the Rates herein already specified, in Times either of public Calamity, or in public Prosperity.

VIII. Also it is allowed the Bramin, the Chehteree, and the Sooder, in Times of Calamity, to demand the above Interest.

IX. But in Times of Prosperity it is Criminal in the Brahmin, the Chehteree, or the Sooder, to charge Interest at these Rates.

*Explanation of the various Denominations of Interest,
which are of Six Sorts.*

X. The First is Kau-ee-kau, so called, when Money is lent upon a stipulated Interest, with Agreement to be paid Yearly.

XI. The Second is Kau-lue-kau, so called, when, according to the Rate of the Agreement, Interest is to be paid Monthly.

XII. The Third is Chickerberdehee, so called, when, upon a Debtor's Inability to pay the Interest upon his original Debt, the Principal and Ar-rears of Interest are added together, and Interest commences upon the aggregate Sum.

XIII. The Fourth is Cortee-au, so called, when, in Times of Calamity, the Borrower voluntarily agrees to advance the Rate of Interest, which he must pay accordingly.

XIV. The Fifth is Seekhauberdehee, so called, when, according to the Rate of Agreement, Interest is to be paid Daily.

XV. The Sixth is Bhook-Caubheh, so called, when a Creditor receives a Profit upon any Thing delivered over to him as a Pledge; as for Instance, when a Man pledges with another any useful Animals,

mals, as Kine, Buffaloes, Goats, Horses, Camels, Elephants, &c. or Fruit Trees; as Mango Trees, Jacks, Cocoa Trees, Betel, &c. or Houses, or tilled Land, or Womens Ornaments, or Pots, or Cloaths, or Mats, Carpets, &c. and if they be applied to Use, and it be agreed, between those Two, that the Produce, or Usufruct of the Pledge, shall appertain to the Creditors in lieu of Interest.

XVI. In Times of public Calamity, either of the Four Tribes of Brahmin, Chehteree, Sooder, or Bice, may receive Interest, at the Rate of One Part in Eighty, being One Rupee (as hath been herein already explained in a separate Article) by either of the three Modes of Kau-ee-kau, Kau-lu-kau, and Chickerberdehee.

XVII. Either in prosperous or calamitous Times, it is criminal for either of these Four Casts, except only the Bice, to exact Interest by either of the Three Modes of Cortee-au, Seekhauberdehee, or Bhook-Caubheh.

XVIII. It is lawful for the Tribe of Bice to receive Interest by either of the Three Modes of Cortee-au, Seekhauberdehee, and Bhook-Caubheh, in Times of Calamity, but in a prosperous Season criminal.

XIX. If a Creditor hath received no Interest upon his Money for Fifty Months, and if still a longer Time should elapse, yet the Arrears of Interest shall rise no higher than to double the Principal; and the Four Modes of Cortee-au, Kau-ee-kau, Kau-lu-kau, and Chickerberdehee, may be applied to collect the Interest upon this double Principal.

XX. If Interest, by the Two Modes of Seekhauberdehee and Bhook-Caubheh, hath been paid for a very considerable Time, yet there shall be no Release from it, until the Principal Debt be discharged.

XXI. Neither of the Three Tribes, Brahmin, Chehteree, or Sooder, but only the Bice, shall receive Interest by these Six Methods in Times of Prosperity.

XXII. There is a Tribe, denominated Burren-Sunger, composed of such whose Father and Mother, being of Two different Tribes, have begotten Children; if a Man of this Cast should borrow Money, he shall pay One Part in Sixteen upon the Principal; at this Rate, the Interest upon One Rupee is One Anna.

XXIII. If a Creditor, by violent Means, causes his Debtor to agree to an increased Rate of Interest, the Agreement shall not be valid.

XXIV. If a Man borrows Money without a Pledge given, the Son of his Grandson shall not pay the Debt.

XXV. If a Man borrows Money upon a deposited Pledge, the Son of his Grandson must discharge the Debt.

XXVI. If a Man borrows Money without stipulated Interest, and upon the Demand of his Creditor goes abroad, without sufficient Reason, and a Call of Business, or lurks secretly in his own House, fraudulently contriving Means to delay and to refuse Payment, in that Case, after Three Months, Interest upon the Debt shall commence from the Beginning of the Fourth Month; but if the Debtor goes abroad upon real and necessary Occasion, he shall pay Interest after the Expiration of One Year.

XXVII. If a Man borrows Jewels, Pearls, Coral, Silver, Gold, Cotton, or Cloaths made of Silk or of Goats Hair, and any considerable Time elapse without Repayment, yet shall the Interest upon such a Debt arise no higher than to double the Principal.

XXVIII. If a Man, having purchased Goods upon Credit, fraudulently goes abroad without Payment,

Payment, or absconds in his own House, and by prevaricating Excuses and Delays contrives to withhold the Purchase-Money, in that Case, after Six Months are elapsed, Interest shall be accounted due from the Beginning of the Seventh; if the Purchaser is called abroad by his necessary Business, he shall pay Interest after the Expiration of One Year.

XXIX. If a Man hath committed ought to the Charge of another, who, on Application for the Return of the Trust, fraudulently absconds on a Journey, or if he leave not his own House, but by Excuses and Prevarications detains the Charge in his own Possession, in that Case, if Six Months elapse from the Time of such Application, he shall be charged Interest from the Beginning of the Seventh.

XXX. Suppose a Man to borrow a Quantity of the Grain called Shallee (or Paddy) upon this Agreement, that, at the Time of the Paddy Harvest, he will make an equitable and equivalent Return, in that Case, if, at the Time of Payment, Grain be something cheaper than when it was borrowed, he shall repay double the Quantity; if it be much fallen in Price, he shall pay Three Times as much; if it be still cheaper, Fourfold; and if its Value be exceedingly reduced, he shall return Five Times the Quantity lent him, and this Fifth Increase he shall never be obliged to exceed; if the Price, at the Time of Repayment be risen, with Respect to the Time of borrowing, the Brahmin shall pay for Interest Two in One Hundred Parts; the Chetiree Three in One Hundred Parts; the Bice double of the Brahmin; and the Sooder Five Parts in One Hundred.

XXXI. If a Man borrows Cocoa-Nut Oil, or any Spiritous Liquors, or Ghee, and returns it not in Fifty Months, he shall repay Eight Times the original Quantity.

XXXII. If a Man borrows Milk, Woollen Cloth, Perpets, Shawls, or Tapestry, and Carpets made of any Hair but that of Sheep, and returns it not in Fifty Months, he shall then repay Five Times the original Quantity.

XXXIII. If a Man borrows any Kind of Cloth but those made of Silk, Iron, Copper, Tale, Brass, White Copper, Pewter, Tin, and Metals of this Kind, except Gold and Silver, and returns them not in Fifty Months, he shall then repay Three Times as much.

XXXIV. If a Man borrows any Grain, except Paddy, as Wheat, Small Grain, Barley, and such Kinds of Grain, or Lentils, Gram, Mustard Seed, or Kunjud, and such other Produce of Tillage, and returns it not in Fifty Months, he shall repay it Fourfold.

XXXV. If a Man borrows Green Herbs, as Cabbage, Lettuce, &c. and repays them not in Fifty Months, he shall repay them Fivefold.

XXXVI. If a Man borrows Sugar Canes, and repays them not in Fifty Months, he shall then return Six Times the Quantity.

XXXVII. If a Man borrows the Juice of the Sugar Cane, the better Sorts of Flowers, or of Fruits, Ginger, Radishes, Potatoes, or Yam, and any other of those Herbs whose Root is in common Use, whatever Quantity he borrowed, he shall return Three Times as much.

XXXVIII. If dried Grass, Fuel Wood, Bricks, or Leaves, or Things made of Leather, or Bone, or Scymetars, Spears, Daggers, Muskets, and this Kind of Warlike Instruments, or withered Flowers or Fruits of the worst Species, be borrowed, and not repaid in Fifty Months, yet no Interest is to be given on them, but if it be originally stipulated, it shall then be paid.

XXXIX. If

XXXIX. If a Man sells Goods without receiving immediate Payment, and, upon Demand made for the Money, the Purchaser puts him off with frivolous Delays, either staying at his own House, or going abroad without sufficient Reason, Interest shall commence upon the Debt from the Beginning of the Fourth Month.

XL. If a hired Servant hath been a long Time without receiving his Wages, yet he shall not demand Interest upon them, unless it be originally so stipulated.

XLI. If a Man hath agreed to pay another a certain Fine on any Account, and a long Time elapse without Payment, he shall not give Interest, unless it be Part of the original Agreement.

XLII. If a Man hath presented another with any Thing in the way of Friendship, which Present the Acceptor neither takes to his own House at the Time it is given, nor doth the Donor send it to him, yet shall no Interest be paid upon the Gift thus with-held, unless by a prior Agreement.

XLIII. If a Man hath given another any Thing by way of Recompence, which, after being accepted by the Person to whom it is offered, is yet detained at the Donor's House, and not delivered up on Demand, Interest shall be paid upon its Value.

XLIV. If a Man in a friendly Manner hath applied to his own Use any Thing of the separate Property of his Wife, on returning it, he shall give an Interest, together with the Principal; and if a Man by forcible Means hath taken ought belonging to his Wife, and doth not pay her both Principal and Interest, the Magistrate of the Time shall oblige him to pay Interest and Principal, and shall also fine him.

XLV. If a Man having expended, on friendly Terms, any of his Wife's Property, and dies before he makes it good, his Son shall pay the Principal,

cipal, so borrowed or expended, but without Interest.

XLVI. If a Man offers to discharge a Debt, and the Creditor will not accept Payment, he shall not pay Interest upon the Debt, after such an Offer, unless it be previously stipulated.

XLVII. If a Man, who has agreed to disburse a certain Sum for the Expences of a Marriage, or a Marriage Portion, pay it not for a considerable Time, he shall not pay Interest upon that Sum, unless according to previous Agreement.

XLVIII. If a Man hath deposited a Pledge, and the Creditor possessing such Pledge applies it to his own Uses, or breaks it, or it be stolen from his House, in that Case he shall not pay Interest upon it, unless by Agreement.

XLIX. If a Man deposit a Pledge with another, and no Agreement be made that the Creditor shall make Use of the Pledge, in that Case, supposing the Pledgee to apply to Use the Goods so pledged, he shall pay half Interest, according to the Rates herein already specified.

L. If a Pledge, deposited in a Creditor's Hands, be spoiled, lost, or broken by any unforeseen Accident, in that Case, the Creditor shall still recover both Principal and Interest of his Debt; but the Debtor shall not receive the Value of his Pledge.

LI. A Man may lend Money to another of the same Tribe, to his Relations, or particular Friends, upon a Pledge only, but from all others he should demand a Bond and Security.

LII. If a Man lends Gold to another, he shall appoint a fixed Day of Payment to his own Satisfaction; if he cannot fix a Day to his Mind, he may omit it.

LIII. If a Man borrows Paddy, Wheat, Barley, Grain, Small Gram, Lentils or Doll, or Mustard-Seed of the Species of Grain and Pulse, or Salt of
whatever

whatever Sort it may be, or Honey, Sugar, or Sugar-Candy of the Species of Sweet Things, or Round Pepper or Peepil, dried Ginger, Kurulah, or Indergo of the Species of Warm Bitters, or Tamarinds, or four Plumbs, or Lemons of the Species of Acids, or Hurrah, Behura, and Oulah of the Species of Asuf, he shall surely fix a Day for Payment.

LIV. Where several Men are Creditors to the same Debtor, they shall make a Sort of Common Stock of their Debts, and receive their respective Shares of each Payment; if any Creditor refuses to accede to this Agreement, he shall lose his Share of the Interest.

LV. If a Man hath sold Rice or Wheat for sowing of the Species of Grain, or Mustard Seed, or Kunjud of the Species of Seeds, or the Seeds of Cotton, or Kurulah, or Pumpkin of the Species of Gourds, or the Seeds of the Water-Melon, Musk-Melon, or Cucumber of this Species, and they do not spring up from the Ground, but the Spot should become waste, the Seller of the Seed shall make good the Crop.

S E C T. II.

Of Pledges.

I. If a Man, with whom a Pledge is deposited, should apply to his own Use the Things so pledged, and by that Means spoil it, he shall pay the Value of it to the Depositor, or procure another of the same Kind.

II. If a Man, who hath pledged ought to another for a Debt, offers to pay the Money, and demands

demands his Pledge, which the Creditor fraudulently with-holds, in that Case, the Magistrate shall exact a Fine from the Creditor, cause the Pledge to be restored to the right Owner, and the Debt to be forthwith discharged.

III. If a Person mortgage to another such a Quantity of Land as will serve for the Subsistence of One Man, for One Year, and afterwards mortgage the same Land to a Second Mortgagee, he shall be punished with Death; or if his Life be spared, he shall be fined One Hundred Gold Mohurs; and if the Criminal be a Brahmin (which Tribe is exempt from Capital Punishment) he shall still pay the Fine of One Hundred Gold Mohurs.

IV. If a Man mortgage a Quantity of Land less than will suffice to maintain a Man One Year, and afterwards engage the same Ground to a Second Mortgagee, the Magistrate shall fine him Sixteen Gold Mohurs.

V. If a Man hath deposited a Pledge with another, and suffers it to lie a considerable Time unredeemed, yet the Creditor shall not apply the Deposit to his own Use, sell it, or spoil it, or pledge it as his own to another Person; if he acts in Contradiction to this, he shall be obliged to make good the Pledge.

VI. If a Man, having pledged any thing to one Person, fraudulently contrives to engage the same Article as a Pledge to a Second, the First Engagement shall be considered valid, and not the Second; but yet the Second Creditor shall receive both Principal and Interest on his Money; and he who thus transgresses the Laws of Justice shall be punished as a Robber.

VII. If a Man pledges the same Article with Two Persons, and it be not known which Transaction was prior in Date, then, whichever of the Creditors, without Molestation of the other Pledgee,

Pledgee, attaches the Pledge, it shall be accounted valid with respect to him ; if a Dispute arises, the Two Creditors shall have equal Share in the Deposit.

VIII. If any Transaction between Two People pass before Witnesses only, and a Third Person produce a written Instrument of the same Transaction, attested also by Witnesses, the Writing thus witnessed shall be accounted valid.

IX. If a Man pledge ought to another without a written Agreement, and afterwards deposit the same Pledge with a Second Person, adding a regular written Instrument to testify the Validity of this Second Pledge, in that Case, the Second Engagement shall stand good, and the Borrower shall return back the Money lent him by the First Creditor.

X. If a Man mortgage to another a certain Quantity of Land, and the Mortgagee, by forcible Means, appropriates to his own Use a larger Space of Ground than is specified in the Agreement, in that Case, the Magistrate, without causing the Debt to be discharged, shall restore the mortgaged Ground to the right Owner, and hold the Mortgagee criminal.

S E C T. III.

Of Security.

There are Four Sorts of Security.

I. When a Man, desirous to borrow Money is refused, by the Person whom he addresses, from a Want of Confidence in his Ability to repay it, if in the mean Time a Third Person should advise the refusing Party to lend the Money, and should promise,

mise, that if the Debtor absconds upon the Day of Payment, he will cause him to appear, he, who by such Advice causes the Money to be lent, engages himself in a Kind of Security, and if he cannot produce the Borrower, when Payment becomes due, he must discharge the Debt, both Principal and Interest: If he dies his Son shall not make good the Loan.

II. When a Man, who is requested to lend Money, doubts the Character of the Borrower, and enquires it of a Third Person, if this Man should answer to the others Character, and affirm, that to his own Knowledge he is worthy to be trusted, by thus inclining the Party to lend the Money, he is to be considered as a Kind of Security, and whoever, by giving a good Character to a bad Man, enables him to borrow Money, and this Circumstance can be proved, the Recommender shall be obliged to make good both Principal and Interest of the Debt; but if he dies, his Son is not answerable for the Money.

III. When a Man, desirous to borrow Money, is refused, because the Person of whom he requests it has no Opinion of his Credit, if a Third Man should say, Lend him what he desires, and I will be answerable for it, this also is a Kind of Security; and if the Borrower refuses Payment, the Security must discharge both Principal and Interest of the Debt; also if he dies, his Son shall make good the Principal.

IV. When a Man, desirous to borrow any Thing for a Time, promising to return it as soon as the Business for which it is wanted shall be finished, is refused the Use of it, if another Person should advise the Possessor of the Thing required to lend it, and should promise, that he will take Care to see it returned, this also is a Mode of Security; and if the Borrower returns not the Article lent him, the
Security

Security shall make it good, with Interest upon its Value; also if he dies, his Son shall be answerable for the Principal.

V. If a Debtor, on the Day agreed for discharging of his Debt, should be unable to appear, either from some natural or public Calamity, or from a necessary Attendance on a Court of Justice, it is not to be accounted a Fault in the Man who became Security for him; but when the Debtor's Cause of Delay is removed, the Security must then procure his Appearance, or, upon Failure, must himself be answerable for the Cause in Dispute.

VI. If a Man dies, who, having deposited a Pledge, is become personal Security for another, his Son shall discharge the Principal Debt.

VII. If a Man who is Security for another should die, his Grandson and Great-Grandson are not answerable.

VIII. If several Men become Securities for a Debtor who fails to discharge his Debts, all the Securities shall pay the Money in equal Shares.

IX. If, at the Time of lending Money, the Lender should say to the Securities. Here are several of you engaged, but I expect, that any One of you, whom I may happen to find when Payment becomes due, shall discharge the Debt, if also the Securities assent to this Stipulation, then, should the Borrower fail in his Engagements, the Creditor shall exact Payment of any One of the Securities whom he can first find, according to Agreement.

X. If a Debtor should absent, and the Security is desirous to bring him to Appearance, the Creditor shall settle with the Security a reasonable Time for his Departure and Return, and shall permit him to go in Quest of the Debtor.

XI. If a Security has not absolutely the Means to pay a Sum for which he bound himself, and the Creditor commences a Suit against him in a Court of

Justice, the Magistrate of the Time shall appoint him to pay the Debt, by Instalments, according to his Ability, and shall not be too harsh and severe upon him, neither shall the Creditor be permitted to treat him with unreasonable Rigour, in the Exaction of his Claim.

XII. If a Creditor of his own Head be extremely hard and severe upon a Security, whatever Money he hath by this Method extorted, after the Space of One Month and an Half, the Judge shall cause him to return double of that Sum to the Security; if it be within the Space of One Month and an Half, whatever Sum he hath received, the Judge shall cause him to return the like Sum to the Security.

According to the Book Chendeesur.

XIII. If a Security, unable to answer the harsh and importunate Demands of a Creditor, should give him ought, by way of Bribe, to satisfy him for the present, and then complain to a Court of Justice, if this Complaint be after One Month and an Half, the Judge shall cause the Creditor to give double of that Bribe to the Complainant; if the Complaint be laid within the Space of One Month and an Half, the Judge shall cause the Creditor to pay him a Sum equal to the Bribe.

According to the Book Gerbusurd.

XIV. A Man, who is unable to pay his Debts and the Fines of a Court of Justice, shall not be taken as a Security.

XV. A Man shall not accept a Security totally unknown to him, his own Master, an Enemy, a Prisoner, a very old Man, a Partner living in the same Family, a Friend, or a Pupil.

° SECT.

S E C T. IV.

Of Discharging Debts to whomsoever due.

I. If a Man pays his Grandfather's Debts, he shall not be charged the Interest upon them.

II. If a Man lends Money on a positive Stipulation to be paid on a certain Day, and the Borrower also assents to this Restriction, the Money must absolutely be repaid accordingly.

III. If a Man lends Money, with a Stipulation to be paid on Demand, and the Borrower consents to take it upon this Restriction, he shall accordingly pay it when demanded.

IV. If a Man dies in Debt, his Sons shall contribute their respective Shares to discharge his Obligation.

V. If a Man dies in Debt, his Grandchildren shall respectively contribute to pay the Money.

VI. If a Man dies in Debt, his Great-Grandchildren shall not pay the Money.

VII. If a Man in Debt renounces the World, and becomes Takeer, his Sons and Grandchildren shall discharge his Obligations.

VIII. A Great-Grandfather's Debts are not obligatory upon the Great-Grandson; but if it be his own Choice, the Great-Grandson may pay them.

IX. If a Man in Debt leaves his own Country, after he hath been absent Twenty Years, his Son shall pay his Debts; also a Grandson shall discharge the Debts of his Grandfather, after Twenty Years Absence; likewise within the Space of Twenty Years, the Son and Grandson may discharge the Debts of their Father and Grandfather, if they choose it; but the Creditor shall not, before the Expiration

Expiration of Twenty Years, have Power to compel them.

X. If a Man dies, who hath deposited, as Pledges for Money borrowed, Fruit Trees, tilled Land, Houses, Kine, Buffaloes, Goats, Horses, Elephants, and such Kind of useful Animals, or Pots, Cloaths, Mats, and such Things as have been already specified to produce an Interest for a Debt, his Great-Grandson shall discharge that Debt.

XI. If a Man in Debt be absent from Home, and there be no Expectations that he will ever return, his Son and Grandson shall pay his Debts, within Twenty Years.

XII. If a Man in Debt be Sick, beyond all Hopes of Recovery, the Son, in that Case, shall pay his Father's Debts.

XIII. If a Man be Blind from his Cradle, or an Idiot, or be overcome by the Infirmities of Age, or be afflicted with a Consumptive Spitting of Blood, and Phlegm, or with a Leprosy, and lives in his Son's Family, that Son shall discharge his Father's Debts; but if he lives apart from his Son, and contracts Debts, he shall himself discharge them; and the Son has no Connexion with them.

XIV. If a Man lends Money upon the Security of Two People, with Agreement that either of them, whom he may happen to find when Payment is due, shall be answerable for the Debt, in that Case, if One of the Securities should die, and leave no Children, and the other Security be absent from Home, the Son of the Absentee shall pay the Money; if both the Securities die, whichever of them leaves Children, the Son shall pay his Father's Share of the Obligation.

XV. Before the Dissolution of a Partnership, if One of the Parties, being in Debt, leaves his Country, or dies, in that Case, whichever of the Partners

Partners be found on the Spot shall discharge the Debt.

XVI. Upon the Absence of the Master of a Family from Home, whether Abroad or in his own Country, if his Servant borrows Money for the immediate Support of his Master's Household and Dependants, the Master, on his Return, must be answerable for the Debt.

XVII. If a Man dies in Debt, and his Son and Grandson, at the Time of his Death, be very young, and incapable of managing their own Affairs, they shall not pay his Debts, until they arrive at Years of Discretion, and then they shall discharge them, according to their Ability.

XVIII. A Father shall not be compelled to pay his Son's Debts, but if he chooses it, from any Impulse of paternal Affection, he is permitted; but if a Father offers to be Security to a Man who has refused to lend Money to the Son, in that Case, the Father is obliged to pay what his Son borrows.

XIX. If a Man had been desirous to make a Present to another, without any sufficient Reason, and dies, leaving his Intention unfulfilled, his Son shall not give it.

XX. If a Man had been desirous to make a Present to another, upon a proper and sufficient Cause, and dies in the mean Time, the Son shall fulfil the Father's Intention.

XXI. If a Man dies, having incurred Debts by Gaming, or by drinking Spirituous Liquor, his Son shall not discharge them: This Law is calculated for those Persons, in whom Gaming, and the Use of Spirituous Liquors, is not accounted a moral Offence.

XXII. If a Man who owed a Fine to a Court of Justice should die, leaving Part of the Fine unpaid, his Son shall not pay that Part; also if no Part of the Fine was paid in the Man's Lifetime,
his

his Son shall not be answerable for it, in any respect.

XXIII. If a Man, by the Impulse of Lust, had promised any Present, and should die without fulfilling his Promise, his Son shall not give it.

XXIV. If a Man, through the Impulse of Enmity, had agreed to give away any Thing, and dies without fulfilling the Agreement, his Son shall not give it.

XXV. If a Woman, in Times of Calamity, or for the immediate Support of her Household, Relations, and Servants, should borrow Money, her Husband and Son must discharge the Debt; but if she contracts Debts on any other Account, her Husband and Son shall not pay them.

XXVI. If the Wife of a Man of the Cast of Potters, of Washers, or of Cow-Herds, or Dancers, or Hunters, contracts a Debt, her Husband and Sons are answerable for it; also if a Man, or his Son, among those Tribes, contracts Debts, the Wife must pay them.

XXVII. If a Woman borrows Money with the Consent of her Husband and Son, the Husband and Son shall repay it.

XXVIII. If a Man, at the Point of Death, desires his Wife to discharge his Debts, if she inherits her Husband's Property and Possessions, she shall pay them accordingly.

XXIX. If a Man dies in Debt, whoever happens to be his Heir shall discharge those Debts, but without Interest.

XXX. If a Brahmin dies childless, whichever of his Kindred becomes Heir, he shall discharge his Debts; if he has no Relations, the Brahmins of the same Village, where the childless Brahmin resided, shall administer to his Estate, and pay his Debts; if no other Brahmins inhabit that Part, the Magistrate shall pay the childless Brahmin's Debts
from

from the Amount of his Effects, and shall cast the Overplus into the Water.

XXXI. If a Chehteree dies childless, and hath no Relations, or Kindred, the Magistrates shall take Administration of his Effects, pay from the Amount the Debts of the deceased, and keep the Overplus.

S E C T. V.

Of the Methods of Recovering Debts:

I. If a Creditor, on the Day appointed for Payment, demands his Money of the Debtor who refuses to discharge the Debt, first the Creditor shall speak to the Friends and Relations of the Debtor, and procure them to demand Payment; next he shall go in Person, and importune for his Money, and stay some Time at the Debtor's House, but without eating or drinking; if these Means fail, he shall carry the Debtor Home with him, and, having seated him before Men of Character and Reputation, shall there detain him; if ever this Method should not succeed, he shall endeavour, by feigned Pretences, to get hold of some of his Goods; or if any Pledge was deposited with him on lending the Money, he shall carry the Goods so pledged to the Magistrate, who shall cause the Deposit to be sold, and pay the Creditor his Debt, with Interest, from the Amount of the Sale; if he cannot, by evasive Means, distrain the Debtor's Goods, and also if no Pledge be in his Possession, he shall then seize and confine the Debtor's Wife, Children, Cattle, Buffaloes, Horses, and such Kind of useful Animals; also his Pots, Cloaths, Mats, and Furniture; and, seating himself at the Debtor's Door,

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shall

shall there receive his Money; if even these Methods prove unsuccessful, he shall seize and bind the Debtor's Person, and procure, by forcible Means, a Discharge of the Debt.

II. If Men of very low Casts, Coolies, and handicraft Men, owe Money, they shall be seized, detained, and compelled to pay.

III. If a Man lends Money to a Magistrate, to his own Master, or to a Brahmin, he shall not be rude and uncivil in procuring Payment.

IV. If a Man hath lent Money to One of the same Family, or to a Man of bad Principles, he shall, by evasive Pretence, get hold of some of the Debtor's Goods, and by that Means procure Payment.

V. If a Man of the low Tribe of Arzal be unable to pay his Debts, he shall be obliged to work out Payment by daily Labour.

VI. If a Brahmin be unable to pay his Debts, the Magistrates shall appoint him to discharge them by little and little, according to his Means.

VII. If the Debtor and Creditor be both of the Brahmin Cast, the One shall not oblige the other to work out a Debt by daily Labour.

VIII. If a Man of the Chehteree, Sooder, or Bice Cast, is too poor to pay his Debts, the Creditor may oblige him to work out the Amount in any Business of which the Debtor is capable, that is to say, the higher Cast may exact this Method of Payment from One inferior to itself, and Casts of equal Rank may thus mutually treat each other; but a low Cast cannot force the superior to compound Debts by Labour, but shall be paid by Instalments, on the Debtor's Inability to discharge the whole Duty at once.

IX. If a Creditor, without previous Demand, seizes his Debtor by Force, and obliges him to work at a Business of which he is not capable, the
Magistrate

Magistrate shall fine the Creditor, and dismiss the Debtor with the Debt unpaid.

X. If a Man discharges not a Debt in Fifty Months from the Time of borrowing, so that the Interest of Chickerberdehee takes place, an Explanation of which hath been already given above, he shall settle the Mode to his own Satisfaction, and pay the Creditor his Money.

XI. If a Man, who had long since deposited a Pledge in another's Hands, should abscond, or die, the Creditor, in Presence of the Debtor's Friends, shall produce the Pledge, and ascertain its Value; after that, he shall keep it by him Ten Days; and if within that Space the Debtor's next Heir does not come in, and satisfy his Claim, he shall sell the Article pledged, and take his own Money, with Interest, from the Amount; if there be any Remainder, the Creditor is not to keep it.

XII. If a Man acknowledges himself indebted to another, and yet refuses to pay, the Creditor shall use the Means above specified to recover his Money, without Hindrance or Molestation from the Magistrates; if the Debtor should lodge a Complaint, the Judge shall fine him, and cause the Creditor to be paid.

XIII. If a Man, owing another any Money, should flatly deny the Debt, when Payment is demanded, the Creditor shall not have Power to take him into his own Custody, but shall cause him to appear before a Magistrate, and there, upon indisputable Proof of the Debt, shall receive his Claim; but if the Creditor be desirous to attach and confine his Debtor, in this Case, without Knowledge of the Judge, he shall be fined.

XIV. If a Man has lent some Gold Mohurs, and the Borrower acknowledges to have received some Rupees, but a less Sum than the Creditor pretends, also if the Lender demands Interest upon

his Loan, and the Borrower asserts to have discharged the Interest already, or if the Creditor affirms to have lent the Money upon mere good Faith, and the Debtor says that he deposited a Pledge for the Loan, upon a Dispute of this Kind, the Creditor shall by no Means arrest the Debtor's Body, without Knowledge of the Magistrate; should he offend this Law he shall be fined.

XV. If a very rich Man, of weak Understanding, and of a very mean Tribe, from a Principle of Fraud and Obstinacy, refuses to pay his Debts, the Magistrate shall oblige him to discharge the Money claimed, and fine him double the Sum.

XVI. If a Man owes Money to several Creditors, he shall first discharge that Debt which was first contracted, and so in Order.

XVII. If a very rich Man, of an excellent Education, and of a superior Cast, from a Principle of Fraud and Obstinacy, refuses to pay his Debts, and the Creditor commences a Suit against him, the Magistrate shall cause the Money in Dispute to be paid, and shall also fine the Debtor One Twentieth of the Sum recovered.

XVIII. If a Debtor and Creditor are of equal Casts, and, on the Debtor's Refusal to pay his Debts, the Creditor should commence a Suit, the Magistrate shall cause the Money in Dispute to be paid, and shall also fine the Debtor One Tenth of the Sum recovered.

XIX. If a Man hath borrowed Money of several People in One Day, and the regular Order of borrowing cannot be ascertained, the Creditors shall all be paid in equal Shares.

XX. When a Creditor procures Payment of his Money by Application to a Magistrate, he shall give him One Twentieth of the Sum recovered for his Interposition.

XXI.° When

XXI. When a Debtor discharges his Debt by Instalments, he shall duly note upon the Back of the Bond the respective Sums so paid off; the Creditor also shall give a separate Receipt for each Payment: If the Debtor omits this Precaution, and the Creditor also has not given a Receipt for any particular Payment, the Sums so omitted shall not enter into the Account.

C H A P. II.

Of the Division of Property, after Death of the Possessor.

WHEN a Father, or Grandfather, or Great-Grandfather, or Relations of this Nature, decease, or lose their Cast, or renounce the World, or are desirous to give up their Property, their Sons, Grandsons, and Great-Grandsons, and natural Heirs of this Kind, may divide and assume their Money, Arable Land, Orchards, Jewels, Coral, Cloaths, Pots, and Mats, Beasts, and Birds; in short, all the Estate, real and personal, of which the Persons thus circumstanced stand possessed; such Possessions are called Dace, meaning Possessions that are subject to be thus left and divided.

N. B. A Grandfather in this Translation always means a Father's Father; a Grandson always means a Son's Son; when the Female Line intervenes a different Term is used.

Section I. Of Inheriting the Possessions of a Father, a Grandfather, a Great-Grandfather, and other natural Relations.

Section

Section II. Of Dividing the Possessions of the Berhemcharry, the Sinasse, and the Banperust.

Section III. Of a Woman's Property.

Section IV. Of Inheriting a Woman's Property.

Section V. Of those incapable of Inheritance.

Section VI. Of Possessions liable to Divisions.

Section VII. Of the Division of Things acquired by Study.

Section VIII. Of the Division of Subsistence for Children.

Section IX. Of Possessions indivisible.

Section X. Of a Father's dividing and distributing his Means among his Children.

Section XI. Of a Father's dividing and distributing the Possessions of his Father and Grandfather among his Children.

Section XII. Of Sons dividing the Possessions left by their Father.

Section XIII. Of dividing the Common Stock of Two People, who separate after having lived together.

Section XIV. Of the Share of a Partner of the the Possessions of a long Partnership; as also of the Shares of the Sons of a Woman of the Sooder Cast, by Two different Husbands; as also of adopted Children.

Section XV. Of the Division of concealed Possessions, much or little; and the Methods of Enquiry into the Complaints of a Partner claiming his Share of Goods in Partnership.

Section XVI. Of the applying to a Man's own Service the Property, real and personal, of another, by using it.

SECTION I.

Of Inheriting the Possessions of a Father, Grandfather, Great-Grandfather, and other natural Relations.

If a Man dies, or renounces the World, or for some Offence is driven from his Cast, his Relations, and Kindred, or is desirous to give up his Property, all his Possessions, be it Land, or Money, or Goods, or Beasts, or Birds, shall go to his Son; if he has but One Son, that Son is sole Heir; if he has more than One Son, they shall share his Fortune equally; if his Son be dead, it shall go to his Grandson; if there be but One, he shall have the whole; if more, they shall all share it equally; if he has no Grandson, it shall go to his Grandson's Son; if there be but One, he shall have the whole; if more, they shall all have equal Shares.

In the Case where such a Person as before-mentioned has Three or more Sons, and one of them should die, leaving behind him One or more Sons, this Son, thus left, shall receive his Father's Share from his Uncle's Son.

If a Man's Father or Grandfather be dead, he shall receive his Grandfather's Share, from his Grandfather's