

**Explanation II.**—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section, unless it falls within the First Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

**Explanation III.**—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

*Illustrations.*

(a.) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(b.) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about ten feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

**34.** The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage is actually sustained.

When cause of action arises for removal of support.

**35.** Subject to the provisions of the Specific Relief Act, 1877, sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

Injunction to restrain disturbance.

(a) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this chapter :

(b) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

**36.** Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

Abatement of obstruction of easement.

## CHAPTER V.

## THE EXTINCTION, SUSPENSION, AND REVIVAL OF EASEMENTS.

**37.** When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Extinction by dissolution  
of right of servient owner.

*Exception.*—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

*Illustrations.*

(a.) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(b.) A, in 1860, lets Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(c.) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purposes of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear, and his interest is sold. B's easement is extinguished.

(d.) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage debt. The easement is not thereby extinguished.

Extinction by release.

**38.** An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

*Explanation I.*—An easement is impliedly released—

- (a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority ;
- (b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

**Explanation II.**—Mere non-user of an easement is not an implied release within the meaning of this section.

*Illustrations.*

(a) A, B, and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is effectual.

(c) A, having the right to discharge his eaves droppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eaves droppings on B's land, permanently alters the roof, so as to direct the rain-water into a different channel, and discharge it on C's land. The easement is impliedly released.

Extinction by revocation.

**39.** An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

**40.** An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the preformance or non-preformance of a specified act, and the period expires, or the condition is fulfilled.

Extinction on expiration of limited period or happening of dissolving condition.

Extinction on termination of necessity.

**41.** An easement of necessity is extinguished when the necessity comes to an end.

*Illustration.*

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

**42.** An easement is extinguished when it becomes incapable of being at any time, and under any circumstances, beneficial to the dominant owner.

Extinction of useless easement.

**43.** Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased, and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

Extinction by permanent change in dominant heritage.

- (a) it was intended for the beneficial enjoyment of a dominant heritage, to whatever extent the easement should be used ; or
- (b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or
- (c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction on permanent alteration of servient heritage by superior force.

**44.** An easement is extinguished where the servient heritage is, by superior force, so permanently altered that the dominant owner can no longer enjoy such easement :

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage, and the provisions of section 14 apply to such way.

*Illustrations.*

(a) A grants to B, as the owner of certain house, a right to fish in a river running through A's land. The river changes its course, permanently, and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

Extinction by destruction of either heritage.

**45.** An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

*Illustration.*

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

**46.** An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Extinction by unity of ownership.

of the whole of the dominant and servient heritages.

*Illustrations.*

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field, to C. Then C forecloses both mortgages, and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage: the easement is not extinguished, except in the case illustrated in section 41.

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.



(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

**47.** A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

Extinction by non-enjoyment.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner, and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner :

Provided that, if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Indian Registration Act, 1877, a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, on one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under his section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owners ;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period, or
- (c) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous,

such rights shall, for the purposes of this section, be deemed to be a single easement.

*Illustration.*

A has, as annexed to this house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of accessory rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

*Illustration.*

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient owner not entitled to require continuance.

50 The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Compensation for damage caused by extinguishment.

*Illustration.*

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit alluvion; (b) when the destroyed heritage is a servient building, and, before twenty years have expired, such building is

Revival of easements.

rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building, and, before twenty years have expired, such building is rebuilt upon the same site, and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

*Illustration.*

A, as the absolute owner of field X, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

## CHAPTER VI.

### LICENSES.

**52.** Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immoveable property of the grant or, something which would, in the absence of such right, be unlawful, and such right, does not amount to an easement or an interest in the property, the right is called a license.

**53.** A license may be granted by any one in the circumstances, and to the extent, in and to which he may transfer his interests in the property affected by the license.

**54.** The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

**55.** All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

*Illustration.*

A sells the trees growing on his land to B. B is entitled to go on the land, and take away the trees.

**56.** Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee, or exercised by his servants or agents.

License when transferable.

*Illustrations.*

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immoveable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein, and remove grain therefrom.

**57.** The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's duty to disclose defects.

**58.** The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's duty not to render property unsafe.

Grantor's transferee not bound by license.  
license

**59.** When the grantor of the license transfers the property affected thereby, the transferee is not, as such, bound by the

License when revocable.

**60.** A license may be revoked by the grantor, unless—

- (a) it is coupled with a transfer of property, and such transfer is in force :
- (b) the licensee, acting upon the license, has executed a work of a permanent character, and incurred expenses in the execution.

Revocation, express or implied.

**61.** The revocation of a license may be express or implied.

*Illustrations.*

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

License when deemed re-  
voked.

## 62. A license is deemed to be revoked—

- (a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license:
- (b) when the licensee releases it, expressly or impliedly, to the grantor or his representative:
- (c) where it has been granted for a limited period, or acquired, on condition that it shall become void on the performance or non-performance of a specified act, and the period expires, or the condition is fulfilled:
- (d) where the property affected by the license is destroyed, or by superior force so permanently altered that the licensee can no longer exercise his right:
- (e) where the licensee becomes entitled to the absolute ownership of the property affected by the license:
- (f) where the license is granted for a specified purpose, and the purpose is attained or abandoned, or becomes impracticable:
- (g) where the license is granted to the licensee as holding a particular office, employment, or character, and such office, employment, or character ceases to exist:
- (h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee:
- (i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist,

## 63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby, and to remove any goods which he has been allowed to place on such property.

Licensee's rights on revo-  
cation.

## 64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

Licensee's rights on evis-  
tion.

**ACT VII. OF 1882.****Powers-of-Attorney Act.**

RECEIVED THE G.-G.'S ASSENT ON THE 24TH FEBRUARY 1882.

*An Act to amend the law relating to Powers-of-Attorney.*

Preamble. For the purpose of amending the law relating to powers-of-attorney ; It is hereby enacted as follows :—

Short title. 1. This Act may be called "The Powers-of-Attorney Act, 1882."

Local extent. It applies to the whole of British India ;

Commencement. and it shall come into force on the 1st day of May 1882.

2. The donee of a power-of-attorney may, if he thinks fit, execute or do any assurance, instrument, or thing in and with his own name and signature, and his own seal, where sealing is required, by the authority of the doner of the power ; and every assurance, instrument, and thing so executed and done shall be as effectual in law as if it had been executed or done by the donee of the power in the name, and with the signature and seal, of the doner thereof.

This section applies to powers-of-attorney created by instruments executed either before or after this Act comes into force.

3. Any person making or doing any payment or act in good faith, in pursuance of a power-of-attorney, shall not be liable in respect of the payment or act by reason that, before the payment or act, the donor of the power had died or become lunatic, of unsound mind, or bankrupt or insolvent, or had revoked the power, if the fact of death, lunacy, unsoundness of mind, bankruptcy, insolvency, or revocation, was not, at the time of the payment or act, known to the person making or doing the same.

But this section shall not affect any right against the payee of any person interested in any money so paid ; and that person shall have the like remedy against the payee as he would have had against the payer, if the payment had not been made by him.

This section applies only to payment and act made or done after this Act comes into force.

4. (a) An instrument creating a power-of-attorney, its execution being verified by affidavit, statutory declaration, or other sufficient evidence, may, with the affidavit or declaration, if any, be deposited in the High Court within the local limits of whose jurisdiction the instrument may be.

(b) A separate file of instrument so deposited shall be kept; and any person may search that file, and inspect every instrument so deposited; and a certified copy thereof shall be delivered out to him on request.

(c) A copy of an instrument so deposited may be presented at the office, and may be stamped or marked as a certified copy, and when so stamped or marked, shall become and be a certified copy.

(d) A Certified copy of an instrument so deposited shall, without further proof, be sufficient evidence of the contents of the instrument, and of the deposit thereof in the High Court.

(e) The High Court may, from time to time, make rules for the purposes of this section, and prescribing, with the concurrence of the Local Government, the fees to be taken under clauses (a), (b), and (c).

(f) [Repealed by Act VI of 1900, s. 48.]

(g). This section applies to instruments creating powers-of-attorney executed either before or after this Act comes into force.

5. A married woman, whether a minor or not, shall by virtue of this Act, have power, as if she were unmarried and of full age, by a non-testamentary instrument, to appoint an attorney on her behalf, for the purpose of executing any non-testamentary instrument, or doing any other act which she might herself execute or do; and the provisions of this Act, relating to instruments creating powers-of-attorney, shall apply thereto.

This section applies only to instruments executed after this Act comes into force.

6. [Repealed by Act XII. of 1891.]

**ACT VIII. OF 1882.**

RECEIVED THE G-G.'S ASSENT ON THE 2ND MARCH 1882.

*The Indian Penal Code Amendment Act, 1882\**

Preamble.

For the purpose of amending the Indian Penal Code ; It is hereby enacted as follows :—

Amendment of section 40,  
clause 2. of India Penal  
Code.

1. In the second clause of section 40 of the said Code, before the figure "109," the figures "64, 65, 66, 71" shall be inserted.

Amendment of section 64  
of same Code.

2. In section 64 of the said Code, for the first twelve words, the following shall substituted, namely :—

"In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment.

"and in every case of an offence punishable with fine only, in which the offender is sentenced to a fine."

Amendment of section 67  
of same Code.

3. In section 67, after the words "fine only," the words "the imprisonment which the Court imposes in default to payment of the fine shall be simple and" shall be inserted.

Addition to section 71 of  
same Code.

4. To section 71 of the said Code, the following clause shall be added :—

"Where anything is an offences falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or,

"where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

"the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences."

Amendment of section  
73 of same Code.

5. In section 73 of the said Code, for the words "be less than a," the words "shall not exceed one" shall be substituted.

\* This short title has been given by Act 14 of 1892.



New Exception to section 214 of same Code.

6. In section 214 of the said Code, for the Exception, the following shall be substituted, namely :—

*"Exception.*—The provision of sections 213 and 214 do not extend to any case in which the offence may lawfully be compounded."

Amendment of section 309 of same Code.

7. In section 309 of the said Code, for the last seven words "or with fine or with both" shall be substituted.

Amendment of section 335 of same Code.

8. In section 335 of the said Code, before the word causes, the words "voluntarily" shall be inserted.

Amendment of section 410 of same Code.

9. In section 410 of the said Code, after the words "designated as 'stolen property'" the following words shall be inserted, namely, "whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without British India ;" and the words "offence of" shall be omitted.

Addition to section 435 of same Code.

10. In section 435 of the said Code, after the words "or upwards," the following words shall be inserted, namely :—

"or (where the property is agricultural produce) ten rupees or upwards,"

Local extent.  
Commencement.

11. This Act extends to the whole of British India ; and shall come into force on the first day of January 1883.

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## ACT XII, OF 1882\*.

### The Indian Salt Act 1882.

RECEIVED THE G.-G.'S ASSENT ON THE 10TH MARCH 1882.

*An Act for regulating the Duty on Salt, and for other purposes.*

WHEREAS it is expedient to amend the law relating to the levy of duty on salt, and to the import and transit of salt, and the manufacture of salt and salt-peter, into, over, and in British India; It is hereby enacted as follows:—

### CHAPTER I.

#### PRELIMINARY.

Short title.

Commencement.

Local extent.

1. This Act may be called "The Indian Salt Act, 1882;"†

This section, sections, 2, 7, and 8, and so much of this Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India

The rest of this Act extends to the territories for the time being respectively administered by the Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces, and Ajmir and Mairwara, "to the province of Sindh,"‡ to the Districts of Patna Division, and to British Territory under the jurisdiction of the Agent to the Governor-General in Central India;

and any portion of this Act, other than the portions specified in the second paragraph of this section, may be extended,§ by order of the Governor-General in Council published in the *Gazette of India*, to any part of British India other than the territories, "province,"\* and districts mentioned in the third paragraph of this section.

\* Act XII. of 1882 has been declared in force in the Santhal Pargannas, see *Calcutta Gazette*, 1889, Pt. I., p. 737; and in British Baluchistan see British Baluchistan Laws Regulation (I. of 1890), s. 3.

Ss. 1, 2, 6, 7, and 8, and Ch. IV. have been declared in force in Upper Burma (except the Shan States) by the Burma Laws Act (XIII. of 1898). So much of the Act as was in force in Lower Burma had previously been extended by notification under the Scheduled Districts Act (XIV. of 1874), see *Gazette of India*, 1889, Pt. I., p. 334.

† Certain words after this have been omitted having been repealed by Act X. of 1914.

‡ From such day as the Governor of Bombay in Council, by notification in the official Gazette fixes in this behalf, the words quoted shall be repealed.—Act XX. of 1884, s. 1.

§ Under this power—

- (1) the Act with certain exceptions has been extended to the Districts of the Orissa Division, see Notification No. 769, dated 11th February 1888, *Gazette of India*, 1888, Pt. I., p. 67.
- (2) s. 6 has been extended to Lower Burma, see Burma Rules Manual, Ed. 1897, p. 882.

**2.** The enactments specified in the schedule hereto annexed are repealed to the extent mentioned in the third column thereof; but all rules made, licenses and passes granted, prices and duties fixed, notifications published, and powers conferred under any such enactment, and now in force, shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, fixed, published, and conferred hereunder.

Interpretation-clause.

**3.** In this Act, unless there be some repugnant in the subject or context,—  
the expression “the said territories” means the territories to which the section of this Act, in which that expression occurs, for the time being extends ;

“Assistant Commissioner” means an Assistant Commissioner of Northern India Salt-revenue, and also includes any person invested by the Local Government with the powers of an Assistant Commissioner under this Act ;

“Salt-revenue officer” means any officer of the Northern India Salt Department, and also includes any person invested by the Local Government with any of the powers of a salt-revenue officer under this Act ;

“saltpetre” includes rasi, sajji, and all other substances manufactured from saline earth, and khari-nun and every form of sulphate or carbonate of soda ;

“manufacture of salt” includes the separation or purification of salt obtained in the manufacture of salt-petre, the separation of salt from earth or other substance so as to produce elementary salt, and the excavation or removal of natural saline deposits or efflorescence ; and

“Kohat salt.” “Kohat salt” means salt produced in the district of Kohat in the Punjab.\*

**4.** The powers and duties conferred and imposed by this Act on a Commissioner of a Division may, in places where there is no such Commissioner, be exercised and performed by such officer as the Governor-General in Council may, from time to time, appoint in this behalf.

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\* This clause has been added by Act XIX of 1890.

5. At the head of the administration or the salt-revenue under this Act there shall be an officer, called the Commissioner of Northern India Salt-revenue, who shall be appointed, and may be suspended or removed, by the Governor-General in Council.

Commissioner of Northern India Salt-revenue.

## CHAPTER II.

### MANUFACTURE AND REFINING OF SALT AND SALTPETRE.

6. The Governor-General in Council may, from time to time, by rule—  
Power of Governor-General in Council—

(a) prohibit absolutely, or subject to such conditions as he thinks fit, the manufacture of salt, or the manufacture or refining of saltpetre, throughout the whole or any portion of the said territories ;  
to regulate manufacture and refining of salt and salt-petre ;

(b) fix fees for the following licenses, not exceeding in the case of each such license the amount hereinafter mentioned :—  
to fix fees for licenses ;

	Rs.
License to manufacture and refine saltpetre, and to separate and purify salt in the process of such manufacture and refining ...	50
License to manufacture saltpetre ...	2
License to manufacture sulphate of soda ( <i>khari-nun</i> ) by solar heat in evaporating pans ...	10
License to manufacture sulphate of soda ( <i>khari-nun</i> ) by artificial heat ...	2
License to manufacture other saline substances ...	2

(c) determine the manner, time, and place in and at which, and the persons by whom, any duty imposed hereunder shall be collected in the said territories ;  
to regulate the collection of duties ;

(d) define an area on point in which shall be more than one hundred yards from the nearest point of any place in which salt is stored or sold by or on behalf of Government or of any manufactory and its appurtenances in or on which saltpetre is manufactured or refined, and regulate the possession, storage, and sale of salt within such area ;  
to regulate possession of salt in vicinity of places where saltpetre is manufactured ;

(e) define an area round any other place in which salt is manufactured, and regulate the possession, storage, and sale of salt within such area.  
to regulate possession of salt in vicinity of places where salt is manufactured.

## CHAPTER III.

## DUTY AND PRICE OF SALT.

Power of Governor-General in Council—

7. The Governor-General in Council may, from time to time, by rule consistent with this Act,—

(a) impose a duty, not exceeding three rupees per maund of 82-2-7 pounds avoirdupois, on salt manufactured or imported by land ;

to reduce or remit duties ; (b) reduce or remit any duty so imposed, and re-impose any duty so reduced or remitted ;

to fix minimum price of salt excavated, &c., by Government. (c) fix the minimum price at which salt excavated, manufactured, or sold by or on behalf of the Government of India, shall be sold.

In calculating the amount of duty payable under this section, fractions of quarter maunds may be reckoned as quarter maunds.

8. Subject to any general rules or special orders which the Governor-General in Council may, from time to time, make in this behalf, the local Government may, from time to time by notification in the local official Gazette, fix the minimum price at which salt excavated, manufactured, or sold by, or on behalf of, such Local Government, shall be sold.

## CHAPTER IIIA.\*

## INDUS PREVENTIVE LINE.

Power to define zones, and establish chains of posts.

8A. (1) The Governor-General in Council may, from time to time, by rule—

(a) define a zone of country not exceeding fifteen miles in breadth—

(i) along any portion of the river Indus and at such distance therefrom as he deems expedient, or

(ii) in any tract extending from that river to the western frontier of the Punjab,

(b) extend any such zone so as to include any ferry, or any portion of a railway, canal, or navigable river entering the zone, or any place where goods are loaded or unloaded into wagons or boats for the purpose of entering or leaving the zone, and

\* Ch. IIIA. has been inserted by Act XIX, of 1890.

(c) within such a zone establish a chain of posts extending along the zone.

(2) The establishment of a chain of posts under clause (c) of sub-section (1) shall be deemed to be a public purpose within the meaning of the Land Acquisition Act, 1870.

Effect of defining a zone and establishing a chain of posts,

**8B.** When a zone has been defined and a chain of posts established under section 8A, the Governor-General in Council may from time, by rule—

- (a) prohibit any person, except upon such conditions as may be prescribed in the rule, from having in his possession any Kohat salt within the limits of the zone, and,
- (b) so far as may be necessary for the prevention of the smuggling of Kohat salt across the chain of posts, control and regulate the passage of traffic across such chain, and provide for the searching of all persons and things crossing or being taken across such chain.

#### CHAPTER IV.

##### OFFENCES AGAINST THE SALT-REVENUE.

Penalties.

**9.** Whoever commits any of the following offences (namely):—

- (a) does anything in contravention of this Act or of any rule made hereunder ;
- (b) evades payment of any duty or charge payable under this Act or any such rule ; or
- (c) attempts to commit, or abets within the meaning of the Indian Penal Code the commission of, any of the offences mentioned in clauses (a) and (b) of this section.

shall, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both ;

and the convicting Magistrate, on the application of the Assistant Commissioner or salt-revenue officer, may declare to be confiscated all works, materials, and implements constructed or prepared for the purpose of manufacturing or refining salt or salt-petre contrary to the provisions of this Act or any such rule.

**10.** Any person convicted of an offence under section 9, after having been previously convicted of an offence under that section or section 11 of the Inland Customs Act, 1875,\* or under any enactment repealed

Punishment on second and subsequent convictions.

\* Repealed by this Act.

by that Act, shall be punished with imprisonment for a term which may extend to six months, in addition to the punishment which may be inflicted for a first offence under section 9.

and every such person shall, upon every subsequent conviction of an offence under section 9, be liable to imprisonment for a term which may extend to six months, in addition to any term of imprisonment to which he was liable at his last previous conviction.

**11.** A charge of an offence under section 9\* shall not be entertained except on the complaint of an Assistant Commissioner or other salt-revenue officer not inferior in rank to a sub-inspector ;

Charge by whom to be preferred.

and no such complaint shall be admitted unless it is preferred within six months after the commission of the offence to which it refers.

Limitation.

Jurisdiction.

All such offences shall be tried by a Magistrate exercising powers not less than Magistrate of the second class.

**12.** All salt or saltpetre in respect of which any offence mentioned in section 9 has been committed together with the vessels, packages, or coverings in which such salt or saltpetre is contained, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Confiscation of articles in respect of which offence committed.

When the article seized exceeds five seers in weight, the Commissioner of the Division in which the seizure takes place may, if satisfied on the report of any salt-revenue officer, or on such inquiry as he thinks fit to make, that such offence has been committed, declare such article to be confiscated, or impose such lesser penalty in lieu of confiscation as to him may seem fit.

If the article seized does not exceed five seers in weight, the Assistant Commissioner shall possess the same powers in regard to its disposal as by this section are conferred on the Commissioner of the Division in regard to quantities exceeding five seers, and may also confiscate any vessel, package, or covering in which such article is contained.

Whenever such Commissioner declares under this section any article to be confiscated, he may also declare to be confiscated any vessel, package, or covering in which such article is contained, and any animal or conveyance used in carrying it.

\* Here certain words, which were repealed by Act XII. of 1891, have been omitted.

**13.** The Governor-General in Council may, from time to time, by rule direct that any salt-revenue officer, not inferior in rank to an Assistant Inspector, if satisfied in such manner as such rule may prescribe that any offence mentioned in section 9 has been committed in respect of any dutiable salt, shall, instead of making a complaint to a Magistrate, or instituting proceedings with a view to confiscation, impose as a penalty an additional duty on such salt not exceeding the duty leviable thereon under Chapter III. of this Act.

The imposition of every such penalty shall be at once reported, if the salt in respect of which an offence has been committed exceeds five seers in weight, to the Commissioner of the Division in which such penalty is imposed, and if such salt does not exceed five seers in weight, to the Assistant Commissioner,

and shall require the sanction of the Commissioner or Assistant Commissioner, as the case may be, to whom it is so reported.

**14.** Any zamindar or other proprietor of land, and any agent of a zamindar or proprietor of land, who wilfully connives at any offence mentioned in section 9 shall, for every such offence, be punishable by any Magistrate exercising powers not less than those of a Magistrate of the second class with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

## CHAPTER V.

### POWERS OF STOPPAGE, SEARCH, SEIZURE, AND ARREST.

**15.** Any salt-revenue officer empowered in this behalf by the Local Government may at any time enter and search any place in which any article is manufactured or refined under a license granted under this Act or any rule made hereunder.

Power to search Places where article is manufactured under license.  
Power to detain suspected person, and to seize goods liable to confiscation.  
this Act ;

**16.** Any salt-revenue officer may stop and detain any person whom he has reason to believe to be liable to punishment under

and may seize any salt or saltpetre in respect of which there is reason to believe that any offence mentioned in section 9 has been committed, or that any duty is payable, together with the vessels, packages, or coverings in which such salt or saltpetre is contained, and the animals or conveyances used in carrying it.



**17.** Any salt-revenue officer may arrest any person whom he has reason to believe to have committed any such offence as last aforesaid.

Power to arrest.

**18.** Whenever any salt-revenue officer, not inferior in rank to a sub-inspector, has reason to believe that salt or saltpetre, is being unlawfully manufactured, refined, or stored in an unlicensed place,

Procedure of officer having reason to believe unlawful manufacture.

such officer shall first record in writing (so far as may be practicable) (a) the name, residence, and calling of the informant (if any); (b) the locality and description of the house, boat, or place where the officer believes that the salt or saltpetre is being so manufactured, refined, or stored; (c) the name of the person by or for whom the salt or saltpetre is so manufactured, refined, or stored; and (d) the supposed quantity and description of the salt or saltpetre, with the grounds for believing the same to be unlawfully manufactured, refined, or stored;

and may then summon in writing the officer in charge of the police-station within whose jurisdiction the house, boat, or place to be searched is situate to attend him;

and may then, after sunrise and before sunset (but always in the presence of an officer of police not inferior in rank to a headconstable), enter and search any house, boat, or place in which there is reason to believe that salt or saltpetre is being so manufactured, refined, or stored;

Power to enter and search.

and, in case of resistance, may break open any door, and force and remove any other obstacle to such entry;

and may seize and carry away all salt and saltpetre so manufactured, refined, or stored, and all materials used in the manufacture or refinement of such salt or saltpetre;

and may also detain and search, and, if he thinks proper, arrest the occupier of the said house, boat, or place, together with all persons concerned in the manufacture, refinement, or storing of such salt or saltpetre, or in the concealing thereof.

If the place so entered is an apartment in the actual occupancy of a woman who, according to the custom of the country, does not appear in public, the officer entering the same shall be guided by the rules prescribed for such cases in the Code of Criminal Procedure.

Before conducting a search under this section, the officer conducting it shall call upon two or more respectable inhabitants (if any) of the locality in which the house, boat, or place is situate to attend and witness the search, and the search shall be made in the presence of such inhabitants (if any), and also (if practicable) of the occupant of the house, boat, or place searched.

Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

**19.** Any officer in charge of a police-station who, on application in writing made by a salt-revenue officer, to attend for any of the purposes specified in section 18, refuses or fails within a reasonable time so to attend, or to depute a subordinate officer, not inferior in rank to a head-constable, so to attend, shall, for every such offence, be punished with fine which may extend to five hundred rupees.

Failure of police-officer to attend.

**20.** Whenever a salt-revenue officer under the rank of Assistant Commissioner arrests under this Act any person, or seizes any article as liable to confiscation under this Act, or enters any house, boat, or place for the purpose of searching for any such article,

Report of arrest, seizure, and search.

he shall (unless generally empowered by the Assistant Commissioner to send the person arrested to the magistrate), within forty-eight hours next after such arrest, seizure, or entry, make a full report of all the particulars of such arrest, seizure, or entry to his official superior for the information of the Assistant Commissioner.

Every officer making any arrest under this Act, or his official superior shall, if generally empowered in this behalf by the Assistant Commissioner, either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the discharge of such person.

Every officer of police attending any search made under section 18 shall report the same to his official superior.

**21.** Whenever the Assistant Commissioner is informed of the seizure of any article exceeding five seers in weight as liable to confiscation under this Act, he shall, with all convenient despatch, report the circumstances of the case to the Commissioner of the Division in which such seizure is made, who may thereupon proceed under section 12.

If the article seized does not exceed five seers in weight, such Assistant Commissioner may dispose of the case himself under the said section.

**22.** Any article in respect of which a penalty is imposed under section 13 may be detained pending the receipt of the orders of the Commissioner of the Division or the Assistant Commissioner, as the case may be, on the report required by the same section :

Procedure on detention of article subject to additional duty.

Provided that, if the owner of any article so detained deposits the amount of such penalty with, and pays all ordinary duty and charges payable on such article to, the salt-revenue officer, detaining the same, such article shall be at once released.

When an article is so detained, it shall, on the receipt of the said order, be dealt with in accordance with the rules made in this behalf hereunder.

When an article has been released under the second paragraph of this section and the Commissioner of the Division or Assistant Commissioner, as the case may be, reduces, or declines to sanction, the penalty imposed in respect of such article, the amount refundable to the owner shall be paid to him on his applying therefor to the Assistant Commissioner within six months, to be computed (where the order has been made by the Commissioner of the Division) from the day on which the Assistant Commissioner has received such order, and (where the order has been made by the Assistant Commissioner) from the date of such order.

When any penalty, the amount of which has been deposited under the second clause of this section, is sanctioned,

or when any sum refundable under this section has not been claimed within the said period of six months,

the amount so in deposit, or the sum so refundable, shall be forfeited to Her Majesty, unless the Commissioner of Northern India Salt-revenue otherwise directs.

**23.** Whenever the Assistant Commissioner is informed of the Procedure in respect of arrest of any person, he shall (unless such person has been dealt with under the penultimate paragraph of section 20) either send with all convenient despatch the person arrested to the Magistrate having jurisdiction to deal with the case, or order the immediate discharge of such person.

**24.** All officers of police, and all officers of Government Officers required to assist engaged in the collection of land-revenue, salt-revenue officers. are hereby empowered and required to assist the salt-revenue officers in the execution of this Act.

Vexatious search, seizure, &c., by salt-revenue officer.

**25.** Any salt-revenue officer who—

- (a) without reasonable ground of suspicion searches or causes to be searched any house, boat, or place ;
- (b) vexatiously and unnecessarily detains, searches, or arrests any person ;
- (c) vexatiously and unnecessarily seizes the moveable property of any person, on pretence of seizing or searching for any article liable to confiscation under this Act ;

- (d) commits, as such officer, any other act to the injury of any person, when such officer has not reason to believe that such Act is required for the execution of his duty,

shall, for every such offence, be punishable, by a Magistrate exercising power not less than those of a Magistrate of the second class, with fine which may extend to five hundred rupees.

Any person wilfully and maliciously giving false information, and so causing a search to be made under this Act, shall be punishable, by a magistrate exercising the same powers, with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to two years, or with both.

A salt-revenue officer shall not be deemed to search or detain any person, or to seize the moveable property of any person, vexatiously and unnecessarily within the meaning of clause (b) or clause (c) of the first paragraph of this section if the search is authorized by any rule under clause (b) of section 8 B, and the detention or seizure is such as is necessary for the purposes of such search.\*

**26.** The Governor General in Council may, from time to time, make rules consistent with this Act to regulate the seizure, disposal, and destruction of thing liable to be seized under this Act,

Power to regulate seizures and disposal of things seized.

Such rules may, among other matters, provide—

- (a) that the owner or person having the charge of any animal seized and detained shall provide from day to day for its keep while detained, and that, if he omits to do so, such animal may be sold by public auction, and the expenses (if any), incurred on account of it defrayed from the proceeds of the sale ;
- (b) that, when anything is seized, and an order for its release is subsequently passed, and the the owner does not, within a period to be fixed by such rules, appear to claim such thing, and tender the duty, penalties, and charges (if any) due in respect thereof, it may be sold by public auction, and such duty, penalties, and charges defrayed from the proceeds of the sale ;
- (c) that the surplus-proceeds of a sale under clause (a) or clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period, not less than three months, to be fixed by such rules, be forfeited to Her Majesty,

\* This para a graph has been added by Act XIX. of 1890, s. 3.

## CHAPTER VI.

## MISCELLANEOUS.

**27.** The Governor-General in Council may, from time to time, by rule prohibit absolutely, or subject to conditions, the importation of salt into, or the transit of salt over, the said territories or any part thereof.

Power to prohibit import and transit of salt

Except in the case of a prohibition under this section, nothing in this Act shall affect the transit of salt into or from any of the said territories, from or into any other part of British India.

Nothing in this section shall be deemed to affect Chapter IIIA. of this Act or any rule under that chapter.\*

**28.** In addition to the rules which the Governor-General in Council is herein before empowered to make, he may, from time to time, make rules, consistent with this Act, to regulate the following matters, namely :

Further matters for which Governor General in Council may make rules.

- (a) the persons by whom, and the time, place, and manner at or in which, anything to be done under this act shall be done ;
- (b) the cases in which, and the officers to whom, and the conditions subject to which, orders given by salt-revenue officers under this Act shall be appealable ;
- (c) the fee to be charged on account of any license, pass, certificate, dakhila, rawana, or other such document issued under this Act ;

and generally to carry out the provisions herein contained.

**29.** All rules made under this Act shall be published in the *Gazette of India*, and shall thereupon have the force of law,

Publication of rules.

**30.** Subject to the provisions herein contained, and to any rules for the time being in force made by the Governor-General in Council, the Local Government or the Commissioner of Northern India Salt-revenue may invest any person with the powers of an Assistant Commissioner under this Act, or with all or any of the powers hereinbefore conferred on salt-revenue officers.

Power to confer powers of Assistant Commissioner and salt-revenue officers.

**31.** [*Repealed by Act XIX. of 1890.*]

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\* This paragraph has been added by Act XIX. of 1890, s. 4.

## SCHEDULE.

(See section 2.)

## ENACTMENTS REPEALED.

## ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
VIII. of 1875 ...	The Inland Customs Act, 1875.	The whole.
II. of 1876 ...	The Burma Land and Revenue Act, 1876.	Section 39, clause (b), and in clause (c) of the same section the words and letter "under clause (b)."
XVIII. of 1877	The Salt Act, 1877.	The whole.

## REGULATION.

Number and year.	Short title.	Extent of repeal.
III. of 1877 ...	The Ajmir Laws Regulation, 1877.	Section 36 and 37.

## ACT OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Short title.	Extent of repeal.
VII. of 1864. ...	The Salt Act, 1864 ...	Section 9.

## ACT XV. OF 1882.

### The Presidency Small Cause Courts Act, 1882.

RECEIVED THE G. G.'S ASSENT ON THE 17TH MARCH 1882

*An Act to consolidate and amend the Law relating to the Courts of Small Causes established in the Presidency-towns.†*

WHEREAS it is expedient to consolidate and amend the law relating to the Courts of Small Causes established in the towns of Calcutta; Madras, and Bombay; It is hereby enacted as follows :—

Preamble.

### CHAPTER I.

#### PRELIMINARY.

1. This Act may be called "The Presidency Small Cause Courts Act, 1882;" and it shall come into force on the first day of July 1882.
- Short title.  
Commencement.

But nothing herein contained shall affect the provisions of the Army Act,‡ section 151, or the rights or liabilities of any person under§ any decree passed before that day.

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

But all courts constituted, appointments made, and securities given, under any of the said enactments, shall, so far as may be, be deemed to have been respectively constituted, made, and given under this Act.

All references to any enactment hereby repealed, made in Acts passed prior to the said day, shall be read, so far as may be practicable, as if made to this Act or the corresponding provisions hereof.

References in previous Acts.

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\* For statement of Objects and Reasons, see *Gazette of India*, 1880, Pt. V, p. 376; for first Report of the Select Committee, see *ibid*, 1881, Pt. V., p. 381; for further Report of the Select Committee, see *ibid*, 1882, Pt. V., p. 3; for Proceedings in Council, see *ibid*, Supplement, 1880, pp. 1394 and 1433; *ibid*, 1882, Supplement, p. 204; and *ibid*, 1882, Extra supplement, p. 43.

† Vide Mad. Act V of 1916.

‡ Stat. 44 & 45 Vict., c. 58.

§ In s. 1 (second paragraph), the figures "1881," being repealed by the Repealing and Amending Act (XII. of 1891), have here been omitted.

3. In Act No. XXIII, 1850 (*for securing the Land-revenue of Calcutta*), section 3, for the words and figures, "Act VII., 1847," the words and figures, "The Presidency Small Cause Courts Act, 1882, Chapter VIII.," shall be substituted; the words, "as provided by the said Act," shall be repealed; and, for each of the expressions, "a Commissioner of the Court for recovery of small debts referred to in the said Act" and "the said Commissioners," the words, "the Judges of the Court of Small Causes at Calcutta," shall be substituted.\*

4. In this Act, the "Small Cause Court" means the Court of Small Causes constituted under this Act in the town of Calcutta, Madras, or Bombay, as the case may be; and the expression "Registrar" includes a deputy Registrar.†

## CHAPTER II.

### CONSTITUTION AND OFFICERS OF THE COURT.

5. There shall be, in each of the towns of Calcutta, Madras, and Bombay, a Court, to be called the Court of Small Causes of Calcutta, Madras, or Bombay, as the case may be.

6. The Small Cause Court shall be deemed to be a Court subject to the Superintendence of the High Court of judicature at Fort William, Madras, or Bombay, as the case may be, within the meaning of the Letters Patent, respectively, dated the 28th day of December 1865, for such High Courts, and within the meaning of the Code of Civil Procedure; § "and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879;" \*\* and the High Court shall have, in respect of the Small Cause Court, the same powers as it has under the 24th and 25th of Victoria, chapter 104, section 15, in respect of Courts subject to its appellate jurisdiction.

\* Certain words after this repealed by Act V of 1900 have been omitted.

† In s. 4 the words italicized have been added by the Presidency Small Cause Courts Act (III. of 1899) s. 2.

‡ For Proclamation declaring the Constitution of the Madras Court of Small Causes, see Madras List of Local Rules and Orders, Ed. 1898, p. 204.

§ Act XIV. of 1882.

|| Act XVIII. of 1879.

\*\* In s. 6 the words quoted have been inserted by the Presidency Small Cause Courts Act (I. of 1895) s. 2.



**7. The Local Government** may, from time to time, by notification in the official Gazette, appoint a person to be Chief Judge, and so many other persons as it thinks fit to be Judges, of the Small Cause Court :

Appointment, suspension,  
and removal of Judges.

Provided that no person shall be appointed to be a Judge of such Court, or be authorized 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. †

The Local Government may, by a like notification, suspend, ‡ remove any Judge so appointed. §

**8. The Chief Judge** shall be the first of the Judges in rank and precedence.

Rank and precedence of  
Judges.

The other Judges shall have rank and precedence as the Local Government may, from time to time, direct.

**8A.** (1) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the Local Government may appoint any person, having the qualifications required by section 7, to Act as Chief Judge or Judge of the said Court, as the case may be.

Performance of duties of  
absent Judge.

(2) Every person so appointed shall be authorized to perform the duties of the Chief Judge or a Judge of the said Court until the return of the absent Chief Judge or Judge, or of the Judge acting as Chief Judge, or until the Local Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the cases may be.

\* Stat. 24 and 25 Vict., c. 104.

† This proviso has been substituted for the one originally enacted by the Presidency Small Cause Courts Act (I. of 1895), s. 3 (1).

‡ Certain words after this repealed by Act 38 of 1920 have been omitted.

§ The last Paragraph of s. 7, as originally enacted, being repealed by the Presidency Small Cause Courts Act (I. of 1895), s. 3 (2), has been omitted.

1 S. 8A has been substituted by s. 3 of the Presidency Small Cause Courts Act (III. of 1899) for s. 8A as inserted by s. 4 of the Presidency Small Courts Act (I. of 1895).

Procedure and practice of  
Small Cause Court.

9. (1) The High Court may, from time to time, by rule† 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 1894, in or under this Act or any other enactment for the time being in force, and
- (aa) ‡ empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters, 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 1894, shall be in force unless and until cancelled or varied by rules made by the High Court under this section.

10. Subject to such rules, the Chief Judge may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.

Chief Judge to distribute  
business of court.

11. Save as hereinafter otherwise provided, when two or more of the Judges sitting together differ on any question, the opinion, of the majority shall prevail; and, if the Court is equally divided, the Chief Judge, if he is one of the judges so differing, or, in his absence, the Judge first in rank and precedence of the Judges so differing, shall have the casting voice.

Procedure in case of dif-  
ference of opinion.

\* S. 9 has been substituted by the Presidency Small Cause Courts Act (I. of 1895), s. 5, for the one originally enacted.

† For notifications prescribing such rules in—

Bombay...see Bombay List of Local Rules and Orders, Ed. 1896, Vol. I., pp. 410 and 422;

Madras...see Madras List of Local Rules and Orders, Ed. 1898, Vol. I., p. 204.

‡ Cl. (aa) has been added by the Presidency Small Cause Courts Act (III. of 1899), s. 4.

**12.** The Small Cause Court shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

Seal to be used.

**13.** The Local Government may, from time to time, appoint an officer to be called the Registrar of the Court, and to be the chief ministerial officer of the Court ;

Appointment of Registrar and ministerial officers.

and the Chief Judge may, from time to time, subject to the control of the Local Government, appoint a *Deputy Registrar* and as many clerks, bailiffs, and other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

The Registrar and other officers so appointed shall exercise such powers, and discharge such duties of a ministerial nature, as the Chief Judge may, from time to time, by rule direct.

Powers and duties of such officers.

The Chief Judge may suspend or remove any Registrar or other officer so appointed ; but the removal of any Registrar or officer drawing a monthly salary of one hundred rupees or upwards shall be subject to the orders of the Local Government.

**14.** The Local Government may invest the Registrar with the powers of a Judge under this Act for the trial of suits in which the amount or value of the subject matter does not exceed twenty rupees. And, subject to the orders of the Chief Judge, any Judge of the Small Cause Court may, whenever he thinks fit, transfer from his own file to the file of the Registrar any suit which the latter is competent to try.

Registrar may be invested with powers of a Judge in suits not exceeding twenty rupees.

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

**15.** No Judge or other officer appointed under this Act shall, during his continuance as such Judge or officer, either by himself or as a partner of any other person, practice or act, either directly or indirectly as an

Judge or other officer not to practice or trade.

\* For notifications under this section in—  
Bombay...see Bombay List of Local Rules and Orders, Ed. 1896, Vol. I. p. 422 ;  
Madras...see List of Local Rules and Orders, Ed. 1898, Vol. I., p. 204.

† In s. 13 the words italicized have been inserted by the Presidency Small Cause Courts Act (III. of 1899), s. 5.

‡ This explanation has been added by the Presidency Small Cause Courts Act (I. of 1895), s. 6.

advocate, attorney, vakil, or other legal practitioner, or be concerned, either on his account, or for any other person, or as the partner of any other person, in any trade or profession.

Any such Judge or officer so practising, acting, or concerned, shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Nothing herein contained shall be deemed to prohibit any such Judge or officer from being a member of any company incorporated or registered under Royal Charter, Letters Patent, Act of Parliament, or Act of any British Indian Legislature.

### CHAPTER III.

#### LAW ADMINISTERED BY THE COURT.

**16.** All Questions, other than questions relating to procedure or practice, which arise in suits or other proceedings under this Act in the Small Cause Court, shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Questions arising in suits, etc., under Act to be decided according to law administered by High Court.

### CHAPTER IV.

#### JURISDICTION IN RESPECT OF SUITS.

**17.** The local limits of the jurisdiction of each of the Small Cause Courts shall be the local limits for the time being of the ordinary original civil jurisdiction of the High Court.

Local limits of jurisdiction of Court.

**18.** Subject to the exception in section 19, the Small Cause Court shall have jurisdiction to try all suits of a civil nature—

when the amount or value of the subject-matter does not exceed two thousand rupees ; and

Suits in which Court has jurisdiction.

(a) the cause of action has arisen, either wholly or in part, within the local limits of the jurisdiction of the Small Cause Court, and the leave of the Court has, for reasons to be recorded by it in writing, been given before the institution of the suit ; or

(b) all the defendants, at the time of the institution of the suit, actually and voluntarily reside or carry on business, or personally work for gain, within such local limits ; or

- (c) any of the defendants, at the time of the institution of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, within such local limits, and either the leave of the Court has been given before the institution of the suit or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution ;

Provided that, where the cause of action has arisen wholly within the local limits aforesaid, and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal.\*

*Explanation I.*—When in any suit the sum claimed is, by a set-off admitted by both parties, reduced to a balance not exceeding two thousand rupees, the Small Cause Court shall have jurisdiction to try such suit.

*Explanation II.*—Where a person has a permanent dwelling at one place, and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

*Explanation III.*—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India, or, in respect of any cause of action arising at any place where it has also a subordinate office at such place.

**18A\*** The small Cause Court may allow a plaintiff, at or before the first hearing of a suit in which Plaintiff may abandon suit against defendant resident out of jurisdiction. 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.

Suits in which Court has no jurisdiction.

**19.** The Small Cause Court shall have no jurisdiction in—

- (a) suits concerning the assessment or collection of the revenue ;

\* This proviso has been added by the Presidency Small Cause Courts Act (I. of 1895), s. 7.

\* S. 18A has been inserted by the Presidency Small Cause Courts Act (I. of 1895), s. 8.

- (b) suits concerning any act ordered or done by the Governor-General in Council or the Local Government, or by the Governor-General or a Governor, or by any Member of the Council of the Governor-General or of the Governor of Madras, Bombay, "or Fort William in Bengal"\* in his official capacity, or by any person by order of the Governor-General in Council or the Local Government ;
- (c) suits concerning any act ordered or done by any Judge or judicial officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court or any such Judge or judicial officer ;
- (d) suits for the recovery of immoveable property ;
- (e) suits for the partition of immoveable property ;
- (f) suits for the foreclosure or redemption of a mortgage of immoveable property ;
- (g) suits for the determination of any other right to, or interest in, immoveable property ;
- (h) suits for the specific performance or rescission of contracts ;
- (i) suits to obtain an injunction ;
- (j) suits for the cancellation or rectification of instruments ;
- (k) suits to enforce a trust ;
- (l) suits for a general average loss and suits on policies of insurance on sea-going vessels ;
- (m) suits for compensation in respect of collisions on the high seas ;
- (n) suits for compensation for the infringement of a patent copyright, or trade-mark ;
- (o) suits for a dissolution of partnership, or for an account of partnership-transactions ;
- (p) suits for an account of property and its due administration under the decree of the Court.
- (q) suits for compensation for libel, slander, malicious prosecution, adultery, or breach of promise of marriage ;
- (r) suits for the restitution of conjugal rights,† or for a divorce ;
- (s) suits for declaratory decrees ;
- (t) suits for possession of a hereditary office ;

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\* Words within quotation have been substituted by Act 10 of 1914.

† Certain words after this have been omitted having been repealed by Act 10 of 1914.

- (u) suits against Sovereign Princes or Ruling Chiefs, or against Ambassadors or Envoys of Foreign States ;
- (v) suits on any judgment of a High Court ;
- (w) suits the cognizance whereof by the Small Cause Court is barred by any law for the time being in force.

**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.

**20.** When the parties to a suit, which, if the amount or value of the subject-matter thereof did not exceed two thousand rupees, would be cognizable by the Small Cause Court, have entered into an agreement§ in writing that the Small Cause Court shall have jurisdiction to try such suit, the Court shall have jurisdiction to try the same, although the amount or value of the subject-matter thereof may exceed two thousand rupees.

Every such agreement shall be filed in the Small Cause Court, and, when so filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by its decision in such suit.

**21.** All suits to which an officer of the Small Cause Court is, as such, a party, except suits in respect of property taken in execution of its process, or the proceeds or value thereof, "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees,"|| may be instituted in the High Court at the election of the plaintiff as if this Act had not been passed.

\* S. 19A has been inserted by the Presidency Small Cause Courts Act (I. of 1895), s. 9.

† Act IV. 1908.

‡ Act XV. of 1877. But now see Act IX of 1908.

§ As to additional fee payable on the filing of such agreement. see s. 71. *infra*.

|| The words quoted have been inserted by the Presidency Small Cause Courts Act (I. of 1895), s. 10.

**22.** If any suit cognizable by the Small Cause Court, other than a suit to which section 21 applies, is instituted in the High Court, and if, in such suit, the plaintiff obtains, in the case of a suit founded on contract, a decree for any matter of an amount or value less than "one thousand"\* rupees, and in the case of any other suit a decree for any matter of an amount or value of less than three hundred rupees, no costs shall be allowed to the plaintiff;

Costs when plaintiff sues in High Court in other cases cognizable by Small Cause Court.

and, if in any such suit the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client.

The foregoing rules shall not apply to any suit in which the judge who tries the same certifies that it was one fit to be brought in the High Court.†

## CHAPTER V.

### PROCEDURE IN SUITS.

**23.** *Portions of Civil Procedure Code extending to Court. [Repealed by Act I. of 1895, s. 12.]*

**24.** Except in cases of set-off under the Code of Civil Procedure, section 111, no written statement shall be received unless required by the Court.

No written statement except in cases of set off.

**25.** When a period of eight days from the decision of a suit has expired without any application for a new trial or re-hearing of such suit having been made, or when any such application has been made within such period, and such application has been refused, or the new trial or rehearing (as the case may be) has ended, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit, and placed on the record, shall, unless the document is impounded under section 143 of the Code of Civil Procedure, ‡ be entitled to receive back the same;

Return of documents admitted in evidence.

Provided that a document may be returned at any time before any of such events on such terms as the Court may direct: Provided also that no document shall be returned which, by force of decree, has become void or useless.

On the return of a document which has been admitted in evidence, a receipt shall be given, by the party receiving it, in a receipt-book to be kept for the purpose.

\* The words quoted have been substituted for the words, "two thousand", by the Presidency Small Cause Courts Act (I. of 1895), s. 11.

† Or to any suit under s. 47 of this Act, which see, *infra*.

‡ Act V of 1908.



**26.** In any suit in which the defendant appears and does not admit the claim, and the plaintiff does not obtain a decree for the full amount of his claim, the Small Cause Court may, in its discretion, order the plaintiff to pay to the defendant, by way of satisfaction for his trouble and attendance, such sum as it thinks fit.

When any claim preferred, or objection made, under section 278 of the Code of Civil Procedure, \* is disallowed, the Small Cause Court may, in its discretion, order the person preferring or making such claim or objection to pay to the decree-holder, or to the judgment-debtor, or to both, by way of satisfaction as aforesaid, such sum or sums as it thinks fit.

And when any claim or objection is allowed, the Court may award such compensation by way of damages to the claimant or objector as it thinks fit ; and the order of the Court awarding or refusing such compensation shall bar any suit in respect of injury caused by the attachment.

Any order under this section may, in default of payment of the amount payable thereunder, be enforced by the person in whose favour it is made against the person against whom it is made, as if it were a decree of the Court.

**27.** Whenever the Small Cause Court issues a warrant for the arrest of a judgment-debtor or the attachment of his property, the decree-holder, or some other person on his behalf, shall accompany the officer of the Court entrusted with the execution of such warrant, and shall point out to such officer the judgment-debtor or the property to be attached, as the case may be.

**28.** When the judgment-debtor under any decree of the Small Cause Court is a tenant of immoveable property, anything attached to such property, and which he might, before the termination of his tenancy, lawfully remove without the permission of his landlord, shall, for the purpose of the execution of such decree—"and for the purpose deciding all questions arising in the execution of such decree" † be deemed to be moveable property, and may, if sold in such execution, be severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgment-debtor would have been bound to do to it if he had removed such thing.

\* Act XIV. of 1882. But now see Act V of 1908.

† Certain words after this have been inserted by Act IV of 1906.

**29.** Whenever any judgment-debtor, who has been arrested or whose property has been seized in execution of a decree of the Small Cause Court, offers security to the satisfaction of such Court for payment of the amount which he has been ordered to pay and the costs, the Court may order him to be discharged, or the property to be released.

**30.** Whenever it appears to the Small Cause Court that any judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or, if such Court has ordered the same to be paid in instalments, the amount of any instalment thereof, it may, from time to time for such time, and upon such terms as it thinks fit, suspend the execution of such decree, and discharge the debtor, or make such order as it thinks fit.

**31.** If the judgment-debtor under any decree of the Small Cause Court has not within the local limits of its jurisdiction, moveable property sufficient to satisfy the decree, the Court may, on the application of the decree-holder, send the decree for execution—

- (a) in the case of execution against immoveable property situate within such local limits—"to the Madras City Civil Court or the High Court of Judicature at Fort William or Bombay, as the case may be ;"
- (b) in all other cases—to any Civil Court within the local limits of whose jurisdiction such judgment-debtor, or any moveable or immoveable property of such judgment-debtor, may be found.

The procedure prescribed by the Code of Civil Procedure† for the execution of decrees by Courts other than those which made them shall be the procedure followed in such cases.

**32.** Notwithstanding anything contained in the Code of Civil Procedure † as applied by this Act, any minor may institute a suit for any sum of money, not exceeding five hundred

\* In cl. (a) of s. 31, the words quoted have been substituted for the words, "to the High Court," by the Madras City Civil Courts Act (VII. of 1892), s. 12.

† Act XIV, of 1882, Ch. XIX. But now see Act V of 1908.

rupees, which may be due to him under section 70 of the Indian Contract Act, 1872,\* for wages or piece-work, or for work as a servant, in the same manner as if he were of full age.

**33.** Any non-judicial or quasi-judicial act which the Code of Civil Procedure† as applied by this Act requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code as so applied, may be done by the Registrar of the Small Cause Court, or by such other officer of that Court as that Court may, from time to time, appoint in this behalf.

The High Court may, from time to time, by rule declare what shall be deemed to be non judicial and quasi-judicial acts within the meaning of this section.‡

**34.** The suits cognizable by the Registrar under section 14 shall be heard and determined by him in like manner in all respects as a Judge of the Court might hear and determine the same :

Provided that, subject to the control of the Chief Judge, any Judge of the Court may, whenever he thinks fit, transfer to his own file any suit on the file of the Registrar.

**35.** The Registrar may receive applications for the execution of decrees of any value passed by the Court, and may commit and discharge judgment-debtors, and make any order in respect thereof which a Judge of the Court might make under this Act.

Decrees and orders of Registrar to be subject to new trial as if made by a Judge.

**36.** Every decree and order made by the Registrar in any suit or proceeding shall be subject to the same provisions in regard to new trial as if made by Judge of the Court.

## CHAPTER VI. §

### NEW TRIALS AND APPEALS

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

\* Act IX. of 1872.

† Act XIV. of 1882.

‡ For rules in Madras declaring certain duties to be non-judicial or quasi-judicial acts, which may be done by the Registrar of the Small Cause Court, see Madras List of Local Rules and Orders, Vol. I., Ed 1898, p. 204.

§ Ch. VI. has been substituted for the one originally enacted by the Presidency Small Cause Courts Act (I. of 1895), s. 13.

**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 Civil 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.

Provided that the removal directed by such order shall, unless the Judge otherwise directs, be conditional upon the applicant giving security, to the approval of the Judge within a reasonable time to be presented in the order, for the payment of the amount claimed and of the Costs which may become payable by him to the plaintiff in respect of the said suit.”

(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.

(4) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court, he shall be permitted to revive the portion of his claim so abandoned.

**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.

\* Act XIV. of 1882. But now see Act V of 1908.

† Section 2 has been substituted by Act IV of 1906.

(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.

## CHAPTER VII.

### RECOVERY OF POSSESSION OF IMMOVEABLE PROPERTY.

**41.** When any person has had possession of any immoveable property situate within the local limits of the Small Cause Court's jurisdiction, and of which the annual value at a rack-rent does not exceed "two" † thousand rupees, as the tenant, or by permission of another person, or of some person through whom such other person claims,

and such tenancy or permission has determined or been withdrawn,

and such tenant or occupier or any person holding under, or by assignment from, him hereinafter called the occupant), refuses to deliver up such property in compliance with a request made to him in this behalf by such other person,

such other person (hereinafter called the applicant) may apply to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

**42.** The summons shall be served on the occupant in the manner provided by the Code of Civil Procedure \* for the service of a summons on a defendant.

**43.** If the occupant does not appear at the time appointed, and show cause to the contrary, the applicant shall, if the Small Cause Court is satisfied that he is entitled to apply under section 41, be entitled to an

\* See Act XIV. of 1882, ss. 72 to 92.

† The word "two" has been substituted for the word "one" by Act. 9 of 1912.

order addressed to a bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court thinks fit to name in such order.

*Explanation.*—If the occupant proves that the tenancy was created or permission granted by virtue of a title which determined previous to the date of the application, he shall be deemed to have shown cause within the meaning of this section.

**44.** Any such order shall justify the bailiff to whom it is addressed in entering, after the hour of six in the morning, and before the hour of six in the afternoon, upon the property named therein, and such assistants as he thinks necessary, and giving possession of such property to the applicant ; and no suit or prosecution shall be maintainable against any Judge or officer of the Small Cause Court by whom any such order as aforesaid was issued, or against any bailiff or other person by whom the same was executed, or by whom any such summons as aforesaid was served, for the issue, execution, or service of any such order or summons, by reason only that the applicant was not entitled to the possession of the property.

Such order to justify bailiff entering on property, and giving possession.

Bar to proceedings against Judge or officer for issuing &c., order or summons.

**45.** When the applicant, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect, or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser ; but any person aggrieved may bring a suit for the recovery of compensation for any damage which he has sustained by reason of such error, defect, or irregularity :

Applicant, if entitled to possession, not to be deemed trespasser for any error in proceedings.

Occupant may sue for compensation.

when no such damage is proved, the suit shall be dismissed ; and when such damage is proved, but the amount of the compensation assessed by the Court does not exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

**46.** Nothing herein contained shall be deemed to protect any applicant obtaining possession of any property under this chapter from a suit by any person deeming himself aggrieved thereby, when such applicant was not, at the time of applying for such order as aforesaid, entitled to the possession of such property.

Liability of applicant obtaining order when not entitled.

And when the applicant was not at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.

**47.** Whenever, or an application being made under section 41, the occupant binds himself with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit next hereinafter mentioned, to institute, without delay, a suit in the High Court against the applicant for compensation for trespass, and to pay all the costs of such suit in case he does not prosecute the same, or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of.

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under section 43.

Nothing contained in section 22 shall apply to suits under this section.

**48.** In all proceedings under this chapter, the Small Cause Court shall, as far as may be, and except as herein otherwise provided, follow the procedure prescribed for a Court of first instance by the Code of Civil Procedure.\*

**49.** Recovery of the possession of any immoveable property under this chapter shall be no bar to the institution of a suit in the High Court for Court for trying the title thereto.

## CHAPTER VIII.

### DISTRESSES

**50.** This chapter extends to every place within the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras, and Bombay.

Local extent of chapter. But nothing contained in this chapter applies—  
Saving of certain rents.

(a) to any rent due to Government ;

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\* Act V. of 1908.

(b) to any rent which has been due for more than twelve months before the application mentioned in section 5.

**51.** The Judges of the Small Cause Court may appoint four Appointment of bailiffs or more persons to be bailiffs and appraisers and appraisers. for the purpose of this chapter, and may, from time to time, with the previous sanction of the Local Government, fix such remuneration for the services of such officers as the said Judges think fit, and may suspend or remove them,

**52.** The persons so appointed shall give security, to be ap- Securities to be given by proved by the said Judges, faithfully to dis- appointees. charge the duties of their office, and they shall be deemed to be public servants within the meaning of the Indian Penal Code.

**53.** Any person claiming to be entitled to arrears of rent of Application for distress any house or premises to which this chapter warrant. extends, or his duly-constituted attorney, may apply to any Judge of the Small Cause Court, or to the Registrar of the Small Cause Court, for such warrant as is herein-after mentioned.

The application shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the third schedule hereto annexed.

**54.** The Judge or Registrar may thereupon issue a warrant Issue of distress warrant. under his hand and seal, and returnable with- in six days, to the effect of the form (marked B) contained in the same schedule addressed to any one of such bailiffs.

The Judge or Registrar may, at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

**55.** Every distress under this chapter Time of distress. shall be made after sunrise and before sunset, and not at any other time.

**56.** The bailiff directed to make the distress may force open What places bailiff may force open. any stable, out-house, or other building, and may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this chapter :

Provided that he shall not enter or break open the door of any room appropriated for the *zanana* or residence of women, which, by the usage of the country, is considered private.



**57.** In pursuance of the warrant aforesaid, the bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant, and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may, in the bailiff's judgment, be sufficient to cover the amount of the said rent, together with the costs of the said distress :

Provided that the bailiff shall not seize—

- (a) things in actual use ; or
- (b) tools and implements not in use, where there is other moveable property in or upon the house or premises sufficient to cover such amount and costs ; or
- (c) the debtor's necessary wearing apparel ; or
- (d) goods in the custody of the law.

**58.** The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

**59.** On seizing any property under section 57, the bailiff shall make an inventory of such property, and shall give a notice in writing to the effect of the form (marked C) in the third schedule hereto annexed to the debtor, or to any other person upon his behalf in or upon the said house or premises.

Inventory.  
Notice of intended appraisal and sale.

The bailiff shall, as soon as may be, file in the Small Cause Court copies of the said inventory and notice.

**60.** The debtor, or any other person alleging himself to be the owner of any property seized under this chapter, or the duly-constituted attorney of such debtor or other person, may, at any time within five days from such seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant, or release such article accordingly, upon such terms as he thinks just ;

and any of the judges of the said Court may, in his discretion, give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it, and attending the issue and execution of the warrant, shall be in the discretion of the Judge, and shall be paid as he directs.

**61.** If any claim is made to, or in respect of, any property seized under this chapter, or in respect of the proceeds or value thereof by any person not being the debtor, the Registrar of the Small Cause Court, upon

Claim to goods distrained made by a stranger ;

the application of the bailiff who seized the property, may issue a summons, calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons, and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Small Cause Court shall adjudicate upon such claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as he thinks fit ;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Small Cause Courts in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

**62.** In any case under section 60 or section 61, the Judge by whom the case is heard may award such compensation by way of damages to the applicant (as the case may be) as the Judge thinks fit,

and may, for that purpose, make any enquiry he thinks necessary ;

and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

**63.** In any case under section 60 or section 61, if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court, on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order passed in the case by a Judge of the Small Cause Court, and may make such order therein as the High Court thinks fit.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit,

The procedure in cases transferred under this section shall conform, as far as may be, to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction; and every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

**64.** In default of any order to the contrary by a Judge of a Small Cause Court, or by the High Court,  
 Appraisement any two of the said bailiffs may, at the expiration of five days from a seizure of property under this chapter, appraise the property so seized, and give  
 Notice of sale. the debtor notice in writing to the effect of the form (marked D) in the third schedule hereto annexed.

The bailiffs shall file in the Small Cause Court a copy of every notice given under this section.

**65.** In default of any such order to the contrary, the distrained  
 Sale. property shall be sold on the day mentioned in such notice, and the said bailiffs shall, on realizing the proceeds, pay over the amount thereof to the Registrar of the Small Cause Court; and such amount shall be applied  
 Application of proceeds. first in payment of the costs of the said distress, and then in satisfaction of the debt; and the surplus (if any) shall be returned to the debtor:

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

**66.** No costs of any distress under this chapter shall be taken  
 Costs of distresses. or demanded except those mentioned in the part (marked E.) of the third schedule hereto annexed.

The Judges of the Small Cause Court may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs, as appears to the said Judges expedient.

**67.** The Registrar of the Small Cause Court shall keep a book  
 Account of costs and proceeds. in which all sums received as costs upon distresses made under this chapter, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this chapter.

Bar of distresses except under this chapter.

**68.** No distress shall be levied for arrears of rent, except under the provisions of this chapter.

Penalty for making illegal distresses.

And any person, except a bailiff appointed under section 51, levying or attempting to levy any such distress, shall, on conviction before a Presidency Magistrate, be liable to be punished with fine which may extend to five hundred rupees, and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings.

#### REFERENCES TO HIGH COURT.

**69.** (1) If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under chapter VII of this Act, and differ in their opinion as to any question of law or usage having the force of law or the construction of a document which construction may affect the merits, or

if in any suit or any such proceeding, in which the amount or value of the subject matter exceeds five hundred rupees, any such question arises upon which the Court entertains reasonable doubt, and either party so requires,

the Small Cause Court shall draw up a statement of the facts of the case and the point on which there is a difference of opinion or on which doubt is entertained, and refer such statement with its own opinion on the point for the opinion of the High Court ; and the provisions of sections 619 to 621 of the code of Civil Procedure shall, so far as they are applicable, be deemed to apply as if such reference had been made under section 617 of the said Code :†

(2) When the Small cause court refers any question for the opinion of the High Court as provided in sub-section (1), it shall either reserve judgment or give judgment contingent upon such opinion."

**70.** When judgment is given under section 69 contingent upon the opinion of the High Court, the party against whom such judgement is given shall at once furnish security, to be approved by the small Cause Court, for the costs of the reference to the High Court, and for the amount of such judgement :

\* Section 69 of has been situated by Act IV of 1906,

† Act XIV of 1882. But now see Act V of 1908.

Provided that no security for the amount of such judgment shall be required in any case in which the Judge who tried the case has ordered such amount to be paid into Court, and the same has been paid accordingly.

If no such security given,  
party to be deemed to have  
submitted to judgement.

Unless such security as aforesaid is at  
once furnished, the party against whom  
such contingent judgement has been given  
shall be deemed to have submitted to the same.

## CHAPTER X.

### FEEs AND COSTS.

*Institution-fee*

#### 71. A fee not exceeding—

- (a) when the amount or value of the subject-matter does not exceed five hundred rupees—the sum of two annas in the rupee on such amount or value,
- (b) when the amount or value of the subject-matter exceeds five hundred rupees—the sum of sixty-two rupees eight annas, and one anna in the rupee on the excess of such amount or value, over five hundred rupees,

shall be paid on the plaint in every suit and every application under\* section 41; and no such plaint or application shall be received until such fee has been paid.

An additional fee of ten rupees shall be paid on the filing of every agreement under section 20.

#### 72. The fees specified in the third and fourth columns of the

*Fees for processes.*

fourth schedule hereto annexed shall be paid previous to the issue, in any proceeding under Chapter VII. of this Act, of the processes, to which the said columns respectively relate, by the persons on whose behalf such processes are issued, when the amount or value of the subject-matter exceeds the sum specified in the first column, but does not exceed the sum specified in the second column of the said schedule.

#### 73. Whenever any such suit or proceeding is settled by

agreement of the parties before the hearing, *Repayment of half fees on settlement before hearing.* half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid.

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\* In s. 71, the words and figures, "section 38 or," repealed by Act VII. of 1896 (an Act to amend XV. of 1882), s. 1, have here been omitted.

**74.** The Small Cause Court may, whenever it thinks fit, receive Fees and costs of poor persons and register suits instituted, and applications under section 41 made by poor persons, and may issue processes on behalf of such persons, without payment, or on a part-payment, of the fees mentioned in sections 71 and 72.

**75.** The Local Government may, from time to time, by notification\* in the official Gazette, vary the amount of the fees payable under sections 71 and 72 :  
Power to vary fees.

Provided that the amount of such fees shall in no case exceed the amount prescribed by the said sections.

**76.** The expense of employing an advocate, vakil attorney, or other legal practitioner, incurred by any party, shall not be allowed as costs in any suit, or in any proceeding under Chapter VII. of this Act, in the Small Cause Court, in which suit or proceeding the amount or value of the subject-matter does not exceed twenty rupees, unless the Court is of opinion that the employment of such practitioner was under the circumstances reasonable.  
Expense of employing legal practitioners.

**77.** Nothing contained in this chapter shall affect the provisions of sections 3, 5, and 25 of the Court Fees Act, 1870.\*  
Sections 3, 5, and 25 of Court Fees Act, 1870,\* saved.

## CHAPTER XI.

### MISCONDUCT OF INFERIOR MINISTERIAL OFFICERS.

**78.** The Chief judge may, by order, fine, in an amount not exceeding one month's salary, any clerk, bailiff, or other inferior ministerial officer of the Court who is guilty of misconduct or neglect in the performance of the duties of his office ; and such fine may be deducted from his salary.  
Power to fine officers.

**79.** If any clerk, bailiff, or other inferior ministerial officer of the Small Cause Court, who is employed as such in the execution of any order or warrant, loses, by neglect, connivance, or omission, an opportunity of executing such order or warrant, he shall be liable, by order of the Chief Judge, on the application of  
Default of bailiff or other officer in execution of order or warrant.

\* For the instances of such netifications in—  
Bombay—see Bombay List of Local Rules and Orders, Vol. I, Ed. 1896, pp. 422 and 423 ;  
Madras—see Madras List of Local Rules and Orders, Vol. I, Ed. 1898, pp. 204 and 205.

† Act VII. of 1870.

the person injured by such neglect, connivance, or omission, to pay such sum, not exceeding in any case the sum for which the said order or warrant was issued, as, in the opinion of the Chief Judge, represents the amount of the damage sustained by such person thereby.

**80.** If any clerk, bailiff, or other inferior misnisterial officer Extortion or default of of the Small Cause Court is charged with officers. extortion or misconduct while acting under colour of its process, or with not duly paying or accounting for any money levied by him under its authority, the Court may inquire into such charge, and may make such order for the repayment or payment of any money so extorted, or of any money so levied as aforesaid, and of damages and costs, by such officer, as it thinks fit.

**81.** For the purposes of any inquiry under this chapter, the Court empowered to sum- Small Cause Court shall have all the powers mon witness &c. of summoning and enforcing the attendance of witnesses, and compelling the production of documents which it possesses in suits under this Act.

**82.** Any order under this chapter for the payment or repay- Enforcement of order. ment of money may, in default of payment of the amount payable there-under, be enforced by the person to whom such amount is payable as if the same were a decree of the Small Cause Court in his favour.

## CHAPTER XII.

### CONTEMPT OF COURT.

Proceedure of Court in cases of contempt.

**83.** *Repealed by Act 10 of 1914.*

Record in such cases.

**84.** *Repealed by Act 10 of 1914.*

Procedure where Court considers that case should not be dealt with under section 83.

**85.** *Repealed by Act 10 of 1914.*

Discharge of offender on submission or apology.

**86.** *Repealed by Act 10 of 1914.*

**87.** If any witness before the Small Cause Court refuses to answer such questions as are put to him, or imprisonment or committal or person refusing to answer to produce any document in his possession or produce document. or power which the Court requires him to produce, and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit

him to the custody of an officer of the Court, for any term not exceeding seven days, unless, in the meantime, such person consents to answer such questions, or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of section "480 or section 482 of the code of Criminal Procedure, 1898."\* †

**88.** Any person deeming himself aggrieved by an order under† section 87 may appeal to the High Court, and the provisions of the Code of Criminal Procedure, 1898\* relating to appeals, shall so far as may be, apply to appeals under this section.

### CHAPTER XIII.

#### MISCELLANEOUS.

**89.** Notices to produce documents, summons to witnesses, and all other processes issued in the exercise of any jurisdiction conferred on the Small Cause Court by this Act, except summonses to defendants and writs of execution, may if the Court, by general or special order, so directs, be served by such persons as the Court, from time to time, appoints in this behalf.

**90.** The Small Cause Court shall keep such registers, books, and accounts, and submit to the High Court such statements and returns, as may be subject to the approval of the Local Government, be prescribed by the High Court.

**91.** The Small Cause Court shall comply with such requisitions as may be made from time to time, be made by the Local Government or High Court for records, returns, and statements in such from and manner as such Government or Court, as the case may be, think fit.

**92.** The Small Cause Court shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the Local Government.

Such list, when it has received such approval, shall be published in the local official Gazette, and the said holidays and vacations shall be observed accordingly.

\* See now Act V. of 1898. Ch. XXXV. and s 3 (1).

† Words within quotations have been substituted by Act 10 of 1914.

‡ Certain word after this have been omitted by Act 10 of 1914.



**93.** The Governor-General and Members of his Council, the  
 Certain persons exempt from arrest by Court. Governors of Fort St. George and Fort  
 William in Bengal,\* Bombay, and the  
 Members of their respective Councils, † and the Chief Justices  
 and Judges of the High Courts established under the twenty-fourth  
 and twenty-fifth of Victoria, Chapter 104, ‡ shall not be liable to  
 arrest by order of the Small Cause Court.

No suit to lie upon decree  
 of Court.

**94.** No suit shall lie on any decree  
 of the Small Cause Court.

**95.** Any persons ordered by the Small Cause Court to be  
 Place of imprisonment. imprisoned may be imprisoned in such place  
 as the Local Government, from time to time,  
 appoints in this behalf.

**96.** If any person against whom any suit is brought for any-  
 Tender in suit for anything thing purporting to be done by him under  
 done under Act. this Act has, before the institution of the  
 suit, tendered sufficient amends to the plaintiff, the plaintiff shall  
 not recover.

**97.** All prosecutions for anything purporting to be done  
 Limitation of prosecu- under this Act must be commenced within  
 tions. three months after the offence was  
 committed.

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\* Certain words after this have been added by Act 7 of 1912.

† Certain words after this has been omitted by Act 7 of 1912.

‡ The Indian High Courts Act, 1861.

## THE FIRST SCHEDULE.

(See section 2.)

## ENACTMENTS REPEALED.

*A.—Charters of the Supreme Courts.*

Date.		Extent of repeal.
26th March 1774.	Charter of the Supreme Court at Fort William.	Clause 21.
26th December 1800.	Charter of the Supreme Court at Madras.	Clause 47.
8th December 1823	Charter of the Supreme Court at Bombay.	Clause 59.

*B.—Acts of the Governor-General in Council.*

Number and year.	Subject or short title.	Extent of repeal.
IX. of 1850 ...	For the more easy recovery of Small debts and demands in Calcutta, Madras, and Bombay.	So much as has not been repealed.
XX. of 1857 ...	To Amend Act IX. of 1850.	The whole.
XXVI. of 1864 ...	To extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.	So much as has not been repealed.
I. of 1875 ...	To regulate Distresses for Rents in the Presidency-towns.	The whole.
X. of 1877* ...	The Code of Civil Procedure.	Section 8, para. 2.

*C.—Act of the Governor of Bombay in Council.*

Number and year.	Subject.	Extent of repeal.
VI. of 1864 ...	For the better regulation of the diet-money of persons imprisoned by the Bombay Court of Small Causes.	So much as has not been repealed.

\* At the time Act XV. of 1882 was passed, the whole of Act X. of 1877 had been repealed by the Code of Civil Procedure (Act XIV. of 1882).

## THE SECOND SCHEDULE.

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

[*Repealed by Act I. of 1895, s. 12.*]

## THE THIRD SCHEDULE.

## FORMS.

## A.

(See section 53.)

*In the Small Cause Court for*

A. B. (Plaintiff).

*versus*

C. D. (Defendant).

A. B. of , in the town of , maketh oath [*or affirms*] and saith  
 that C. D. , of , is justly indebted to in the sum of  
 Rs. for arrears of rent of the house and premises No. , situated  
 at , in the town of , due for months, to wit, from  
 to , at the rate of Rs. per mensem.  
 Sworn [*or affirmed*] before me the day of 18 .

Judge [*or Registrar*].

## B.

(See section 54.)

*In the Small Cause Court for*

## FORM OF WARRANT.

I hereby direct you to distrain the moveable property of C. D., on the house  
 and premises situate at No. , in the town of , for the sum of  
 Rs. and the costs of the distress, according to the provisions of Chapter VIII.  
 of the Presidency small Cause Courts Act, 1882. Dated the  
 day of 18 .

(Signed and sealed.)

To E. F., Bailiff and Appraiser.

## THE THIRD SCHEDULE—(continued.)

## FORMS—(continued.)

C.

(See section 59.)

*In the Small Cause Court for*

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of                      Rs., being the amount of month's rent due to A. B. at                      last, and that, unless you pay the amount thereof together with the costs of this distress, within five days from the date hereof, or obtain an order from one of the Judges or the Registrar of the Small Cause Court to the contrary, the same will be appraised and sold pursuant to the provisions of Chapter VIII. of the Presidency Small Cause Courts Act, 1882. Dated the                      day of                      18                      .

(Signed) E. F.,

*Bailiff and Appraiser.*

To C. D.

D.

(See section 64.)

*In the Small Cause Court for*

Take notice that we have appraised the moveable property seized on the                      day of                      , under the provisions of Chapter VIII. of the Presidency Small Cause Courts Act, 1882, of which seizure and property a notice and inventory were duly served upon you [or upon                      on your behalf, as the case may be] under date the                      , and that the said property will be sold on the                      [two clear days at least after the date of the notice] at                      pursuant to the provisions of the said Act. Dated this                      day of                      18                      .

(Signed) E. F.,

G. H.,

*Bailiffs and Appraisers.*

To C. D.

## THE THIRD SCHEDULE—(concluded.)

## FORMS—(concluded.)

## E.

(See section 66.)

*In the Small Cause Court for*SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR  
HOUSE-RENT.

Sums sued for.				Affidavit and war- rent to distrain.	Order to sell.	Commis- sion.	Total.
Rs.	Rs.			Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
1 and under	5	...	...	0 4 0	0 8 0	0 8 0	1 4 0
5	10	...	...	0 8 0	0 8 0	1 0 0	2 0 0
10	15	...	...	0 8 0	0 8 0	1 8 0	2 8 0
15	20	...	...	0 8 0	1 0 0	2 0 0	3 8 0
20	25	...	...	0 12 0	1 0 0	2 8 0	4 4 0
25	30	...	...	1 0 0	1 0 0	3 0 0	5 0 0
30	35	...	...	1 0 0	1 0 0	3 8 0	5 8 0
35	40	...	...	1 0 0	1 8 0	4 0 0	6 8 0
40	45	...	...	1 4 0	2 0 0	4 8 0	7 12 0
45	50	...	...	1 8 0	2 0 0	5 0 0	8 8 0
50	60	...	...	2 0 0	2 0 0	6 0 0	10 0 0
60	80	...	...	2 8 0	2 8 0	6 8 0	11 8 0
80 to	100	...	...	3 0 0	3 0 0	7 0 0	13 0 0
Upwards of	100	...	...	3 0 0	3 0 0	7 per centum	.....

The above scale includes all expenses, except in suits where the tenants disputes the landlord's claim, and witnesses have to be subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where peons are kept in charge of property distrained, four annas per day must be paid per man.

## THE FOURTH SCHEDULE.

(See section 72.)

## FEES FOR SUMMONSES AND OTHER PROCESSES

When the amount or value of the subject-matter exceeds.	But does not exceed.	Fee for sum- monses.	Fee for other processes.
Rs.	Rs.	Rs. A. P.	Rs. A. P.
0	10	0 2 0	0 2 0
10	20	0 4 0	0 4 0
20	50	0 8 0	0 8 0
50	100	1 0 0	1 0 0
100	200	1 4 0	2 0 0
200	300	1 8 0	3 0 0
300	400	1 12 0	4 0 0
400	500	2 0 0	5 0 0
500	600	2 4 0	6 0 0
600	700	2 8 0	7 0 0
700	800	2 12 0	8 0 0
800	900	3 0 0	9 0 0
900	1,000	3 4 0	10 0 0
1,000	1,100	3 6 0	10 8 0
1,100	1,200	3 8 0	11 0 0
1,200	1,300	3 10 0	11 8 0
1,300	1,400	3 12 0	12 0 0
1,400	1,500	3 14 0	12 8 0
1,500	1,600	4 0 0	13 0 0
1,600	1,700	4 2 0	13 8 0
1,700	1,800	4 4 0	14 0 0
1,800	1,900	4 6 0	14 8 0
1,900	2,000	4 8 0	15 0 0

## ACT XIX. OF 1882.

## The Punjab University Act.

RECEIVED THE G.-G.'S ASSENT ON THE 5TH OCTOBER 1882.

*An Act to establish and incorporate the University of the Punjab*

WHEREAS an institution, styled at first the Lahore University College, but subsequently the Punjab University College, was established at Lahore in the year 1869, with the special objects of promoting the diffusion of European science, as far as possible, through the medium of the vernacular languages of the Punjab, improving and extending vernacular literature generally, affording encouragement to the enlightened study of the Eastern classical languages and literature, and associating the learned and influential classes of the Province with the officers of Government in the promotion and supervision of popular education ;

But it was at the same time provided that every encouragement should be afforded to the study of the English language and literature, and that, in all subjects which could not be completely taught in the vernacular, the English language should be regarded as the medium of examination and instruction ;

And whereas this institution was, by a Notification, No. 472, dated 8th December 1869, published in the *Punjab Government Gazette* of the twenty-third day of December 1869, declared to be so established, in part fulfilment of the wishes of a large number of the Chiefs, Nobles, and influential classes of the Punjab, and it is now expedient, the said Institution having been attended with success, further to fulfil the wishes of the said Chiefs, Nobles, and influential classes, by constituting the said Institution a University for the purpose of ascertaining, by means of examination or otherwise, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and for the purpose of conferring upon them academical degrees, diplomas, Oriental literary titles, licenses, and marks of honour ;

And whereas it is also expedient that the University so constituted should be incorporated, and that the property, moveable and immoveable, which has been hitherto held by, or in trust for, the said Institution should become the property of the University, subject to all existing trusts as to the manner in which, and the purposes to which, that property or any part thereof is to be applied

It is hereby enacted as follows :—

Short title and commen-  
cement. 1. This Act may be called the Punjab University Act, 1882 ;

2. (1) A University shall be established at Lahore ; and the  
Establishment and incor-  
poration of University. Governor-General for the time being shall be the Patron of the University.

(2) The University shall consist of a Chancellor, a Vice-Chancellor, and such number of Fellows as may be determined in manner hereinafter provided.

(3) The University shall be a Body Corporate by the name of the University of the Punjab having perpetual succession and a common seal, with power to acquire and hold property, moveable or immoveable, to transfer the same, to contract, and to do all other things necessary for the purposes of its constitution.

(4) The University shall come into existence on such day as the Local Government may, by notification in the official Gazette, appoint in this behalf.

3. All the property, moveable and immoveable, held at the  
Property of Panjab Uni- date at which the University comes into  
versity College to vest in existence by or in trust for the Punjab Uni-  
University. versity College, shall, on that date, become  
the property of the University, to be administered by it for the  
purposes of the University, subject to all existing trusts as to the  
manner in which, and the purposes to which, that property or any  
part thereof is to be applied,

4. The Lieutenant-Governor of the Punjab for the time being  
Chancellor. shall be the Chancellor of the University ;  
and the First Chancellor shall be the Hon-  
ble Sir Charles Umpherston Aitchison, Knight Commander of the  
Most Exalted Order of the Star of India, Companion of the Order  
of the Indian Empire, Doctor of Laws.

Vice-Chancellor. 5. (1) The Vice-Chancellor shall be  
such one of the Fellows as the Chancellor  
may, from time to time, appoint in this behalf.

(2) Except as provided in sub-section (4), he shall hold office for two years from the date of his appointment, and, on the expiration of his term of office, may be re-appointed.

(3) But if a Vice-Chancellor leaves India without the intention of returning thereto, he shall thereupon cease to be Vice-Chancellor.

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\* Certain words after this repealed by Act X of 1914 have been omitted.



(4) James Broadwood Lyall, Esquire, of the Bengal Civil Service, and at present Financial Commissioner of the Punjab, shall be deemed to have been appointed the first Vice-Chancellor ; and his term of office shall, subject to the provisions of sub-section (3), expire on the last day of December 1884.

6. *Repealed by Act VIII. of 1904, Sch. II.]*

7. (1) *Repealed by Act VIII. of 1904, Sch. II.]*

(2) The persons named in Part II. of that schedule shall, except for the purposes of the second clause of the proviso to section 6, be deemed to have been appointed Fellows under clause (b) or (c) of section 6.

8. (1) The Chancellor may, with the consent of not less than two-thirds of the members of the Senate for the time being in India, cancel the appointment of any Fellow.\*

Cancellation and vacation  
of appointment of Fellow.

(2) If any Fellow\* leaves India without the intention of returning thereto, or is absent from India for more than four years, he shall thereupon cease to be a Fellow.

9. (1) The Chancellor, Vice-Chancellor, and Fellows for the time being shall from the Senate of the University.

Constitution and powers  
of Senate.

(2) The Senate shall have the entire management of, and superintendence over, the affairs, concerns, and property of the University, and shall provide for that management, and exercise that superintendence, in accordance with the Statutes, Rules, and Regulations for the time being in force.\*

10. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

11. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

12. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

13. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

14. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

15. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

16. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

17. The Senate may charge such reasonable fees for entrance into the University and continuance therein, for admission to the examinations of the University, for attendance at any lectures or classes in connection with the University, and for the degrees to be conferred by the University, as may be imposed by the Rules or Regulations for the time being in force under this Act.

Power to levy fees.

18. [ *Repealed by Act VIII. of 1904, Sch. II. ]*

Portions repealed by Act VIII. of 1904, Schedule II., have been omitted.

**19.** It shall be the duty of the Local Government to require that the proceedings of the University shall be in conformity with this Act, and with the Statutes, Rules, and Regulations for the time being in force under the same; and the Local Government may exercise all powers necessary for giving effect to its requisitions in this behalf, any may (among other things) annul, by a notification in the official Gazette, any such proceeding which is not in conformity with this Act and the said Statutes, Rules, and Regulations.

**20.** All appointments made under section 5, all appointments \* cancelled under \* section 8, all degrees, diplomas Oriental literary titles, or licenses conferred \* and all Statutes, Rules, and Regulations made under section 18, shall be notified in the official Gazette; wherein, also, the record of the proceedings of every meeting of the Senate shall be duly published.

**21.** The accounts of the income and expenditure of the University shall be submitted once in every year to the Local Government for such examination and audit as the Local Government may direct.

**22.** The Statutes, Rules, and Regulations of the Punjab University College shall, so far as they are consistent with this Act, be deemed to be the Statutes, Rules, and Regulations of the University, and shall remain in force for two years from the date on which the University comes into existence, unless they are sooner repealed by a Statute made in accordance with section 18.

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\* Words repealed by Act VIII. of 1904, Schedule II., have been omitted.

## THE SCHEDULE.

(See section 7.)

## PART I.

[Repealed by Act VIII. of 1904, Sch. II.]

## PART II.

Persons to be deemed to have been appointed Fellows under section 6, clause (b) or (c):—

His Highness Maharaja Ranbir Singh of Jammu and Kashmir, G. C. S. I., C. I. E., Counsellor of the Empress of India;

His Highness Maharaja Rajinder Singh of Patiala;

His Highness Nawab Sadik Muhammad Khan of Bahawalpur, G. C. S. I.;

His Highness Raja Raghubir Singh of Jhind, G. C. S. I., C. I. E., Counsellor of the Empress of India;

His Highness Raja Hira Singh of Nabha, G. C. S. I.;

His Highness Raja Jagatjit Singh of Kapurthala;

Raja Bije Sen of Mandi;

Nawab Ibrahim Ali Khan of Maler Kotla;

Raja Bikram Singh of Faridkot;

Nawab Abdul Majid Khan;

Sardar Ajit Singh, Atariwala;

Rai Amin Chand, Sardar Bahadur;

Malaz-ul-Ulma Sardar Atar Singh, C. I. E. of Bahadur;

Major-General Henry Prevost Babbage, Bengal Staff Corps, late Deputy Commissioner, Punjab;

David Graham Barkley, Esquire, M. A., Bengal Civil Service, Barrister-at-Law;

Deputy Surgeon-General Henry Walter Bellew, C. S. I.;

Reverend Edward Bickersteth, M. A.;

Charles Boulnois, Esquire, Barrister-at Law, late Judge, Chief Court, Punjab;

Sardar Bikrama Singh, C. S. I., Ahluwalia;

Arthur Brandreth, Esquire, Barrister-at-Law, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;

Surgeon-Major Thomas Edwin Barton Brown, M. D.;

John Scarlett Campbell, Esquire, late of the Bengal Civil Service, and Judge, Chief Court, Punjab;

Surgeon-Major William Center, M. D., M. A.;

Reverend Robert Clark, M. A.;

John Graham Cordery, Esquire, M. A., Bengal Civil Service;

The Hon'ble Henry Stuart Cunningham, M. A., Barrister-at-Law, Judge of the High Court, Calcutta;

Surgeon-Major Alexander Morrison Dallas;

- Mansel Longworth Dames, Esquire, Bengal Civil Service ;  
 Sir Robert Henry Davies, K. C. S. I., C. I. E., late Lieutenant-Governor of  
 the Punjab and its Dependencies ;  
 Colonel William George Davies, C. S. I. ;  
 Deputy Surgeon-General Annesley Charles Castriot DeRenzy, B. A. ;  
 Sir Robert Eyles Egerton, K. C. S. I., C. I. E., Counsellor of the Empress, late  
 Lieutenant-Governor of the Punjab and its Dependencies ;  
 Dennis Fitzpatrick, B. A., Bengal Civil Service, Barrister-at Law ;  
 Reverend C. W. Foreman, D. D. ;  
 The Right Reverend Thomas Valpy French, D. D., Lord Bishop of Lahore ;  
 Munshi Ghulam Nabi ;  
 Surgeon-Major Robert Gray, M. B. ;  
 Major Leopold John Henry Gray, C. S. I., Bengal Staff Corps ;  
 Sir Lepel Henry Griffin, K. C. S. I., Bengal Civil Service ;  
 Pandit Guru Parshad ;  
 Sayyad Hadi Husain Khan ;  
 Raja Harbans Singh ;  
 Kaur Harnam Singh, Sing, Ahluwalia ;  
 Doctor Thomas Hastings, late Deputy Inspector-General of Hospitals ;  
 Edward Piercy Henderson, Esquire, Bengal Civil Service, Barrister-at Law ;  
 Surgeon-Major George Henderson, M. D. ;  
 Mir Hidayat Ali, Khan Bahadur ;  
 Lieutenant-Colonel William Rice Morland Holroyd ;  
 Reverend W. Hooper, M. A. ;  
 Reverend T. P. Hughes, B. D. ;  
 Munshi Hukum Chand ;  
 Sodhi Hukum Singh ;  
 Denzil Charles Jelf Ibbetson, Esquire, B. A., Bengal Civil Service ;  
 Raja Jahandad Khan, Khan Bahadur, Ghakkar ;  
 Agha Kalbabid ;  
 Fakir Sayyad Kamr-ud-din ;  
 Rai Bahadur Kanhya Lal, C. E. ;  
 Khan Bahadur Khan Muhammad Shah ;  
 Baba Khem Singh, C. I. E., Bedi ;  
 John Lockwood Kipling, Esquire ;  
 Surgeon Edward Lawrie, M. D. ;  
 Gottlieb William Leitner, Esquire, M. A., L. L. D. ;  
 Thomas Crampton Lewis, Esquire, M. A. ;  
 Charles Robert Lindsay, Esquire, late of the Bengal Civil Service, and  
 Judge, Chief Court, Punjab ;  
 James Broadwood Lyall, Esquire, Bengal Civil Service ;  
 General Robert MacLagan, B. E., late Secretary to Government, Punjab,  
 Public Works Department ;  
 Colonel Charles Alexander McMahon ;  
 The Ven'ble Henry James Metthew, M. A., Archdeacon of Lahore ;

- Colonel Julius George Medley, R. E. ;  
 Philip Sandys Melvill, Esquire, C. S. I., late of the Bengal Civil Service, and  
 Governor-General's Agent, Baroda ;  
 John Andrew Erasmus Miller, Esquire ;  
 Pandit Moti Lal, Kathju ;  
 Khan Bahadur Muhammad Barkat Ali Khan ;  
 Khalifa Sayyad Muhammad Hussain ;  
 Muhammed Hyat Khan, C. S. I. ;  
 Rai Mul Singh ;  
 Nasir Ali Khan, Kazilbash ;  
 Babu Navina Chandra Rai ;  
 Nawab Nawazish Ali Khan ;  
 Major Edward Newbery ;  
 Edward O'Brien, Esquire, Bengal Civil Service ;  
 Henry Edmund Perikins, Esquire, Bengal Civil Service ;  
 Henry Meredith Plowden, Esquire, B. A., Barrister-at-Law ;  
 Major-General Charles Pollard, R. E. ;  
 Baden Henry Baden-Powell, Esquire, Bengal Civil Service ;  
 Edward Augustus Prinsep, Esquire, late of the Bengal Civil Service, and  
 Settlement Commissioner, Punjab ;  
 Honorary Surgeon Rahim Khan, Khan Bahadur ;  
 Diwan Ram Nath ;  
 William Henry Rattigan, Esquire, M. A., PH. D., Barrister-at-Law ;  
 Pandit Rikhi Kesh ;  
 Raja Sir Sahib Dyal, K. C. S. I. ;  
 Rai Bahadur Sahib Singh ;  
 Leslie Seymour Saunders, Esquire, Bengal Civil Service ;  
 Brigade-Surgeon John Barclay Scriven, late Civil Surgeon, Lahore ;  
 David Simson, Esquire, late of the Bengal Civil Service, and Judge, Chief  
 Court, Punjab ;  
 John Sime, Esquire, B. A. ;  
 Surgeon-General Charles Manners Smith, late of the Indian Medical Ser-  
 vice ;  
 John Watt Smyth, Esquire, Bengal Civil Service, Barrister-at-Law ;  
 Charles Henry Spitta, Esquire, LL. B., Barrister-at-Law ;  
 Thomas Henry Thornton, Esquire, D. C. L., C. S. I., late of the Bengal Civil  
 Service, and Judge, Chief Court, Punjab ;  
 Thomas William Hooper Tolbort, Esquire, Bengal Civil Service, Barrister-  
 at-Law ;  
 Charles Lewis Tupper, Esquire, B. A., Bengal Civil Service ;  
 Major Isaac Peatt Westmoreland, R. E. ;  
 Lieutenant-Colonel George Gordon Young ;  
 William Mackworth Young, Esquire, M. A., Bengal Civil Service ;  
 Maulvi Zia-ud-din Khan.
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## ACT XXI. OF 1882.

### Madras Forest (Validation) Act, 1882.

RECEIVED THE G.-G.'S ASSENT ON THE 2ND NOVEMBER 1882.

*An Act to remove doubts regarding the Madras Forest Act, 1882.*

WHEREAS doubts have arisen whether the Madras Forest Act, 1882, is consistent with certain Acts of the Governor-General in Council, and it is expedient to remove those doubts; It is hereby enacted as follows:—

Enactments of the Governor-General in Council not to affect the Madras Forest Act.

1. No enactment of the Governor General in Council shall affect, or shall be deemed to have at any time contained anything which would affect, the Madras Forest Act, 1882.

## ACT XII. OF 1882.

### Dekkhan Agriculturists' Relief Act.

RECEIVED THE G.-G.'S ASSENT ON THE 22ND DECEMBER 1882.

*An Act to amend the Dekkhan Agriculturists' Relief Act, 1879.*

WHEREAS it is expedient to amend, in manner hereinafter appearing, the Dekkhan Agriculturists' Relief Act, 1879; It is hereby enacted as follows:—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1882; and it and the Dekkhan Agriculturists' Relief Act, 1879, and the Dekkhan Agriculturists' Relief Act, 1881, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

Commencement.

(2) This Act shall come into force on the first day of February 1883.

2. In this Act, unless there is something repugnant in the subject or context, "section" means a section, and "chapter" a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881.

3. [Repealed by Act XVI. of 1895.]

4. After section 2 the following section shall be inserted:—

"2A. [See *supra*, p. 388.]

Amendment of section 3  
(Chapter II, to apply to certain suits, of whatever value.)

5. In section 3, clause (a), after the word "account" the words, "whatever be the amount or value of the subject-matter thereof," shall be inserted.

New sections to follow section 15.

6. After section 15, the following sections shall be inserted, namely :—

"15A. [See *supra*, p. 395.]

"15B. [See *supra*, p. 395.]

"15C. [See *supra*, p. 396.]

"15D. [See *supra*, p. 396.]

7. [Repealed by Act XVI. of 1895.]

Amendment of section 21  
(Retrospective operation of section.)

8. To section 21, the words "passed whether before or after this Act comes into force," shall be added.

Amendment of section 22  
(Retrospective operation of section. Court to act of its own motion.)

9. (1) In section 22, after the words, "decree or order," the words, "passed whether before or after this Act comes into force," shall be inserted.

(2) In the same section, after the word "Court," the words, "on application or of its own motion," shall be inserted.

(3) In the same section, for the words, "at any subsequent time," the words, "in the course of any proceedings under a decree against an agriculturist passed whether before or after this Act comes into force," shall be substituted.

Amendment of sections 29  
and 30. Court to act of its own motion.)

10. In section 29, first clause, and in section 30, after the word "Court," the words, "on application or of its own motion," shall be inserted.

11. [Repealed by Act XVI. of 1895.]

12. [Repealed by Act XVI. of 1895.]

13. In section 47, for the words, "such certificate as aforesaid in reference thereto," the following shall be substituted, namely: "a certificate in reference thereto obtained by him under section 46 within the year immediately preceding."

Amendment of section 47.  
(Councillator's certificate available only for one year.)

14. In sections 50 and 52, for the words and figures, "Chapter II., and Chapter IV.," the words and figures, "Chapter II., Chapter IV., and Chapter VI.," shall be substituted; and in sections 51 and 53, for the words and figures, "Chapter II., or Chapter IV.," the words and figures, "Chapter II., Chapter IV., or Chapter VI.," shall be substituted.

Amendment of sections  
50 to 53. (Extension of revision to proceedings under Chapter VI.)

Amendment of section 54  
(Power to refer to High  
Court under section 617 of  
Act XIV. of 1882.)

15. To section 54 the following shall be added, namely:—

[See *supra*, p. 409]

16. In section 57, after the words "power-of-attorney," the following shall be inserted, namely: "executed and authenticated in such manner as the Local Government may from time to time, by rule prescribe."

Amendment of section 57.  
(Powers-of-attorney.)

17. [Repealed by Act XII. of 1891.]

Certain agricultural pro-  
duce exempted from attach-  
ment, &c.

18. After section 73 the following section shall be inserted, namely:—

'73A. [See *supra*, p. 417.]

19. [Repealed by Act XII. of 1891.]

END OF VOL. II.



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