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# CIVIL PROCEDURE, BRITISH BURMAH.

## ACT No. I OF 1863.

*(Received the assent of the G. G. on the 15th January 1863.)*

1. Repeals existing Code of Civil Procedure in Pegu.
2. Establishes six grades of Courts, besides Recorders' Courts, Small Cause Courts, &c., viz. ; (1) Extra Assistant of 3rd Class ; (2) of 2nd Class ; (3) Assistant Commissioner and Extra Assistant of 1st Class ; (4) Deputy Commissioner ; (5) Commissioner, (6) Chief Commissioner
- 3—7 Defines jurisdiction of 3rd Class Extra Assistant ; (4) of 2nd Class ditto ; (5) of 1st Class ditto, (6) of Deputy Commissioner ; (7 and 8) Chief Commissioner, (8) as to special appeals
- 9 Every suit to be instituted in Court of lowest grade competent to try it.
- 10 Authorises Deputy and Chief Commissioner to take up by transfer to themselves suits from any Court subordinate to them, or to transfer them to any other Court.
- 11—12. Suit for land situate in more districts than one may be brought in Court competent as to the land within its jurisdiction, if authorised by Commissioner, &c. ; (12) or Commissioners.
- 13—14 Establishes appeal from all Courts of original jurisdiction ; (14) memorandum of appeal to be filed within times prescribed by Act VIII, 1859, unless farther time given
- 15 On appeal to Deputy Commissioner and to Commissioner, judgment below may be confirmed without summoning respondent.
- 16 Application for admission of second appeal under Section 7 to be preferred as under Section 14
- 17 Applications for admission of special appeal may be on ground specified in Act VIII 1859, Section 372, and to be made within what time except for special reasons, and be subject to all the conditions of like appeals to Sudder
- 18—19 No special appeal to lie in any suit cognizable in Small Cause Court if debt, &c, do not exceed 500 rupees, but (19) on regular appeal in any such case Court may state any question of law or usage for decision of Chief Commissioner, &c.
- 20 Applications for leave to appeal in *forma pauperis* to be made on stamp, and within same time as for appeals in other cases.
- 21 Review of judgment may be applied for in what cases, and within what time.
22. Extends to British Burmah Act XIX, 1841, Act XL, 1858 ; Act XI, 1861 ; and cases under them to be decided by Deputy Commissioner, subject to appeal.
23. Except as otherwise provided in this Act, civil procedure to be according to Act VIII, 1859
24. Extends Act XIV, 1859, to Pegu from 1st May 1863, except as to claims to foreclose under any suit as to which the law of limitation at date of deed to apply.

25 Except as otherwise provided, Chief Commissioner to have same powers as Sudder Court.

26. Except as in Section 20, Stamp Duties under Act X, 1862, to apply

27 Local jurisdiction of Deputy Commissioner to be deemed a District.

28. Act to commence 1st May 1863.

An Act to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

WHEREAS it is expedient to define the limits of the jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah subject to certain alterations and provisos, and that provision should be made for extending the operation of certain Acts to the said Territory; It is enacted as follows:—

Pegu Civil Code repealed.

I. The Code called the Civil Code of the Province of Pegu is hereby repealed

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorders' Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely —

Grades of Civil Courts in British Burmah.

1. The Court of the Extra Assistant of the third class, or the Myooke's Court.

2. The Court of the Extra Assistant of the second class, or the Tseetkay's Court.

3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the first class.

4. The Court of the Deputy Commissioner

5. The Court of the Commissioner, and

6 The Court of the Chief Commissioner.

III. The Court of the Extra Assistant of the third class, or the Myooke's Court shall have power to receive, try and determine suits of every description not exceeding 500 Rupees in value or amount.

Jurisdiction of Court of Extra Assistant of 3rd class, or Myooke's Court.

IV. The Court of the Extra Assistant of the second class, Jurisdiction of Court of Extra Assistant of 2nd class, or Tseetkay's Court, or the Tseetkay's Court, shall have power to receive, try and determine suits of every description not exceeding 3,000 Rupees in value or amount.

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the first class shall have power to receive, try and determine suits of every description not exceeding 5,000 Rupees in value or amount. Jurisdiction of Court of Assistant Commissioner and of Court of Extra Assistant of 1st class

VI. The Court of the Deputy Commissioner shall have Jurisdiction of Court of Deputy Commissioner power to receive, try and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions and, where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the third class, or the Myooke's Courts, of the Courts of the Extra Assistant of the second class, or the Tseetkays' Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the first class, in the District of such Deputy Commissioner.

VII The Court of the Commissioner shall have power to Jurisdiction of Court of Commissioner hear and determine appeals from the original decisions, and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division passed in regular appeal reversing or modifying the decision of the Court of original jurisdiction, on a point material to the merits of the case, if on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which judgments shall be filed with the petition of appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision of the Commissioner on such second appeal, whether for

confirming, modifying or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision either of the Deputy Commissioner passed in regular appeal, or of the Commissioner of the Division passed on such second appeal. The rejection of an appeal by the Commissioner on a second appeal shall have the same effect as a confirmation of the decrees of the lower Court.

**VIII.** The Court of the Chief Commissioner shall, except as provided in the last preceding Section, and in Section XVIII of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Jurisdiction of Court of Chief Commissioner

**IX.** Every suit shall be instituted in the Court of the lowest grade competent to try it.

**X.** It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner or for the Commissioner of a Division to order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to such Chief Commissioner or Commissioner, shall be transferred to any other Courts subordinate to his authority and competent in respect of the value of the suit or appeal to try the same.

Transfer of suits

**XI.** If the suit be for land or other immoveable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to

Suits for immoveable property situate in different Districts.

processed with the same. If the suit is brought in any Court subordinate to the Court of Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

XII. If the Districts within the limits of which the property is situate, are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from all decisions except when expressly prohibited. Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

XIV. The Memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure shall be presented in the Court empowered to hear the appeal, within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the Memorandum of appeal within such period, that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to a Commissioner of a Division. The period shall be reckoned from and exclusive of the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure, or by this Act, shall be presented within the same period as appeals from decisions.

**XV.** In cases of appeal preferred to a Deputy Commissioner under Section VI, or to a Commissioner under Section VII of this Act, it shall not be necessary to summon the Respondent in the first instance, and if upon the perusal of the judgment of the Court below of the whole or any part of the record of the original suit, and of the petition of appeal in the presence of the Appellant or of his duly constituted Agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, recording his reasons for rejecting the appeal. In such case the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the respondent through the Court from whose decision the appeal was made.

**XVI.** Applications for a second appeal under Section VII of this Act shall be preferred in the manner and within the period prescribed in Section XIV for regular appeals to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

**XVII.** Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII of this Act to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days, reckoned from and exclusive of the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause to the satisfaction of the Chief Commissioner for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is

made in *forma pauperis*, or otherwise, contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

XVIII. No special appeal shall lie from any decision or

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

order which shall be passed in regular appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of five hundred Rupees.

XIX. If in any case of regular appeal in which under the

Reference of question to the Chief Commissioner.

last preceding Section no special appeal is allowed, or in any case of second appeal admitted under Section VII of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying the appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the appeal, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII of 1861 (*to amend Act VIII of 1859, for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) shall be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the rules contained in the said Sections for the direction of the Sudder Court so far as the same are applicable.

XX. Application to be allowed to appeal in *forma pau-*

Applications to appeal in *forma pauperis*

*peris* shall be written on stamp paper of the value of one Rupee if the appeal lie to the Court of the Deputy Commissioner, and on stamp paper of the value of two Rupees if the appeal lie to the Court of the Commissioner or to the Court of the Chief Commissioner, and shall be presented in the Court competent to receive the same within the period prescribed by this Act for the presentation of appeals from decisions, or when the application is made to

the Chief Commissioner within the period prescribed by this Act for the presentation of an application for the admission of a special appeal.

**XXI.** Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree passed in appeal from which no second or special appeal shall have been admitted, or by a decree of the Court of the Chief Commissioner from which either no appeal shall have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree.

On what grounds review of judgment may be applied for. Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period

Time for presentation of application for review

**XXII.** Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in cases of successions*), Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*), and Act IX of 1861 (*to amend the law relating to Minors*), are hereby extended to British Burmah All cases or proceedings arising under the said Acts or under Act XXXV of 1858 (*to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature*) or Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*),

Extension of certain Acts to British Burmah

Trial of cases or proceedings under the above and other Acts.

shall be received and determined by the Deputy Commissioner of the District, subject to the provisions in the said Acts contained respectively as to jurisdiction and

#### Appeal

otherwise. All orders passed by the De-

puty Commissioners in such cases or proceedings shall be open to appeal to the Commissioner of the Division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the party making the appeal can show good and sufficient cause to the satisfaction of the Commissioner for not presenting the appeal within such period. The order of the Commissioner on any such appeal shall be final.

XXIII Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in the Courts of Civil Judicature in British Burmah mentioned in Section II of this Act, shall be regulated by the said Code of Civil Procedure, and, except as otherwise provided by this Act or by any Law which may hereafter be passed, by no other Law or Regulation.

XXIV. Act XIV of 1859 (*to provide for the limitation of suits*) as amended by Act XIV of 1862, is hereby extended to the province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah in supersession of any law of limitation in force in the said province. Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained, be tried and determined as if this Act had not been passed. Provided also that Clause 15 of Section I of the said Act XIV of 1859 shall not apply to any claim to foreclosure arising under any deed or instrument of mortgage of immoveable property in Pegu executed before the date aforesaid, but every such claim arising under any such deed or instrument shall, so far as the law of limitation is concerned, be governed by the laws or rules of limitation now in force in that province

**XXV** Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

**XXVI.** Except as provided in Section XX of this Act, the Stamp Duties prescribed by Schedule B annexed to Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*) for Instruments and Writings in the Sudder Court and the Courts subordinate to the Sudder Court, shall be chargeable on Instruments and Writings in the Court of the Chief Commissioner and the several Courts subordinate to the Chief Commissioner.

**XXVII** The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purpose of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure

**XXVIII** This Act shall come into operation on the 1st day of May 1863.

## APPEALS TO PRIVY COUNCIL FROM NON-REGULATION PROVINCES.

### ACT No. II OF 1863.

(Received the assent of the G. G. on the 15th January 1863)

1—2. Such appeal when admitted by Court below to be under same rules as like appeals from Regulation Provinces

2—3 Empowers Court below to admit appeals to Privy Council from interlocutory orders; (3) Court to give notice to opposite party of admission of appeal.

4—5 Court may order execution on judgment appealed against, taking security, &c, or may stay execution on taking security, and (5) in either case shall require appellant to give security for costs.

6. Entitles an appellant to apply to Court for assistance in obtaining full benefit from admission of his appeal.

7—8 Court may require increased security pending an appeal, if by change of circumstances the original security is become inadequate, and (8) in case of such security not being given, the Court may make same order as if no original security were given.

9—11 Court to transmit two certified copies of the proceedings to H. M. in Council ; (10) at the expense of the appellant ; and (11) until deposit to cover such expenses is made, appeal not to be considered as admitted.

12—13 Either party on application may obtain authenticated copies of papers on payment of expense ; also (13) of local regulation

14—16 Judgment of Court above to be enforced by Court in which suit was brought , (15) upon petition of party interested , but (16) order for enforcement to be subject to appeal

17 Saves from appeal order for enforcement if Court above has ordered enforcement of decree.

18. Saves power of H. M. in Council to receive or reject appeals

19 Interprets words " British India "

An Act to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations.

WHEREAS it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations, It is enacted as follows —

I If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations or from any such final judgment, decree, or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

**II.** It shall further be lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations, as shall be in force, or as shall from time to time be declared by Her Majesty respecting appeals from final judgments, decrees, and orders, of Her Majesty's said High Courts of Judicature.

**III.** On the admission or permission of the appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

**IV.** The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the appeal; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far it has not been executed, be suspended.

**V.** In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

**VI.** If a party who is desirous of preferring an appeal to Her Majesty in Council in any of the cases mentioned in Section I or Section II of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has

been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree, or order appealed against.

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security

If security be found inadequate, Court may require it to be increased

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given; and if the original security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case

If additional security be not furnished.

IX. In every case of appeal under this Act the Court shall certify and transmit to Her Majesty in Council under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

Expense of copying and translating papers in appeals to be paid by Appellants.

**XI.** The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security of costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice thereof to the Appellant and Respondent respectively.

Court to require a deposit for such expense as a preliminary to admission of appeal.

**XII.** Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit on paying the reasonable expenses incurred in preparing them.

Either party, on paying for the same, may obtain copy of any paper

**XIII.** Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the appeal.

And of any local regulation or law

**XIV.** The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Decrees of Her Majesty in Council how to be executed

**XV.** Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Execution how to be obtained

**XVI.** An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or decree made

Appeal from order of enforcement.

upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to Her, either in rejecting any She may consider inadmissible, or in receiving any She may judge admissible.

Saving of Her Majesty's power as to receiving or rejecting appeals

XIX. The words "British India" denote the Territories of which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

Interpretation of "British India"

## POLICE FORCE AND POLICE LAW. STRAITS SETTLEMENTS.

### ACT No. III of 1863.

(Received the assent of the G. G. on the 15th January 1863.)

Recites expediency of amending the Regulations of the Police Force.

1 Repeals Act XLVIII, 1860, Section 3, but repeal not to revive Act XIII, 1856, Section 15

2 Policemen to be engaged to serve for five years, and not to be entitled to resign within the period, &c

3 Imposes penalty on Police for desertion, absence, &c, viz, forfeiture of pay, &c.

4 Imposes penalty on persons keeping hotels, taverns and drinking shops without license, but not to apply to sale of drugs, &c

5—6. Empowers Commissioner of Police to grant licenses for Houses of public resort and entertainment, securing good behaviour; preventing drunkenness, &c.; keepers of such houses not to be licensed to supply provisions, &c, without an Abkarree license; and (6) imposes penalty on breach of conditions of license.

7. Act to be read as part of Act XIII, 1856, and to come into operation 1st March 1863.

Schedule —Form of Declaration

An Act to amend the Law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS it is expedient to amend the law for regulating the Police of the several Stations of the Settlement of Prince of Wales' Island, Singapore and Malacca, It is enacted as follows:—

I. Section III of Act XLVIII of 1860 (*to amend Act XIII of 1856, for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), shall cease to have any effect in any of the said Stations from the time when this Act shall come into operation, provided that nothing in this Section shall be held to revive the operation of Section XV of the said Act XIII of 1856.

II. No person shall be enrolled a member of the Police Force in any of the said Stations who shall not sign a declaration, in the form provided in the Schedule to this Act, that he will serve as a member of such Force for such period, not exceeding five years, as shall be fixed by the Commissioner of Police of such Station acting under the orders of the Governor of the said Settlement; and no person who shall have signed such declaration shall be at liberty to resign his Office, or withdraw himself from the duties thereof, except with the permission of the Governor of the said Settlement, to be granted on the certificate of ill health from a Medical Officer of Government, or on a special recommendation of such Commissioner of Police. Provided that nothing in this Section shall interfere with the power of such Commissioner of Police, under Section ~~X~~ of the said Act XIII of 1856, to suspend or dismiss any member of the Police Force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the s

### III. Every Member of the Police Force in any of the said

Penalty for deserting  
or withdrawing service.

Stations, who shall have signed the declaration hereinbefore mentioned, and who shall desert or withdraw himself from such Police Force, by absenting himself from duty without reasonable excuse for a period exceeding twenty-four hours, or otherwise, shall, on conviction before a Magistrate, forfeit all arrears of pay and allowances that may be due to him at the time of such desertion or withdrawal, and be liable to a fine not exceeding six months' pay and allowances, and on failure of payment thereof to imprisonment, with or without hard labor, for a period not exceeding one month if such fine be not sooner paid; or to imprisonment, with or without hard labor, for a period not exceeding three months; or to both fine and imprisonment.

### IV. Whoever in any of the Stations of the Straits' Settlement

Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police

has, or keeps, any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for the sale or consumption of Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating-house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police of such Station, shall be liable to a fine not exceeding twenty-five Dollars for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued, provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

### V. The Commissioner of Police in each of the said Stations

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

shall, from time to time, grant licenses to the keepers of such houses or places of public resort or entertainment as aforesaid in the said Stations respectively, and upon such conditions, to be inserted in every such license, as he,

with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same, and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always, it shall not be lawful for the said Com-

License to be granted only to persons who have taken out the requisite Abkaree licenses

missioner to grant a license to open, or establish, or keep open any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chundoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force, and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be recalled. And every holder of such license may be required by the Commissioner to fix, in a conspicuous part of the house or place specified in the license, a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder and the articles he is licensed to deal in.

Fees on licenses

For every license granted under this Section there shall be levied a fee of one Dollar

VI. A breach of the conditions of a license granted under the last preceding Section shall, besides the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding fifty Dollars, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale

Penalty for breach of license.

Construction of Act.

VII. This Act shall be read and taken as part of the said Act XIII of 1856, and shall come into operation on the 1st day of March 1863.

SCHEDULE.  
FORM OF DECLARATION.

I,—A. B—do hereby declare that, in consideration of my being enrolled a Member of the Police Force of  
I will serve in such Force for a period of                      years.  
Witnesses.                      [Signed]      A.      B.  
C      D  
E.      F.

TREATY WITH BURMAH.

—  
ACT No. IV of 1863

*(Received the assent of the G. G. on the 29th January 1863)*

Recites 4th and 8th Articles of Treaty with King of Ava, viz., 4th stipulates that a duty of one per cent. shall be paid on goods imported for Burmese consumption, and if merely for transit through Burmese territories to be duty free, and 8th, stipulates for mutual abolition of British and Burmese duties at Thayet Myo and Tounghoo, Maloon and Tounghoo

To give effect to the Treaty enacts—

1—2 Imposes on imports into Rangoon 1 per cent *ad valorem*, if for export to Burmese territory, and (2) such goods to be under charge of Customs Officer in course of transit.

3 Empowers G. G. in C. to order discontinuance of other duties.

4. Act to take effect from time of ratification of treaty

An Act to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah.

WHEREAS a Treaty has been negotiated between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Ava, and in the 4th and 8th Articles of the said Treaty it is stipulated and agreed as follows:—

*Article 4th*—"When goods are imported into Rangoon from any British or Foreign Territory, and declared to be

“for export by the Irrawaddy river to the Burmese Territory,  
 “the English Ruler shall, provided bulk is not broken, and he  
 “believes the Manifest to be true, charge one per cent. on  
 “their value, and if he so desires shall allow them to be con-  
 “veyed under the charge of an Officer until arrival at Maloon  
 “and Menhla. The Tariff value of goods shall be forwarded  
 “yearly to the Burmese Ruler. If such goods are declared  
 “for export to other Territories and not for sale in the Burmese  
 “Territories, the Burmese Ruler shall, if he believes the Mani-  
 “fest to be true, not cause bulk to be broken, and such goods  
 “shall be free of Duty.

*Article 8th* —“Should the British Ruler within one year  
 “after the conclusion of this Treaty abolish the Duties now  
 “taken at Thayet Myo and Tounghoo, the Burmese Ruler,  
 “with a regard to the benefit of the people of his country,  
 “will, if so inclined, after one, two, three, or four years abolish  
 “the Duties now taken at Maloon and Tounghoo (in the Bur-  
 “mese Territory)”

And whereas it is necessary to give effect to the stipulations  
 and engagements aforesaid by an Act to regulate the Duties  
 of Customs at the Port of Rangoon and elsewhere in conform-  
 ity to such stipulations and engagements, It is enacted as  
 follows

I When any goods are imported into Rangoon from any  
 British or Foreign Territory, whether  
 under Bond or otherwise, and declared by  
 the importer thereof to be for export by  
 the Irrawaddy river to the Burmese Ter-  
 ritory for sale therein, or for export through such Territory for  
 sale in other Territories, such goods may be entered at the  
 Custom House at Rangoon for such export and sale, and there-  
 upon a duty of Customs of one per cent. *ad valorem* and no  
 more, shall be charged, provided that bulk of such goods is not  
 broken, and the Officer in charge of the Custom House is  
 satisfied of the truth of the entry of such goods in the Manifest  
 of the Vessel wherein such goods are brought to Rangoon.

Duty on goods import-  
 ed into Rangoon from  
 British or Foreign Terri-  
 tory limited to one per  
 cent. *ad valorem*

II. Whenever any goods are entered at the Custom House at Rangoon under the last preceding Section, such goods may be conveyed to Maloon and Menhla under charge of an Officer to be appointed for the purpose, and the Officer so appointed to the charge of such goods, shall be held to be a public servant within the meaning of Section 186 of the Indian Penal Code.

III. It shall be lawful for the Governor General, of India in Council, by a Notification to be published in the *Calcutta Gazette*, to order the discontinuance of the Duties or any of them now levied at Thayet Myo and Tounghoo, and subsequently, if it shall see fit, by a like Notification to order that such Duties or any of them shall be revived and re-imposed, and any order made and published under this Section shall have the force of law.

IV This Act shall take effect from the time when the ratifications of the said Treaty are exchanged

## ARTICLES OF WAR FOR NATIVE ARMY.

### ACT No V. OF 1863.

(Received the assent of the G. G on the 29th January 1863.)

Recites expediency of amending Act XXIX, 1861

1 Repeals Sections 1 to 17 and Section 27 of Bombay Reg XXII, except Sections 3 and 7, as to small suits before bazaar superintendents, and Chapter 6 of same Reg and Bombay Reg 1829

2 Repeals Articles 2, 32, 73, 78, 82, 117, 166 of Act XXIX, 1861, and substitutes new ones Article 3 regulates dismissal and discharge ; Article 32 respecting offences against religion , Article 73 respecting powers of Commander-in-Chief to appoint Courts Martial , Article 78 respecting death, transportation, and imprisonment, dismissal, suspension or reduction to ranks , corporal punishment, imprisonment, or solitary confinement , punishment for disgraceful conduct , Article 82 as to powers of Officers commanding detachment in punishing offences , Article 117 as to effect of trial once , Article 166 as to Regulations respecting Bazaar and Cantonment Police, and punchayet.

3. Adds a paragraph to Article 103 of Act XXIX, 1861.

4. Act to be read as part of Act XXIX, 1863. ,

**An Act to amend Act XXIX of 1861 (*to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army.*)**

**WHEREAS** it is expedient to amend certain Articles of War enacted in the said Act XXIX of 1861 ,

**Preamble.** It is enacted as follows :—

1. Sections I to XVII, and Section XXVIII of Regulation XXII of the Bombay Code (*to declare and define Military Authority in its relations to the Civil Power and to the Community at large*) except Sections III and VII in so far as they regulate the jurisdiction, in small suits, of the Superintendents of Bazaars; Chapter VI of the same Regulation; and Regulation II of 1829 of the Bombay Code (*for establishing Rules and Articles for the better government of the Native Officers and Sepoys in the service of the United Company of Merchants of England trading to the East Indies under the Presidency of Bombay*) are hereby repealed.

**Sections repealed**

II. The Articles of War, numbered respectively 3, 32, 73, 78, 82, 117 and 166 in the said Act XXIX of 1861, are hereby repealed, and in lieu thereof the following Articles of War shall be read and taken as Articles 3, 32, 73, 78, 82, 117, and 166 respectively, of the said Act XXIX of 1861.

**Repeal of Articles 3, 32, 73, 78, 82, 117 and 166**

### ARTICLE 3

A Non-Commissioned Officer or Soldier shall be liable to dismissal and discharge by order of the Governor General of India in Council, or of the Governor in Council, or the Commander-in-Chief of the Presidency to which he belongs; and the said Commander-in-Chief shall have power to reduce any Non-Commissioned Officer to the ranks.

**Dismissal and discharge.**

The Commanding Officer of a Regiment or Corps shall have power to dismiss or discharge any Soldier below the rank of a Non-Commissioned Officer, and to dismiss, discharge, or reduce to the ranks any Non-Commissioned Officer belonging to such Regiment or Corps.

**Discharge and reduction by Commanding Officer.**

Every such dismissal or discharge shall involve forfeiture of claim to pension.

No Non-Commissioned Officer shall be reduced to the ranks for any stated period, nor suspended from his rank, nor reduced from a higher to a lower grade of Non-Commissioned Officer.

*Proviso as to reduction and suspension.*

Every Non-Commissioned Officer or Soldier discharged the service shall be furnished by the Commanding Officer of the Regiment or Corps to which he belonged with a discharge Certificate in the Vernacular language of such Non-Commissioned Officer or Soldier. Such certificate shall express the authority for, and cause of, the discharge, and the period of the entire service in the Army of such Non-Commissioned Officer or Soldier, and shall be accompanied with an English translation

*Certificate of discharge.*

#### ARTICLE 32

Who shall wantonly and intentionally defile any place dedicated to religious worship, or shall wantonly and intentionally insult the religious feelings of any person

*Defiling place of religious worship*

#### ARTICLE 73.

The Commander-in-Chief of the Presidency may appoint a General or other Court Martial, and may confirm, mitigate, or commute or remit the sentence of such Court. He may issue his Warrant to any General or other Officer under his command, having the command of any body of Troops in the service of Her Majesty, empowering such Officer to appoint District or Garrison Courts Martial, as occasion may require, for the trial of any offence committed by any Officer, or Soldier, or Follower in the Service of Her Majesty, not being a European British subject of Her Majesty; and to confirm and mitigate, or commute or remit the sentence of any such Court Martial. No sentence, adjudging or involving forfeiture of additional pay or of claim to pension on discharge, or of any prospective advantage, shall be carried into effect until sanctioned

*Powers of the Commander-in-Chief to appoint Courts Martial*

by the Commander-in-Chief of the Presidency to which the offender belongs. The Commander-in-Chief may remit any forfeiture awarded, and may order the restoration of any advantage of which the offender has been deprived by such forfeiture.

#### ARTICLE 78.

A General Court Martial may sentence for any crime, which by these Articles is made liable to such Death, transportation, or imprisonment. sentence, any Officer to death or to transportation for life, or for any period not less than seven years, or in cases falling under Article 22 or Article 66, to imprisonment with or without hard labor for any period not exceeding three years, and with or without solitary confinement, or may sentence any Soldier to death, or to transportation for life, or for any period not less than seven years, or to imprisonment for any period not exceeding fourteen years, for any crimes which are by these Articles of War expressly made liable to any such sentence and for such crimes only. No Court Martial inferior to a General Court Martial shall have power to pass a sentence of death, or transportation or imprisonment for any longer period than three years.

#### *Punishment of Commissioned Officers*

A General Court Martial may sentence a Commissioned Officer to be dismissed the service, or to Dismissal, suspension, or reduction to ranks be suspended from rank and pay and allowances for a stated period; or to be placed one or more steps lower in the list of his rank, by an alteration of the date of the Commission, and such Officer shall lose the corresponding benefit of length of service.

No Court Martial, inferior to a General Court Martial, shall have power to try a Commissioned Officer.

#### *Punishment of Non-Commissioned Officers and Soldiers.*

A General, or District, or Garrison, or Regimental Court Martial may sentence a Non-Commissioned Officer to be reduced to the ranks; Reduction to ranks corporal punishment, imprisonment, or solitary confinement. or may sentence a Non-Commissioned Officer or Soldier to be dismissed the Service, or to be placed

one or more steps lower in the list of the rank which he holds, whereby such Non-Commissioned Officer or Soldier shall lose the benefit of the corresponding length of service; or to suffer corporal punishment not exceeding fifty lashes; or to imprisonment which may be with or without hard labor, and which may include solitary confinement for any portion or portions of such imprisonment, not exceeding fourteen days at a time, nor eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than such periods of solitary confinement.

No Soldier shall be kept in solitary confinement more than eighty-four days in any one year, whether by the sentence of one or more Courts Martial, or by order of the Commanding Officer of the Regiment or Corps to which such Soldier belongs.

No sentence of imprisonment shall be awardable by a General Court Martial for any period exceeding two years (except when otherwise expressly provided); nor by a District or Garrison Court Martial for any period exceeding one year; nor by a Regimental Court Martial for any period exceeding six calendar months.

No Non-Commissioned Officer shall be sentenced to imprisonment or corporal punishment without being first reduced to the ranks.

*Punishment for "Disgraceful Conduct."*

A General, or District, or Garrison Court Martial may, in addition to corporal punishment or to imprisonment, sentence a Soldier convicted of disgraceful conduct to forfeiture of all advantage as to additional pay and claim to pension on discharge, which otherwise might have accrued from the length or nature of his former service; or to forfeiture of such advantage absolutely, whether it may have accrued from past service, or might accrue from future service.

No Soldier shall be tried for disgraceful conduct by any Court Martial inferior to a District or Garrison Court Martial.

A Court Martial may, in addition to any punishment involving dismissal or discharge, sentence any Officer or Soldier, whom it is authorized to try, to forfeiture of arrears of pay and allowances due at the time of dismissal or discharge, or of such portion thereof as may be required to make good any loss or damage arising out of his misconduct. A Court Martial, in addition to any punishment not involving dismissal or discharge, may sentence any Officer or Soldier to be put under stoppages not exceeding, in the case of an Officer two-thirds of his pay and allowances, and in the case of a Non-Commissioned Officer or Soldier one-half of his pay and allowances until any loss or damage arising out of his misconduct be made good.

Every Soldier subjected to confinement in the Quarter Guard or Defaulter's Room, or in a Solitary Cell, whether as a punishment by his Commanding Officer or on a charge of which he shall be afterwards convicted by Court Martial, shall forfeit all claim to pay and allowances during such confinement, and shall be entitled to receive subsistence only according to the rates laid down in the Regulations.

## ARTICLE 82.

An Officer Commanding a Detachment of his own Regiment or Corps may assemble a Regimental Detachment Court Martial; and an Officer Commanding a Detachment consisting of men of different Regiments or Corps, may assemble a Detachment or Line Court Martial. Every Court so assembled shall be constituted in the manner provided for a Regimental Court Martial under the provisions of these Articles of War, and shall have the like powers.

The provisions of these Articles of War which relate to a Court Martial held in a Regiment or Corps shall, in all

practicable cases, be taken to apply to a Court Martial held in a Detachment.

No Officer on detached command of less than three Troops or Companies, or of a Detachment not numerically equal to three Troops or Companies, and not being on the line of march or on board a ship or other vessel, shall carry into effect any punishment awarded by a Court Martial held by his order, until the sentence shall have been confirmed by the Officer Commanding the Regiment or Corps to which the offender belongs, or by the nearest Superior Officer holding a command of not less than a Regiment, who is hereby authorized to confirm every such sentence in like manner as an Officer Commanding a Regiment or Corps might do. Provided that in detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and reference cannot be made to such Commanding or Superior Officer without detriment to the service, the Officer Commanding such Detachment may exercise the powers relating to Courts Martial which are vested in an Officer Commanding a Regiment or Corps.

*Clause 2.*

The Commanding Officer of any Detachment of not less than three Troops or Companies, or of any Detachment numerically equal to or greater than three Troops or Companies; and the Commanding Officer of any European Detachment to which native details are attached (of whatever strength or number such European Detachments, or such native details may be); and any Commissary of Ordnance, being a Commissioned Officer, or other Commissioned Officer in charge of any Arsenal, Ordnance Establishment, or any Camp Equipage Dépôt, may summarily try any offence against these Articles of War, committed by any person under his command or who is subject to such Articles (not being a Commissioned Officer); and may on conviction sentence such offender and carry out such sentence without confirmation or any further authority;

provided that such sentence shall not exceed the powers of a Regimental Court Martial.

In detached situations beyond the Sea, or out of the British Territories in India, or when on service in the field, or in cases where an immediate example is necessary, and a Court Martial cannot be convened under Clause 1 of this Article without detriment to the service, and reference cannot be made without such detriment to the Officer Commanding the Regiment or Corps to which the offender belongs, or to any other Superior Officer holding a command not less than that of a Regiment, the Officer Commanding any Detachment though of less than three Troops or Companies, or not numerically equal to three Troops or Companies, may exercise the powers of summary trial, of sentencing the offender, and of carrying out such sentence, which might have been exercised by the Officer Commanding the Regiment or Corps to which the offender belongs. Provided that, if reference can be made to any other Superior Officer holding a command not less than that of a Regiment, such reference shall be made, and such Officer thereupon shall have authority summarily to try, and, in case of conviction, to sentence the offender, and to carry out such sentence as if the offender had been under his command.

Any Commanding Officer or other Officer holding a trial under this Article shall be deemed a Court Martial, and the words "Court Martial" in these Articles of War, shall be deemed to include such Commanding Officer or other Officer holding a trial.

The proceedings of such summary trial shall be conducted, so far as may be practicable, and shall be recorded in the same manner as is provided in Article 81 for summary trials by an Officer Commanding a Regiment or Corps, and shall, in like manner, be signed and forwarded to the Officer Commanding the Division within which such Detachment shall be at the time, who is hereby authorized to set aside the trial for the same reasons that an Officer Commanding a Division is authorized by Article 81 to set aside a trial by an Officer Commanding a Regiment or Corps. Provided that every sentence

so awarded by an Officer Commanding any such Detachment, or by any other Officer holding a trial under this Article, may be carried out without waiting for its approval by the Reviewing Officer.

#### ARTICLE 117.

No person who shall have been acquitted or convicted by a Court Martial of any offence, shall be liable to be tried a second time by the same or any other Court Martial for the same offence. No person to be tried a second time for the same offence. Provided that any person may be tried for the offence of murder, and punished for that offence, notwithstanding he may have been tried and punished for the act which caused death, if at the time of his conviction for the said act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

When any person subject to these Articles of War shall have been found guilty by a Court Martial of any Military offence, such Court Martial shall enquire into and receive evidence of any previous conviction of such person before a Court Martial or a Court of Justice, and shall enquire into the general character of such person, if a Soldier, for the purpose of apportioning the punishment to which he is liable to be sentenced for the offence of which he has been so found guilty. And it shall not be necessary to give any notice to such person, previously to his trial, that such evidence will be received.

#### ARTICLE 166.

The Regulations by which in any Presidency the office and powers of Commissariat Officers, or Officers in charge of the Police in any Cantonnements, or Superintendents of Military Bazaars, are at present defined and controlled, or by which Panchayets are constituted and guided, shall continue to be in full force, and to be observed at the several Presidencies respectively. Regulations, respecting Bazar and Cantonment Police and Panchayets, declared in force.

**III.** The following additional Clause shall be read as the second paragraph of Article 103 of the said Act XXIX of 1861.

Every witness during attendance on a Court Martial, and during the time necessary for going and returning, shall be privileged from arrest in any Civil proceeding, and if arrested in any such proceeding, may be discharged by order of such Court Martial.

Construction.

**IV.** This Act shall be read and taken as part of the said Act XXIX of 1861.

### CONSOLIDATED CUSTOMS ACT.

#### ACT NO. VI. OF 1863

*(Received the assent of the G. G. on the 29th January 1863.)*

Recites expediency of consolidating and amending laws relating to the administration of Sea Customs in India.

1 Act to be called the Consolidated Customs Act

2 Repeals the Bengal Regs IX, 1810, VI, 1814; XXI, 1817, XV, 1825, XV, 1829, III, 1830, VI, 1833, and Acts XIV and XXV, 1836, XVI, 1837, VII, 1841, XIII, 1841, XXIII, 1841, XXV, 1843, Sections 17 to 41 and 68 of Act VI, 1844, Section 3 of Act VI, 1848, VII, 1848, X, 1850, I, 1852, XXIX, 1855, VII, 1859, Section 3 of Act XXII, 1859, Sections 3 and 4, Act X, 1860, and Section 2, Act XXIII, 1860

3 Interprets the words, British India, Local Government, Chief Customs authority of the Presidency or place, Chief Officer of Customs of the Port, Officer in charge of the Custom House, Magistrate, Free Port, Foreign Port, Foreign Goods, Vessel, Coasting Vessel, Master or Commander, Warehouse, of Number, of Gender

#### GENERAL RULES

4—5 Authorizes Chief Customs authority of any presidency, &c., to make rules for department, such rules to be published, &c; (5) also rules respecting passenger's baggage and mails

6 Disputes between Customs officers and parties to be adjudicated by Chief Customs officer, subject to appeal, &c.

#### APPOINTMENT OF OFFICERS, PORTS, &c.

7—8. Authorizes local Government to appoint, suspend, and dismiss proper officers; or (8) to delegate this power

9. Constitutes Collector of Revenue and his subordinate Customs officers where no others appointed

10 Authorizes local Government to appoint ports, wharves, &c

11—12. Authorizes the G G in C to declare free ports ; and (12) like power for certain purposes beyond British India.

13. Establishes penalty for shipping, &c., at any place, &c., not declared a port.

14—15 Empowers local Government to declare warehousing ports ; at which (15) goods may be deposited without payment of duty on entry

#### LEVY OF AND EXEMPTION FROM DUTIES.

16—20 Import duties, and (17) export duties to be levied at rates prescribed by law ; but (18) neither to be levied on goods carried by sea from one port to another, and (19) Government may exempt by special order, goods under exceptional circumstances, and (20) officers may pass baggage in actual use.

#### GENERAL PROVISIONS.

##### *Prohibitions.*

21 Prohibits (1) pirated editions of copy-right books, (2) false and counterfeit coin, (3) obscene books, &c.

22 Prohibits importation of arms and ammunition except under license, and by sportsmen in small quantities

23—24 Empowers G G in C to prohibit by notice, importation or exportation of particular goods, and (24) establishes a penalty on contravention of the prohibition, besides confiscation of the goods

25 Legalizes importation and exportation of any goods not prohibited, and any such goods may be warehoused under rules

7 Owner, importer, exporter or other party concerned to declare the goods imported and exported, and in case of doubtful value officer to use means of ascertaining it, and (27) undervalued goods may be detained, at valued price, for Government, &c, or owner may be allowed to amend valuation

28 Makes goods liable to forfeiture for misdescription at Custom House.

29—30 Date of entry for home consumption at Custom House to be taken as the date of importation, when date required to be fixed, and (30) date of entry for exportation to be taken as date of exportation, when date material.

31 Country produce reimported from foreign port to be deemed foreign, unless ownership has remained unchanged

32 Authorizes Chief Customs authority of presidency or place to appoint stations or places, for Customs officers to board or land

#### IMPORTATION

33—37. Authorizes Government to fix limits within which report or manifest must be delivered to pilot or officer ; and (34) imposes penalty not exceeding 1,000 rupees for wilful omission to deliver report or manifest ; and (35) if vessel remains outside the limits, the commander is to deliver report or manifest to pilot, and (36) report, &c., to be delivered to pilot, &c., within twenty-four hours after arrival at port if no limits appointed, and on default to be liable to penalty ; and (37) pilot, &c., refusing to receive report to be liable to a penalty of 500 rupees.

38. Imposes penalty, 1,000 rupees, on vessel removing from place of unloading without authority of Master Attendant, &c.

39—40 Authorizes Chief Customs authority to appoint stations for officers to board vessels arriving from foreign ports, and (40) imposes penalty, 1,000 rupees, on Masters not bringing to, &c., at such stations.

41—45. Empowers Custom House officer in charge to depute officer to board any vessel on arriving, who is to remain on board day and night until otherwise ordered; and (42) imposes penalty, 500 rupees per day, on Master refusing to receive such officer on board; and (43) bound to receive with officer, officer's servant, &c., under penalty of 500 rupees, &c.; and (44) entitles such officer to have free access to every part of the ship, and to have closed receptacles opened and searched, and goods concealed shall be liable to confiscation, and (45) Masters resisting servants, or breaking officer's seal, to be liable to 1,000 rupees.

46. No vessel to break bulk till manifest has been delivered, &c., nor until order given for discharge; and such order may be refused till port clearance, &c., from the port of departure, &c., has been given up

47. Master, &c., if required, must deliver to officer, bill of lading or copies thereof, of cargo, and answer questions respecting cargo, and in case of false bill of lading, &c., Master to be liable to penalty, 1,000 rupees

48—50 Goods not manifested, or in excess of manifest, &c., to be reported, and liable to confiscation, and (49) if goods manifested are not on board, &c., and deficiency be not accounted for, the Master to be liable to penalty, but (50) these provisions not to prevent amendment of manifest, &c

51—54 Allows fifteen days for landing import cargo not exceeding 600 tons, and one day more for every 50 tons above, &c.; and (52) directs what shall be done with cargo not taken by consignees, and (53) time may be enlarged by Customs officer, and (54) if goods not taken by consignee within time specified in bill of lading, Master may land them at the Custom House, and Custom House shall give receipt

55. At any time after arrival small parcels of goods may be landed by consent, &c

56 Directs procedure for duties in case of non-payment within four months of entry of vessel.

57. Goods for home consumption, not cleared within two months after landing, to be sold for duties, and overplus paid to owner, &c.

58 Goods not to be landed on Sundays or holidays, nor out of fixed hours, except by order, &c., and baggage

59—61 Goods carried in landing to other than appointed landing place, or (60) to other than appointed wharf, to be confiscated, and (61) with each boat load of goods a boat note specifying particulars shall be sent.

62—64. Regulates the entry of goods for home consumption; and (63) imposes penalty on goods being taken out without previous entry, except passenger's baggage; and (64) makes goods liable to confiscation if fraud on removal intended.

65—66 No claim for abatement of duty on account of damage to be allowed, unless small in value, and certified by Custom House appraiser, &c.; and (66) regulates the manner of making abatement.

67 Derelict goods brought to port to be subject to duty.

68. Customs officer may order goods brought by sea to be weighed and measured for duty.

69. Exempts from duty import cargo intended for another port and ships' stores, but such cargo and stores to be entered in export manifest.

#### WAREHOUSING

70—72. Authorizes the warehousing of goods at warehousing port without payment of duty; (71) in public warehouses under lock and key; and (72) on terms as to rent, &c., to be fixed by Chief Customs authority.

73—75 At warehousing ports, private warehouses may be licensed for warehousing; on (74) application in Form A in Schedule; and (75) applications for warehousing them shall be in Form B in Schedule

76 Directs that goods before being warehoused shall be assessed for duty, and warehouse-keeper to be answerable for weight or gauge of goods, &c

77—79 On bonding imports, &c., to enter into a bond for duties, (78) for twice the amount of the duties, with interest, and (79) bond to extend to three years.

80—82. Imposes penalty of confiscation on goods carried into warehouse contrary to orders, (81) regulates the manner of receiving goods into the warehouse; and (82) imposes penalty for any mis-description of goods by which revenue might have suffered

83 Goods when admitted to warehouses to be marked, &c., and if not marked, &c, liable to confiscation

84—86. Warehouse-keeper liable to penalty if goods not stowed so as to admit easy access, and (85) if he does not produce goods on requisition of officer; and (86) goods if concealed liable to be confiscated.

87 Officer may order goods to be opened, &c., and may seal them

88 Officer to have free access to private warehouse.

89 Seven days after demand of duty on bond, license to warehouse may be withdrawn

90 Owners, &c., of goods to have access to them in presence of officer

91 Clandestine opening of warehouse to be liable to penalty

92 Owners of goods may, under rules, repack, &c., goods, fill up casks, &c, mix wines, &c, take samples, &c

93—94 Owners, &c, not entitled to compensation for loss or damage, except incurred through wilful act or neglect of warehouse-keeper, but (94) duties may be remitted on goods lost, &c, by unavoidable accident, &c.

95—97. Import duty to be paid according to register at time of importation, except as to ullage on wines, &c, rates of which as per table, and (96) private warehouse-keepers to be liable to penalty for deficiency, except as to wine, &c, and (97) for goods in excess of registered quantity extra duty to be paid.

98—99. Prohibits removal of goods from warehouse except under Custom House pass, (99) to be obtained on application in Form D.

100. Bonders to pay duty and be liable to penalty, 1,000 rupees, in case of removal of goods without pass, &c

101—102 Expenses of carriage, &c., to and out of warehouse to be added to duties; and (102) goods may be sold for rent and dues in case of non-payment.

103. Full duty to be paid on goods removed from warehouse otherwise than for export.

104. Goods may be detained in bond for duty, and bond enforced on goods sold.

105—107 Authorizes removal of goods from one public warehouse to another by permission, and (106) from one port to another and be re-warehoused on execution of fresh bond for duty; and (107) officers of port whence removed to transmit an account of particulars.

108 Authorizes a general bond for duties on removal from port to port.

109 Same laws and registrations to apply to goods removed as if originally imported.

110. Goods may be transhipped in one port for another port without payment of duty on entering into bond for duty at port of destination.

111 Goods from warehouse of one port, after being re-warehoused at new port may be entered either for home consumption or exportation.

112 Goods on removal from bond to be noted on bond.

113. Directs a register of all bonds to be kept at Custom House

114 Prohibits credit for duties beyond three years from date of warehousing

115 This Act to apply to all warehouses of the Bengal Bonded Warehouse Association.

#### EXPORTATION

116 Entry outwards must be obtained before export cargo is put on board, &c.

117. Directs the number of days, (fifteen) for shipment of outward cargo, for vessel not exceeding 600 tons, &c., and after expiration of time allowed, vessel to be charged with expenses

118 Prohibits shipment of cargo except on specified days, and times and places.

119 Goods brought for shipment must be examined by Customs officers

120—122 Authorizes Custom House authorities to send officer on board while vessel is clearing from port, and (121) imposes penalty on Master refusing to receive officer, and (122) officer's servant.

123 Prohibits shipment, &c, of goods until delivery of bill in Form F a Custom House.

124. Exporter to give security for landing certain goods at place for which they are entered, &c.

125—129 Export cargo to be sent on board with a boat-note signed, &c, and (126) no ship to depart without port-clearance, and (127) no pilot to take charge of ship without port-clearance, and (128) Master in applying for port-clearance to deliver manifest, &c., of cargo; and (129) port-clearance may be refused until manifest, &c, are delivered.

130 Goods entered in export manifest, and not duly shipped, &c., liable to confiscation.

131—132. On goods shipped after application for port-clearance extra duty shall be charged, and (132) duty paid on goods afterwards released may be returned.

133—134. Chief Customs authority may appoint station for Customs officer to land from outgoing ship, and (134) imposes penalty on Masters not bringing to at such station.

135—136. Regulates transshipment of goods from vessel returning to port, &c., without having discharged cargo, and regulates duties on such goods; and (136) permits such goods to be re-landed under rules.

## DRAWBACK.

137—143. Directs what amount of duty paid shall be returned as drawback on exportation, and on what conditions, and (138) where and within what time claim for drawback must be made; and (139) drawback not to be allowed on goods valued at less than drawback claimed, nor (140) upon goods not included in manifest; nor (141) on goods exported from one port to another, not being a free port; and in every case goods on which drawback is claimed must be identified as the goods on which duty was paid; and (142) person claiming drawback must make declaration respecting same, and (143) drawback goods, if not exported, &c., to be liable to confiscation.

144—147 Drawback to be allowed on all wines intended for consumption of officers of navy as per scale; on (145) conditions specified, and (146) officer's wine may be transhipped from one ship to another for same officers, and (147) such wine to be confiscated if not laden on board ship for which it is intended

148. Provisions and stores for H M Navy to be passed free of duty

## COASTING TRADE

149—150 Goods merely in coasting trade not to be subject to coasting duties, but opium, salt, certain spirits, &c., not included in the exemption; and (150) drawback not to be allowed on goods in coasting vessel

151. Authorizes local Government, under Government of India, to make regulations for coasting trade, subject to penalties

152 Prohibits shipping or landing of goods except by written permission on Sundays or holidays, or at places other than those appointed.

153 Directs what cargo boats shall be kept by Masters of coasting vessels, and penalty for breach of rules.

154 Coasting Pass in Form G. to be made out by Master, and duplicate signed by officer, before vessel departs from port.

155 Custom House officer may refuse port-clearance to vessel declared for port in India, unless bond is given, with conditions declared in this Section.

156 Authorizes officer to give a general pass for ports and intermediate ports, and to revoke same.

157 Pass to be delivered within twenty-four hours after arrival at port of discharge, under penalty

158—159. Excusable goods not to be unladen without permission; and (159) prescribes penalty for breach of this rule

160. Authorizes Customs officer to board coasting vessel, and examine cargo, &c

## CARGO BOATS

161—162. Authorizes the local Government to give the exclusive right to ply to registered cargo boats, (162) licenses to be issued by Custom House authority

## \* SPIRITS.

163—168. Authorizes the Customs authorities to provide rules for removal of spirits manufactured by English method, without payment of excise duty,

under bond, (164) such spirits to be taken direct from distillery to Custom House, (165) and there be gauged and proved; (166) and drawback and duty, &c., regulated accordingly; and (167) drawback of excise duty to be allowed on exportation, (168) unless exported to Indian port.

169 Spirits of this kind exported from one Indian port to another to pay Customs duties at port of destination

170 Rum shrub, cordial, &c, to pay duty according to the quantity of spirit contained in it.

171 Spirits bonded for excise duty may be taken out for exportation.

172 No drawback allowed after duty paid, nor on bonded spirits unless shipped from Custom House.

173. Imposes penalty on person re-landing spirits without special pass.

#### AGENTS

174—175. No person to act as agent at Custom House, without Custom House authority; and (175) person acting as agent may be required to produce his authority

#### DUPLICATE BILLS OF ENTRY

176—177 Upon entry or clearance for importation or exportation, duplicate bill of entry or shipping bill to be delivered to officer, (177) under penalty, 200 rupees, on failure

#### TAKING OF SAMPLES

178 Authorizes Customs officers to take samples

#### MISCELLANEOUS.

179—180 Authorizes Government to fix value of articles liable to *ad valorem* duty, and (180) directs how value to be taken, if not fixed by tariff of values

181 Directs by whom expense of piling, &c, timber, &c, shall be borne

182—183. Authorizes transshipment of stores from one ship to another without duty, if both belong to same owner, and (183) exempts ship's stores from duty, if going to foreign port

184 Directs that in case of dispute respecting the amount of duty, the amount shall be deposited pending reference to the Chief Customs authority

185 Duty short-levied by mistake to be made up, and refunded by mistake to be paid back, &c

186 No refund to be made unless claimed within six months.

187 Incidental expense of unshipping, &c., for Custom House purposes to be borne by the owner of the cargo.

188. Compensation for loss or injury to goods while detained by Custom House, not to be made, unless such loss, &c., was occasioned by wilful act or neglect of officer.

189 Authorizes rates to be fixed for Custom House wharfage.

190. Saves anchorage and harbour dues, and special duties on opium, &c.

191. Regulates charge for duplicate of Custom House document.

192. Authorizes Commissioner or Collector of Customs to exempt himself or officer on public grounds from serving on jury or inquest.

# OFFENCES AND PENALTIES.

193 Penalty on Commanders of tug-steamers or pilot-vessels receiving or discharging any goods without due authority

194 Penalty for shipping, landing, concealing, &c, contrary to Act.

195 Vessels in Port with a cargo, and afterwards found in ballast, and cargo unaccounted for, liable to confiscation.

196 The confiscation of any vessel shall include her tackle, apparel, and furniture, of goods, the package and all contents thereof, and the horse, boat, &c, used in the conveyance of them.

197 Port-clearance may be refused till payment of any penalty due from the person in charge, or owner of the vessel, &c

198 Persons suspected of offence against Customs law may be detained.

199 Vessels, goods, and persons may be seized or detained.

200 Vessels, and goods seized how to be dealt with

201 Persons detained to be taken to nearest Magistrate or Officer of Custom House.

202. Persons taken before a Justice for offence under Customs Acts may be detained or admitted to bail.

203 Any person escaping may be afterwards detained.

204 Persons in Her Majesty's Navy when detained, to be secured on board until warrant procured

205 When seizure is made, seizing officer to give reason in writing

206 Procedure in respect of goods seized on suspicion

207 Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

208 Magistrate of District may issue search warrant on application

209 Persons may be searched on reasonable suspicion.

210. Persons before search may require to be taken before a Magistrate, &c

211 Penalty for searching persons on insufficient grounds

212 Customs officers, if guilty of breach of duty, how punishable

213. Customs officers, committing or conniving at frauds how punishable

214. No suit or proceeding to be commenced without notice, or after stated interval.

215. Punishment for obstruction to Customs officers.

216. Penalty for making false declaration, refusing to answer questions, &c.

217. Penalty for unauthorized declaration to value of goods

218. Officer in charge of Custom House may adjudge confiscations and penalties.

219. Local Government may confer like powers on other officers of Customs.

220 Appeal from subordinate to Chief Customs authority.

221. Penalty under this Act not to interfere with punishment which may be inflicted under any other law.

222. Offences not specially provided for how to be adjudicated.

223. Penalty adjudged by Magistrate, &c., may be remitted or commuted by Chief Customs authority.

224. How payment of penalty to be enforced.

225. Periods of imprisonment, in default of payment of penalty or fine, to be fixed within certain limits.

226. Imprisonment to terminate upon payment of the fine.

227. Or upon payment of proportional part of fine.

228. On confiscation of vessel or goods, property to vest in Her Majesty.

229. Appropriation of penalties, &c., and grant of rewards.

230. Act to commence from 1st May 1863.

# SCHEDULE OF FORMS.

A.—H. Application for licence for private warehouse. B Application to warehouse goods. C. Bond for import duty. D Application to remove goods from warehouse; and (E) from one warehouse to another. F Shipping Bill. G. Coasting Pass H. Bond for the removal of spirits from licensed distillery

An Act to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India.

WHEREAS it is expedient that the laws relating to the administration of the Department of Sea Customs in India should be consolidated and

Preamble.

amended; It is enacted as follows:—

I. This Act shall be called the Consolidated Customs Act.

Title

II. From and after the date on which this Act shall come into operation, Regulation IX. 1810 of the Bengal Code (for rescinding the whole

Laws repealed.

of the Regulations at present in force for the collection of the Government Customs in the Provinces of Bengal, Behar, Orissa, and Benares, and in the Ceded and Conquered Provinces; and for re-establishing those Customs with amended Rules for the collection of them), Regulation VI. 1814 of the said Code (for modifying certain parts of Regulation IX. 1810 and Regulation I. 1812), Regulation XXI. 1817 of the said Code (for modifying and explaining certain parts of Regulation IV. 1815), Regulation XV. 1825 of the said Code (to make certain alterations in the rates of Duty charged and drawbacks allowed on Goods Imported or Exported by Sea at the Port of Calcutta or any other place within the Territories

immediately subordinate to the Presidency of Fort William, and to amend and consolidate the rules in force relative to such Duties and Drawbacks), Regulation XV. 1829 of the said Code (for altering the mode of valuing Goods Imported by Sea with a view to the assessment of Customs Duties thereon), Regulation III 1830 of the said Code (for amending part of the rules of Regulation XV. 1829, and likewise for better enforcing the payment of Duty on the Exportation of Goods by Sea), Regulation VI. 1833 of the said Code (for rescinding part of Regulation XV. 1829, and for enacting other rules in the case of Goods imported by Sea), Acts XIV and XXV of 1836, Act XVI of 1837, Act VI of 1841 (for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort William in Bengal), Act XIII of 1841 (for explaining the provisions of Act No XXV of 1836), Act XXIII of 1841 (for prohibiting the Importation of Rum and Rum Shrub into the Presidency of Fort St. George in Madras), Act XXV of 1843 (for making the provisions of 5 and 6 Vic. c. 47, Section XI, applicable to India), Sections XVII to XLI and Sections XLVI to LXVIII of Act VI of 1844 (for abolishing the levy of Transit or Inland Customs Duties, for revising the Duties on Imports and Exports by Sea, and for determining the price at which Salt shall be sold for home consumption within the territories subject to the Government of Fort Saint George), Section III of Act VI of 1848 (for equalizing the Duties on Goods Imported and Exported on Foreign and British Bottoms, and for abolishing Duties on Goods carried from Port to Port in the Territories subject to the Government of the East India Company), Act VII of 1848 (to except certain Free Ports from the operation of Section III of Act VI of 1848 and otherwise to amend that Act), Act X of 1850 (to declare Aden a Free Port), Act I of 1852 (for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay), Act XXIX of 1855 (for amending Act No. VI of 1844), Act VII of 1859 (to alter the Duties of Customs on Goods Imported or Exported by Sea), Section III of Act XXII of 1859 (to amend Act I. of 1852, for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay),

Sections III and IV of Act X of 1860 (*to amend Act VII of 1859, to alter the Duties of Customs on Goods Imported or Exported by Sea*), and Section II of Act XXIII of 1860 (*to amend Act XXI of 1856, to consolidate and amend the laws relating to the Abkaree Revenue in the Presidency of Fort William in Bengal*)—are repealed; except in so far as they repeal the whole or any part of any other Regulation or Act; or relate to Duties leviable on Salt or Opium; and except as to any act done, offence committed, or liability incurred before the date on which this Act shall come into operation.

III. The following words and expressions in this Act have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

1. The words “British India” denote the Territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic., c. 106 (*entitled “An Act for the better government of India”*), except the Settlement of Prince of Wales’ Island, Singapore, and Malacca.

2. The words “Local Government” denote the persons authorized to administer Executive Government in any part of British India; or the Chief Executive Officer of any part of British India under the immediate administration of the Governor-General of India in Council, when such Chief Executive Officer shall by an order of the Governor-General in Council published in the Official Gazette, be authorized to exercise the powers vested by this Act in a local Government.

3. The words “Chief Customs Authority of the Presidency or place,” denote the persons authorized to exercise, under any local Government, the chief control in the Department of Customs in any Presidency or place.

4. The words “Chief Officer of Customs of the Port” denote the Executive Officer of highest rank in the Department of Customs in any Port.

5. The words "Officer in charge of the Custom House" include every Officer of Customs who is the Officer in charge of the Custom House." for the time being authorized to have separate charge of a Custom House.

6 The word "Magistrate" includes every Officer exercising the powers of a Magistrate.  
"Magistrate."

7. The words "Free Port" denote any Port at which no Duties of Customs are leviable.  
"Free Port."

8. The words "Foreign Port" include any Port situated beyond British India, and any Free Port.  
"Foreign Port."

9. The words "Foreign Goods" include all goods not produced or manufactured in British India.  
"Foreign Goods"

10 The word "Vessel" includes any thing made for the conveyance by water of human beings or property  
"Vessel."

11. The words "Coasting Vessel" denote any Vessel plying between one Port in British India not being a Free Port, and another Port in British India not being a Free Port, without touching' at any intermediate Foreign Port  
"Coasting Vessel."

12. The words "Master or Commander" include every person, except a Pilot, having command or charge of any vessel.  
Master or Commander.

13 The word "Warehouse" denotes any place approved, appointed, or licensed for the keeping and securing of goods entered to be warehoused without payment of Duty on the first entry thereof.  
"Warehouse."

14. Words importing the singular number include the plural number, and words importing the plural number, include the singular number.  
Number

15. Words importing the masculine gender include females.  
Gender

## GENERAL RULES.

IV. It shall be competent to the Chief Customs Authority of any Presidency or place, with the sanction of the local Government, to make and issue rules for regulating the practice and proceedings of Officers in the Department of Sea Customs; and from time to time to add to, alter, or revoke such rules or any of them; provided that no rule so made shall be inconsistent with any provision of this Act, or of any other law for the time being in force. Any rules made under this Section shall be published in the Official Gazette.

V. Any rules made under the last preceding Section may include such rules as appear expedient for the landing and shipping of passengers' baggage and the passing of the same through the Custom House; and for the landing, shipping, and clearing of parcels forwarded by Her Majesty's or other mails, or by other regular packets and passenger vessels. When any baggage or parcels are made over to an Officer of Customs for the purpose of being landed, a fee of such amount as the local Government shall from time to time direct, shall be chargeable thereon, as compensation for the expense and trouble incurred in landing and depositing the same in the Custom House.

VI. If any dispute shall arise between any Officer of Customs, and any Master or Commander of a vessel, or importer, exporter, owner, or consignee of goods, or agent, or other person, in respect to any matter (not specially provided for by any law for the time being in force) relating to the importation, exportation, or warehousing of any goods, or to the levy of any Duty or penalty thereon, or to any seizure or forfeiture thereof, the Chief Customs Authority of the Presidency or place in which such dispute shall have arisen shall settle the same, subject to an appeal to the local Government, acting under the general instructions of the Governor-General of India in Council.

# APPOINTMENT OF OFFICERS, PORTS, WHARVES, WAREHOUSES, &c.

**VII.** The local Government of every Presidency or place in which Duties of Sea Customs are levied, shall appoint such persons as it may deem proper to exercise the powers conferred, and to perform the duties imposed by this Act. Every person so appointed shall be liable to be suspended or dismissed by the local Government which appointed him.

**VIII.** The local Government may delegate to any Authority within its jurisdiction in the Department of Customs the whole or any portion of the powers vested in it by the last preceding Section. Every subordinate Officer who is appointed by virtue of such delegated power, shall be liable to be suspended or dismissed by the Authority which appointed him.

**IX.** At any Port or place at which there is no Officer in charge of a Custom House, the Collector of Revenue of the District and the Officers subordinate to such Collector shall be deemed to be the proper Officers for the performance of all duties required by this Act to be performed by an Officer in charge of a Custom House and other Officers of Customs.

**X.** The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, the places within such Presidency or place which alone shall be Ports for the shipment and landing of goods; and may declare the limits of such Ports; and may appoint proper places therein to be Wharves for the landing and shipping of goods; and may declare the bounds and extent of any such Wharf; and may from time to time alter the limit of any Port or Wharf; and may alter the name thereof. Every Port and Wharf which shall have been declared and appointed, or which shall be existing as such, at the date on which this Act shall come into operation, shall continue to be such

Local Government to appoint the necessary Officers.

Local Government may delegate its powers to other Customs Authority. Subordinate Officers liable to be suspended or dismissed by the Authority appointing them

The Collector of Revenue of District to perform duties of Customs Officer where there is no separate Customs Officer

Local Government may from time to time appoint Ports and Wharves for shipment and landing, and may alter, &c.

Existing Ports and Wharves to continue in use until otherwise ordered.

Port or Wharf, until the local Government shall otherwise declare by notice in the Official Gazette.

**XI.** The Governor-General of India in Council may from time to time declare, by notice in the Official Gazette, that any Port in British India shall be a Free Port at which no Duties of Customs shall be levied on the importation or exportation of goods by Sea.

Governor-General in Council may declare Free Ports.

**XII.** The Governor-General of India in Council may, from time to time declare, by notice in the Official Gazette, that any Port on the Continent of India, though such Port be situated beyond British India, shall be regarded as a British Indian Port for the purposes of Section XVIII, of Section CXLI, and of Sections CXLIX to CLX of this Act, in so far as the said Sections or any of them are capable of being applied with respect to such Port; and may in like manner from time to time by notice in the Official Gazette revoke or suspend the operation of any such declaration. So long as any such declaration shall be in force in respect to any Port, goods exported thereto from any Port in British India, or imported therefrom at any Port in British India, shall, as regards warehousing, drawback, and all other matters for which provision is made in any part of this Act, be treated in all respects like similar goods exported from one Port in British India to another such Port, or imported at one Port in British India from another such Port.

**XIII.** If any goods be landed, or shipped, or if an attempt be made to land or ship any goods, or if any goods be brought into any bay, river, creek, or arm of the Sea for the purpose of being landed or shipped at any Port or place, which, at the date of such landing, shipment, attempt, or bringing, shall not have been declared to be or shall not be existing as a Port for the landing and shipment of goods, such goods shall be liable to confiscation, together with any ship, boat, carriage, or other means of conveyance engaged in such landing or shipment, or attempt to land or ship, or bringing for the purpose of landing or shipment.

Penalty for landing or shipping goods at unauthorised Port, &c.

**XIV.** The local Government of any Presidency or place may from time to time declare, by notice in the Official Gazette, that any Port or place within such Presidency or place shall be a Warehousing Port or place for the purposes of this Act; and every Port which, at the date on which this Act shall come into operation, shall have been declared to be or shall be existing as a Warehousing Port, shall continue to be a Warehousing Port under this Act, until the local Government shall otherwise declare by notice in the Official Gazette.

**XV.** In any Warehousing Port or place the Chief Customs Authority of the Presidency or place may from time to time approve, appoint, or license Warehouses or places of security wherein goods may be deposited without payment of Duty on the first entry thereof, and every Warehouse which, at the date on which this Act shall come into operation, shall have been approved, appointed, or licensed as such, shall continue to be a Warehouse under this Act, until otherwise ordered by such Chief Customs Authority.

#### LEVY OF AND EXEMPTION FROM CUSTOMS DUTIES.

**XVI.** Duties of Customs shall be levied on goods imported by Sea into any Port in British India, not being a Free Port, from any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force

**XVII.** Duties of Customs shall be levied on goods exported by Sea from any Port in British India, not being a Free Port, to any Foreign Port or place, at such rates and with such exemptions as may be prescribed by any law for the time being in force.

**XVIII.** No Duties of Customs shall be levied on goods carried by Sea from any Port in British India, not being a Free Port, to any other Port in British India, not being a Free Port.

**Provided that nothing in this Section shall apply to Opium or**  
 \* **Proviso as to Opium, Salt, or to Spirits manufactured after the**  
**Salt, and Spirits. \* English method.**

**XIX.** It shall be lawful for the local Government to autho-  
 Local Government may in certain cases authorize exemption from payment of Duty. rize the Chief Customs Authority of any Presidency or place, to exempt by special order, from the payment of Duty, under stated circumstances of an exceptional nature, any goods on which Duties of Customs are directed to be levied by any law for the time being in force.

**XX.** It shall be lawful for the Officer in charge of a Custom  
 Baggage in actual use. House to pass free of Duty at his discretion any baggage in actual use; and for this purpose to determine, subject to such general rules as may from time to time be made under Section IV\* of this Act, whether any goods shall be treated as baggage in actual use, or as goods subject to Duty.

#### GENERAL PROVISIONS.

**XXI.** The importation into or exportation from British  
 Prohibitions and res- India of the goods enumerated in the fol-  
 trictions. lowing Clauses is prohibited.—

1. Any book printed in infringement of any law in force in British India on the subject of copy-right, when the proprietor of such copy-right, or his agent, shall have given to the Chief Customs Authority of the Presidency or place a notice in writing that such copy-right subsists, and a statement of the date on which it will expire.

2. False or counterfeit coin; or coin which purports to be Queen's coin of India, but is not of the established standard in weight or fineness.

3. Any obscene book, pamphlet, paper, drawing, painting, representation, figure, or article.

**XXII.** The importation into British India of Arms or  
 Importation without Ammunition, except under a license from the Governor-General of India in Council, or from some Officer authorized in that behalf by the Governor-General of India in Council, is prohi-  
 Escape of Arms and Ammunition, prohibited.

bited. Nothing in this Section shall apply to fowling pieces, and sporting powder, *bona fide* imported by any person in reasonable quantities for

his own private use.

XXIII. It shall be lawful for the Governor-General of India in Council, from time to time by notice in the Official Gazette to prohibit or restrict the importation or exportation of any particular class of goods.

XXIV. If any goods, the importation or exportation of which is prohibited or restricted, or shall hereafter be prohibited or restricted, be imported into or exported from British India contrary to such prohibition or restriction; or if any attempt be made so to import or export any such goods, or if any such goods be found in any package produced to any Officer of Customs as containing no such goods; or if any such goods or any goods subject to a Duty or restriction, in respect of importation or exportation, be found either before or after landing or shipment to have been concealed in any manner on board of any vessel within the limits of any Port in British India; or if any goods, the exportation of which is or shall be prohibited or restricted, be brought to any Wharf in order to be put on board of any vessel for exportation contrary to such prohibition or restriction,—such goods, together with any goods which shall be found packed with or used in concealing them shall be liable to confiscation; and any person concerned in any such offence shall be liable to a penalty not exceeding three times the value of the goods, or not exceeding one thousand Rupees

XXV. It shall be lawful to import into, or to export from, British India any goods, the importation or exportation of which is not prohibited or restricted by any law or notice of the Governor-General of India in Council, for the time being in force; and any dutiable goods, the importation and warehousing of which is not prohibited or restricted by any such law or

Proviso

Governor-General may prohibit or restrict importation or exportation of goods.

Goods imported or exported contrary to prohibition liable to confiscation, and persons concerned to penalty.

Importation, exportation, and warehousing.

notice, may under the rules for the warehousing of goods in force at the Port of importation, be warehoused without payment of Duty on the first entry thereof.

**XXVI.** On the importation into, or exportation from, any Port in British India, of any goods not liable to Duty, or liable to fixed Duties according to weight or quantity only, or to Duties on fixed Tariff valuations, the owner, consignee, importer, exporter, or agent of such goods shall, in his bill of entry or shipping bill, truly declare their real value to the best of his knowledge and belief. In case of doubt, it shall be lawful for the Officer in charge of the Custom<sup>s</sup> House to require any such person or any other person who shall be in possession of any invoice, broker's note, policy of insurance, or other document, whereby the value of any such goods can be ascertained, to produce the same, and to furnish any information relating to the value of such goods which it shall be in his power to furnish. And it shall thereupon be the duty of such person to produce any such document or to furnish any such information so required by such Officer

**XXVII.** If, upon the examination of any goods entered for Under-valued goods how to be dealt with. Duty and chargeable with Duty upon the value thereof, but for which a specific value has not been fixed by the local Government, with the sanction of the Governor-General of India in Council, it shall appear to an Officer of Customs that such goods are properly chargeable with a higher rate or amount of Duty than that to which they would be subject, according to the value thereof as stated in the bill of entry or shipping bill, it shall be lawful for such Officer to detain such goods. In every such case the detaining Officer shall forthwith give notice in writing, to the person entering the goods, of their detention, and of the value thereof as estimated by him, and the Officer in charge of the Custom House shall, within two clear working days after such detention, or within such reasonable period as may with the consent of the parties be arranged, determine either to deliver such goods on the entry of such person, or to retain the same for the use of

**Government.** If the goods be retained for the use of Government, the Officer in charge of the Custom House shall cause the full value at which such goods were entered to be paid to the person entering the same, in full satisfaction for such goods, in the same manner as if such goods had been transferred by ordinary sale, and shall then cause the goods to be sold by public auction after due notice in the Official Gazette. If the proceeds arising from such sale shall exceed the sum paid to the person entering the goods, together with the Duty to which the goods are liable, and all charges incurred by Government in connection with them, a portion not exceeding one-half of the overplus shall at the discretion of the Chief Officer of Customs of the Port, be payable to the Officer who detected the under-valuation of the goods. Nothing in this Section shall prevent the Chief Officer of Customs of the Port, when he shall have reason to believe that any such under-valuation was solely the result of accident, from permitting the person entering the goods, on his application for that purpose, to amend such entry, as regards valuation on payment of such increased rate of Duties, or on such other terms as he may determine. When goods are retained under this Section on account of Government, the Duties payable thereon shall in no case be levied from the person entering such goods.

**XXVIII.** If it be found, when any goods are entered at or brought to be passed through a Custom

Goods brought to be passed through the Custom House liable to confiscation in case of discrepancy, mis-description, &c.

House either for importation or exportation, that the packages in which they are contained differ widely from the description given in the entry or application for passing

them; or that the contents thereof have been wrongfully described in such entry or application as regards the denominations, characters, or circumstances according to which such goods are chargeable with Duty, or are being imported or exported; or that the contents of such packages have been wilfully mis-stated in regard to sort, quality or quantity; or that goods not stated in the entry or application have been fraudulently concealed in or mixed with the articles specified therein, or have been packed to

deceive the Officer of Customs, such packages, together with the whole of the goods contained therein, shall be liable to confiscation.

**XXIX.** If upon the first levying, repealing, enhancement, <sup>Date of importation</sup> or reduction of any Duty, or upon any <sup>how to be determined.</sup> change of any fixed valuation for Duty, or upon the first permitting, prohibiting, or restricting of any importation, it shall become necessary to determine the exact date on which an importation of goods had effect, such date shall be deemed to be that on which the goods were actually entered for home consumption at the Custom House.

**XXX.** If in like manner, it shall become necessary to determine the exact date on which an exportation <sup>Date of exportation</sup> of goods had effect, such date shall <sup>how to be determined.</sup> be deemed to be that on which the goods were actually entered outwards at the Custom House.

**XXXI.** If goods produced or manufactured in British India be imported into any Port in British India <sup>Re-imported articles</sup> from any Foreign Port or place, such <sup>of country produce to be</sup> goods shall be treated as Foreign goods, <sup>deemed Foreign.</sup> and shall be liable to all the duties, conditions, and restrictions to which Foreign goods of the like kind and value are liable on the first importation thereof. Provided <sup>Proviso</sup> that if such importation shall take place within three years after the exportation of such goods, and it shall be proved to the satisfaction of the Officer in charge of the Custom House that the property in such goods has continued in the person by whom or on whose account they were exported, the goods may be entered as Indian goods, in such manner as the Chief Customs Authority of the Presidency or place shall, from time to time, direct. Goods, for which any drawback of Excise shall have been received on exportation, shall in all cases be treated as Foreign goods, unless the Chief Customs Authority of the Presidency or place shall in any case otherwise direct by special order.

**XXXII.** The Chief Customs Authority of any Presidency or place may, from time to time, appoint, Stations may be appointed for Customs Officers to board and also land from Ship in any Port in British India, stations or places at which vessels arriving at, or departing from, such Port, shall bring to for the boarding or landing of Officers of Customs, and may direct at what particular place in any such Port, small vessels, not brought into Port by Pilots, shall be required to anchor or moor. The Chief Officer of Customs of any such Port may, at any time, station Officers of Customs on board of any vessel, while such vessel remains within the limits of the Port. Any person infringing any rule or order made under this Section by the Chief Customs Authority of any Presidency or place, or by the Chief Officer of Customs of any Port, shall be liable to a penalty not exceeding five hundred Rupees.

### **IMPORTATION**

**XXXIII.** It shall be lawful for the local Government of any Presidency or place, by notice in the Official Gazette, to fix a place in any River or Port, beyond which place it shall not be lawful for any vessel, whether laden or in ballast, arriving from any Foreign Port or place, to pass, until the Master or Commander thereof shall have delivered to the Pilot, Officer of Customs, or other person duly authorized to receive the same, a Report or Manifest containing a true specification of all goods imported in such vessel, with such particulars (as to the name, nation, tonnage, cargo, and Ports of lading of such vessel) and made out in such form as shall, from time to time, be directed by the Chief Customs Authority of the Presidency or place in which such River or Port is situated.

**XXXIV.** If in any River or Port wherein a place has been so fixed by the local Government, the Master or Commander of any vessel arriving On failure, Master to be liable to penalty

ing from a Foreign Port or place shall wilfully omit, before passing beyond such place, to deliver a Report or Manifest in the form and containing the particulars indicated in the last preceding Section, in so far as they are applicable to his ship, cargo, and voyage; or if any Report or Manifest so delivered shall not contain a true specification of all goods imported in such vessel, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

**XXXV.** If in any River or Port wherein a place has been fixed by the local Government under Section XXXIII of this Act, the Master or Commander of any vessel arriving from any Foreign Port or place shall remain outside or below the place so fixed, such Master or Commander shall, nevertheless, so soon as the vessel shall anchor, deliver to the Pilot, Officer of Customs, or other person authorized to receive the same, a Report or Manifest as provided in the said Section. If any Master or Commander so remaining outside or below any such fixed place, shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver his Report or Manifest, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

Penalty for failure to report when vessel anchors below reporting Station, or to deliver a Manifest of the Cargo

**XXXVI.** If, after any vessel arriving from any Foreign Port or place shall have entered any Port in British India at which a Custom House is established, and in which a place shall not have been fixed under Section XXXIII of this Act, the Master or Commander of such vessel shall wilfully omit, for the space of twenty-four hours after anchoring, to deliver as required by that Section his Report or Manifest to the Pilot, Officer of Customs, or other person authorized to receive the same, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

**XXXVII.** If any Pilot, Officer of Customs, or other person, authorized to receive a Report or Manifest from any Master or Commander of a vessel, shall refuse so to do, he shall,

Penalty for Pilot, &c., not receiving Report or Manifest.

in every such case, be liable to a penalty not exceeding five hundred Rupees.

**XXXVIII.** If any vessel arriving from any Foreign Port or place at any Port in British India, shall, after having come to its proper place of mooring or unlading, remove from such place, except with the authority of the Master Attendant or Harbour Master, obtained in accordance with the provisions of Act XXII of 1855 (*for the regulation of Ports and Port-dues*), directly to some other place of mooring or unlading, the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees, and the vessel shall not be allowed to enter until the penalty is paid

**XXXIX.** It shall be lawful for the Chief Customs Authority of any Presidency or place to appoint stations at which any vessel, arriving at any Port in such Presidency or place from any Foreign Port or place, may be required to bring to for the boarding of such vessel by an Officer of Customs deputed by the Officer in charge of the Custom House at such Port

**XL.** If the Master or Commander of any vessel arriving at any Port in British India from any Foreign Port or place shall, when so required under the last preceding Section, fail to bring to at any such station as shall have been appointed by the Chief Customs Authority of the Presidency or place for the boarding of vessels by an Officer of Customs, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

**XLI.** It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to depute at his discretion one or more Officers of Customs to board any vessel arriving at such Port. Every Officer of Customs so sent, shall remain on board of such vessel by day

and by night until it be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see fit so to do, and on such conditions as he may see fit to impose, that the discharge of cargo may take place without the presence of an Officer of Customs.

**XLII.** Every Master or Commander of a vessel, who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board; and the vessel shall not be allowed to enter until the penalty is paid.

**XLIII.** Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water, and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

**XLIV.** Every Officer of Customs, deputed as above provided on board of any vessel, shall have free access to every part thereof, and shall have power to fasten down any hatchway or entrance to the hold, and to mark any goods before landing, and to lock up, seal, mark, or otherwise secure any goods on board of such vessel. If any box, place, or closed receptacle in any such vessel be locked, and the keys be withheld, such Officer shall report the same to the Officer in charge of the Custom House, who may thereupon issue to the Officer on board, or to any other Officer under his authority, a written order to search; and, on production of such order, it shall

be competent to the Officer bearing the same to require that any place, box, or closed receptacle in such vessel be opened in his presence, and, if it be not opened upon his requisition,

Goods found concealed  
liable to confiscation      to break the same open; and any goods that shall be found concealed therein, and that shall not be duly accounted for to the satisfaction of the Officer in charge of the Custom House, shall be liable to confiscation.

**XLV.** \* If any Master or Commander of a vessel shall refuse to allow such vessel or any box, place, or closed receptacle in such vessel to be searched when so required by an Officer of Customs bearing a written order to search, or if an Officer of Customs shall place any lock, mark, or seal upon any goods, and such lock, mark, or seal shall be wilfully opened, altered, or broken, before due delivery of such goods, or if any such goods shall be secretly conveyed away, or if any hatchway or entrance to the hold, after having been fastened down by an Officer of Customs, shall be opened without his permission, in every such case the Master or Commander of such vessel shall be liable, upon conviction before a Magistrate, to a penalty not exceeding one thousand Rupees.

**XLVI.** No vessel arriving in any Port in British India from any Foreign Port or place, shall be Bulk not to be broken until Manifest, &c., delivered, and ship entered at Custom House.      allowed to break bulk until a Report or Manifest shall have been delivered as hereinbefore provided; nor until a copy of such Report or Manifest, together with an application for entry inwards, shall have been presented to the Officer in charge of the Custom House, and order shall have been given thereon by such Officer for the discharge of the cargo. The Officer in charge of the Custom House may refuse to give such order, until any Port-clearance, cockett, or other paper, which he shall know or have reason to believe, had been granted at the place from which the vessel is stated to have come, shall likewise have been delivered to him. Nothing in this Section shall prevent an Officer in charge of a Custom House from granting, on receipt of the

original Report or Manifest, and prior to the entry of the vessel at the Custom House, a special pass, under such rules as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, for the unshipping of Bullion or Treasure.

**XLVII.** The Master or Commander of every vessel arriving from any Foreign Port or place shall, at the time of applying for entry inwards at any Port in British India, deliver to the

Master if required, to deliver Bill of Lading, &c., to Officer in charge of Custom House

Officer in charge of the Custom House, if required so to do, the bill of lading or a copy thereof for every part of the cargo laden on board, and shall answer all such questions relating to the vessel, cargo, crew, and voyage as shall be put to him by such

Penalty for false-entry, fraudulent alteration, &c.

Officer. If any such bill of lading or copy thereof shall be false; or if any such bill of lading or copy shall have been altered with fraudulent intent; or if the goods expressed in any such bill of lading or in any bill of lading of which a copy shall be so produced shall not have been *bond fide* shipped on board of such vessel; or if any such bill of lading so produced, or any bill of lading of which a copy shall be so produced by any such Master or Commander, shall not have been made previously to the departure of the vessel from the place where the goods expressed in such bill of lading were shipped, or if any part of the cargo shall have been stayed, destroyed, or thrown overboard, or if any package be opened, and such part of the cargo or such package be not accounted for to the satisfaction of the Officer in charge of the Custom House; in every such case the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees.

**XLVIII.** No goods shall be allowed to leave any vessel, unless they be duly entered in the Report or Manifest of such vessel. If any goods be found on board in excess of those entered in the Report or Manifest, or not corresponding with the specification therein

Goods not to leave ship unless entered in Manifest. Goods not agreeing in description and quantity with entry in Manifest liable to confiscation, or extra Duty.

if contained, the fact shall be reported by the Officer of Customs on board, and all such goods shall be liable to confiscation, or to be charged with such increased rates of Duty as the Chief Customs Authority of the Presidency or place shall direct.

XLIX. If any goods entered in the Report or Manifest shall not be found on board of the vessel, or if the quantity found be short, and if such deficiency be not accounted for to the satisfaction of the Officer in charge of the Custom House, the Master or Commander of such vessel shall be liable, in addition to full Duty to a penalty not exceeding twice the amount of Duty chargeable on the missing or deficient goods, if they be capable of being assessed therewith, or if they be not, to a penalty not exceeding five hundred Rupees for every missing or deficient package of unknown value.

L. Nothing contained in the two Sections last preceding shall be construed to prevent any Officer in charge of a Custom House from permitting the Master or Commander of any vessel to amend any obvious error, or to supply any omission resulting from accident or inadvertence, by furnishing an amended or supplementary Report or Manifest. But the receiving of such amended or supplementary document shall always be discretionary with the Officer in charge of the Custom House; who, if he decide to receive any such amended or supplementary Report or Manifest, may levy thereon such fee as the Chief Customs Authority of the Presidency or place shall from time to time direct.

LI A period of fifteen working days after the entry of a vessel not exceeding six hundred tons, or such other period as the Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of for the handling of import cargo from such vessel. One additional day shall in like manner be allowed for every fifty

tons in excess of six hundred. If the period occupied in the landing of import cargo be in excess of that so allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and Holidays excepted) for such excess period.

LII. If the importer, owner, or consignee of any goods (except such as shall have been declared by the Master or Commander as not to be landed), or the agent of such importer, owner, or consignee, shall not land such goods within fifteen working days after the entry of the vessel importing the same, or within such further period as the bill of lading of such vessel shall specify, the Master or Commander of the vessel, or the Officers of Customs, on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of, and to grant receipts for such goods, and, if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, duties, and other charges to which such goods are liable, shall be paid.

LIII. If the cargo of any vessel, with the exception of a small quantity only of goods, shall have been landed within such period of fifteen days or such further period as the bill of lading shall specify, the Officers of Customs may, on the application of the Master or Commander of such vessel, direct that such remaining goods shall forthwith be carried in like manner to the Custom House.

LIV. If any earlier period than fifteen working days after the entry of any vessel is specified in the bill of lading of such vessel for the discharge of her cargo or any part thereof, and if the importer, owner, or consignee of such

Consequence of exceeding same.

Procedure in respect of goods not landed within time allowed.

And in case of goods being landed in time, with exception of only a small quantity

Effect of not discharging Cargo in any earlier period specified in the bill of lading.

cargo, or the agent of such importer, owner, or consignee, shall not land the same within such specified period, the Master or Commander of such vessel, or the Officers of Customs, on the application of such Master or Commander, may then carry such goods to the Custom House; and the Officer in charge of the Custom House shall thereupon be bound to take charge of and to grant receipts for such goods; and if notice in writing shall have been given that the goods are to remain subject to a lien for freight, primage, general average, or other charges of a stated amount, such Officer shall be bound to hold such goods until the freight, primage, duties, and other charges to which such goods are liable, shall be paid.

LV. At any time after the arrival of any vessel, the Officer in charge of the Custom House may, with the consent of the Master or Commander of such vessel, cause any small package or parcel of goods to be carried to the Custom House, there to remain for entry in charge of the Officers of Customs during the remainder of the working days allowed under the provisions of this or any other Act relating to Customs, for the landing of such package or parcel. If any package or parcel so carried to the Custom House shall remain unclaimed on the expiration of the number of working days so allowed for its landing, or at the time of the clearance outwards of the vessel from which it was landed, the Master or Commander may give such notice as is provided in Section LII of this Act, and the Officer in charge of the Custom House shall thereupon be bound to hold such package or parcel as provided in the said Section.

LVI. If the Duties chargeable upon any goods carried to the Custom House under the provisions of any of the four Sections last preceding, together with the freight, primage, charges of landing and removal, rent and other charges, to which such goods shall be liable, shall not be paid within four months from the date of entry of the vessel, or if such goods shall not be duly warehoused within such period,

Goods may be landed at any time after arrival with consent.

Procedure in case of non-payment of Duties within four months after entry of vessel.

such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied: first, to the payment of freight, primeage, and general average: next, to the payment of Duties; and then to the payment of other charges. The overplus, if any, shall be paid to the importer, owner, or consignee of the goods or to his agent on his application for the same; provided that such application be made within one year from the sale of the goods, or that good reason be shown why such application was not so made. If any such goods be of a perishable nature, the Officer in charge of the Custom House may at any time direct the sale thereof, and shall apply the proceeds in like manner. Nothing in this Section shall be held to authorize the passing for home consumption of any dutiable goods without payment of Duties of Customs thereon.

**LVII.** If any goods be not cleared for home consumption or for warehouse within two months from the date of landing of such goods, or within such further period as the Officer in charge of the Custom House shall direct, such goods may, after due notice in the Official Gazette, be sold by public auction, and the proceeds thereof shall then be applied to the payment of Duties and other charges. The overplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent on his application for the same: provided that such application be made within one year from the date of the sale of the goods, or that good reason be shown why such application was not so made.

Goods not cleared within two months from the date of landing to be sold

Disposal of proceeds.

**LVIII.** Except with the written permission of the Officer in charge of the Custom House no goods, with the exception of passenger's baggage, shall on any Sunday, or on any Holiday or day on which the discharge of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be discharged from any vessel arriving at any Port in British India from any Foreign Port or place; nor, except

Goods not to be landed on Sundays, Holidays, &c., without permission, nor except within fixed hours, &c.

with such written permission, shall any goods be so discharged on any day, except between such hours as the Chief Customs Authority shall, from time to time, appoint by notice in the Official Gazette; nor without the presence or authority of an Officer of Customs. Any Master or Commander of a vessel who shall cause or suffer any goods to be removed contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding one thousand Rupees; and all goods so unauthorizedly removed shall be liable to confiscation.

**LIX.** If any goods shall be removed from on board of any vessel for the purpose of being landed and passed for importation, such goods shall be forthwith removed to and landed at the Wharf or other place appointed for the landing of such goods. If such goods be not so removed, or landed, or if the boat containing such goods be found out of the proper track between the vessel and such Wharf or other proper place of landing, and such deviation be not accounted for to the satisfaction of the Officer in charge of the Custom House, such goods, together with any vessel or boat employed in removing them, shall be liable to confiscation.

**LX.** No goods which shall have been discharged from any vessel under the authority of an Officer of Customs shall be landed, except at the Wharf or other place appointed for the landing of such goods. No goods which shall have been discharged into any boat for the purpose of being landed shall, previously to their being landed, be transhipped into any other boat without the permission of an Officer of Customs. Any goods landed or transhipped contrary to the provisions of this Section shall be liable to confiscation.

**LXI.** When any goods shall be sent from on board of any vessel for the purpose of being landed and passed for importation, there shall be sent with each boat-load, or other separate

Penalty

Goods removed from ship to be forthwith landed. Otherwise liable to confiscation

Goods landed at any other than appointed Wharf or place liable to confiscation.

Goods landed without a boat-note, liable to confiscation, and person in fault, to penalty.

despatch, a boat-note specifying the number of packages so sent, and the marks and numbers or other description thereof. Each boat-note shall be signed by an Officer of the vessel, and likewise by the Officer of Customs on board, if any such Officer be on board. If any goods sent to be landed be found without a boat-note in any boat proceeding to land, such goods shall be liable to confiscation; or the person by whose authority the goods are being landed, or the person in charge of the boat if it appear that the fault was with him, shall be liable to a penalty not exceeding twice the amount of Duty leviable on the said goods.

<sup>b</sup>  
**LXII.** The importer, owner, or consignee, of any goods <sup>Entry for home consumption</sup> liable to Duties of Customs, and intended to be delivered for home consumption on the landing thereof from the importing ship, or the agent of such importer, owner, or consignee, shall make entry of such goods by delivering to the Officer in charge of the Custom House, a bill of entry thereof in such form and containing such particulars as may, from time to time, be directed by the Chief Customs Authority of the Presidency or place. The particulars of such entry shall correspond with the particulars given of the same goods and packages in the Report or Manifest of the ship. Whenever the value of any goods is required to be stated in the entry, the importer, owner, or consignee, or his agent, shall subscribe a declaration of the truth of such value at the foot of such entry. Provided that, if the importer, owner, or consignee, or his agent, shall make a declaration before the Officer in charge of the Custom House to the effect that he is unable, from want of full information, to state the value or contents of any case, package or parcel of goods, then the Officer in charge shall permit him, previous to the entry thereof, to open such case, package, or parcel, and examine the contents in presence of an Officer of Customs. Except as provided in Section XXVII of this Act for cases of obvious error, no re-valuation of goods assessed for Duty on the declared value

thereof shall be allowed after such goods shall have been removed from the Custom House.

**LXIII.** If without entry duly made, any goods shall be taken or passed out of any Custom House or Wharf, the person so taking or passing such goods shall in every such case be liable to a penalty not exceeding five hundred Rupees. *Penalty for goods being delivered without entry* Provided that no entry shall be required in respect of passengers' baggage

Proviso as to passengers' baggage  
 of passengers' baggage, which may be examined, landed, and delivered under such rules as shall from time to time be made under Section IV of this Act by the Chief Customs Authority of the Presidency or place. Any prohibited or dutiable goods found, either before or after landing, concealed in any such baggage, together with the other contents of the package in which they are found, shall be liable to confiscation

**LXIV.** If, after any goods have been landed and before they have been passed through the Custom House, the importer, owner, or consignee, or his agent, or any one acting on his behalf, removes or attempts to remove them, with the intention of defrauding the Revenue, such goods shall be liable to confiscation, or, if the goods cannot be recovered, the owner shall be liable, in addition to full Duty, to a penalty not exceeding twice the amount of such Duty, if the goods be capable of being assessed therewith; or, if they be not, to a penalty not exceeding one thousand Rupees for every missing or deficient package of unknown value.

**LXV.** No claim for any abatement or refund of Duty on account of damage alleged to have been sustained before entry, shall be allowed in respect of any goods imported into any Port in British India, unless such claim be made in writing, and the damaged condition of such goods be ascertained and certified, on the first examination thereof, by a Custom House Appraiser or by such other person as the Officer in charge of the Custom House shall appoint for the purpose.

**LXVI.** Goods, the damaged condition of which is ascertained and certified to the satisfaction of the Officer in charge of the Custom House, may, after notice in the Official Gazette, be sold by public auction at such time (within thirty days from the date of entry), and at such place, as the Officer in charge of the Custom House shall appoint. The Duty on such goods shall be adjusted on the gross amount realized by their *bonâ fide* sale, as proved by the original account sales, without any abatement or deduction whatsoever, except of so much as represents the Duties payable on the importation thereof. On goods the value of which shall have been fixed under the provisions of Section CLXXIX of this Act, no abatement of Duties shall be allowed, unless they be deteriorated to the extent of one-fifth of their value. No abatement of Duty on account of damage shall be allowed on Wines, Spirits, or Beer, or on any other Articles on which Duties are levied on quantity and not on value.

**LXVII.** All goods derelict, jetsam, flotsam, and wreck brought or coming into any Port in British India, shall, at all times, be subject to the same Duties to which goods of the like kind are subject on importation at such Port, unless it shall be shown to the satisfaction of the Officer in charge of the Custom House, that such goods are the produce or manufacture of any country or place, by virtue whereof they are entitled to be admitted Duty free; or that such goods, if liable to Duty, are entitled to an abatement in respect of damage.

**LXVIII.** The Officer in charge of the Custom House, whenever he shall see fit, may require that goods brought by Sea, and stowed in bulk, shall be weighed or measured on board-ship before landing, and may levy Duty according to the result of such weighing or measurement.

**LXIX.** Any portion of an import cargo intended for another Port, or any ship's stores intended for the home voyage, may be declared by the Master or Commander of any vessel as not to be landed, and may thereupon,

Disposal of damaged goods and levy of Duty thereon

Goods derelict and wreck to be treated as Foreign Goods.

Officer in charge of Custom House may require goods to be weighed or measured on board before landing.

No Duty on portion of import cargo intended for another Port, ship's stores, &c

with the special sanction of the Officer in charge of the Custom House, be retained on board, and such cargo or ship's stores so retained shall not be subject to the payment of Duty. Provided that all such cargo and ship's stores shall be entered in the Export Manifest of the vessel, as cargo or ship's stores not landed, and on which no Duty has been paid. Nothing in this Section shall prevent the Officer in charge of the Custom House from sealing up, or otherwise securing, if he see reason for so doing, any portion of such cargo or ship's stores during the vessel's stay in Port.

### WAREHOUSING

**LXX.** It shall be lawful for any person who has imported any goods into any warehousing Port in British India to deposit such goods, without payment of Duty on the first entry thereof, in any public or private warehouse, approved, appointed, or licensed under this Act

Deposit of goods in warehouse without payment of Duty

**LXXI** Every building in any warehousing Port or place, which the Chief Customs Authority of the Presidency or place shall from time to time approve or appoint for the purpose, shall be a public warehouse for the reception of goods under this Act. Every public warehouse shall be under the lock and key of a warehouse-keeper appointed by the Chief Officer of Customs of the Port or place in which it is situated. The warehouse-keeper shall, to the extent provided in Sections LXXVI and XCIII of this Act, and not otherwise, be responsible for the charge of all goods deposited in his warehouse, and for their due reception therein and delivery therefrom.

Public warehouses

Responsibility of keeper

**LXXII.** The Chief Customs Authority of the Presidency or place may from time to time determine in what divisions of any public warehouse, and in what manner, and on what terms, including rates of rent, any goods and what sort of goods, may be deposited without payment of Duty on the first entry thereof. A table of the rates of rent

Chief Customs' Authority to decide what goods may be deposited in public warehouse, and on what terms.

no fixed for every public warehouse shall be placed in a conspicuous part thereof.

**LXXIII.** At any warehousing Port or place, the Chief Officer of Customs of the Port or place shall have power to license private warehouses for the reception of goods under this Act without payment of Duty on the first entry thereof. Every license for a private warehouse so granted shall, unless it be otherwise provided in the license, be liable to be revoked after one month's notice by the Chief Officer of Customs of the Port or place in which such warehouse is situated.

**LXXIV.** Every application for a license for a private warehouse shall be in writing, and shall be drawn up in the form marked A annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

**LXXV.** Every application for the admission of goods into any public or private warehouse shall be in writing, and shall be drawn up in the form marked B annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place, and shall be signed by the applicant.

**LXXVI.** No goods shall be warehoused without payment of Duty on the first entry thereof unless such goods shall have been assessed for Customs Duty in like manner as goods intended to be passed for home consumption.

The warehouse-keeper in respect of goods lodged in a public warehouse, and the person who obtained the license in respect of goods lodged in a private warehouse, shall be answerable for the weight or gauge reported by the Custom

Chief Officer of Customs may license private warehouses at any warehousing Port or place.

Form of application for license for private warehouses

Form of application for the admission of goods into warehouse

No goods to be warehoused without payment of Duty, unless assessed for Customs Duty

Public warehouse-keeper or license-holder of private warehouse to be answerable for weight or gauge.

House Officer who shall have assessed such goods, allowance being made, if necessary, for ullage and wastage as provided in Section XCV of this Act. Nothing in this Section shall interfere with the re-assessment for Duty of warehoused goods on their clearance for home consumption, should an alteration of any Duty or of any fixed valuation for Duty render such re-assessment requisite with reference to the provisions of Section XXIX of this Act.

**LXXVII.** When an application shall have been made for the warehousing of any goods under this Act, and when such goods shall have been assessed for Duty as directed in the last preceding Section, the importer, owner, or consignee, or his agent, shall be required to execute a bond for the amount of such Duty in the form marked C annexed to this Act, or in such other form as shall from time to time be prescribed by the Chief Customs Authority of the Presidency or place. Every such bond shall relate to the Duties chargeable on the cargo or portion of the cargo of one vessel only.

**LXXVIII.** Every bond shall be for twice the amount of Duty assessed on the goods to which it relates, and shall stipulate for the payment, on demand, of any sum due on account of any such goods, together with interest on such sum from the date of demand at such rate, not exceeding six per cent. per annum, as shall be fixed by the Chief Customs Authority of the Presidency or place. Every person who shall execute any such bond shall be bound thereby for the payment of all Duties, interest, and charges that shall be claimable on account of the goods, and of penalties incurred for violation of the Customs law in respect to the same.

**LXXIX.** When any such bond shall have been executed, the goods to which such bond relates shall be allowed to remain in warehouse for a period not exceeding three years without being liable to the demand of Import Duty.

**LXXX.** If any goods entered to be warehoused shall be carried into the warehouse, unless with the authority or under the care of the proper Officers of Customs, and in such manner, by such persons, within such time, and by such roads or ways, as such Officers shall direct, such goods shall be liable to confiscation, and the person so carrying them shall be liable to a penalty not exceeding one thousand Rupees.

**LXXXI.** When the provisions of Sections LXXV, LXXVI, LXXVII, and LXXVIII shall have been complied with in respect to any goods, such goods shall be forwarded in charge of an Officer of Customs to the warehouse in which they are to be deposited. There shall be sent with the goods a pass in which the name of the importing vessel, and of the bonder, the marks, numbers, and contents of each package, and the warehouse or place in the warehouse wherein they are to be deposited, shall be specified. On receipt of the goods into the warehouse, the correctness of the pass, if it be correct, shall be duly certified by the proper Officer, and the pass shall be returned to the Officer in charge of the Custom House, after which the warehousing of such goods shall be deemed to have been completed. If any goods entered to be warehoused shall be withheld, or removed from any proper place of examination, before they shall have been examined and certified by the proper Officer, it shall be deemed that such goods have not been duly warehoused, and they shall be liable to confiscation.

**LXXXII.** When goods are passed by tale or by package, the importer, owner, or consignee of such goods, or his agent, shall, for every omission or mis-description thereof, tending to injure the Revenue be liable to a penalty not exceeding ten times the amount of Duty which might have been lost to Government by such omission or mis-description, unless it shall be proved to the satisfaction of the Officer in charge of the Custom House that the variance was accidental. If the quantity or value of any

goods shall have been over-stated on importation, the error may be rectified at any time before the warehousing of the goods shall be completed.

**LXXXIII.** No package, butt, cask, or hogshead shall be admitted into any public or private warehouse, unless it bear the marks and numbers specified in the pass for its admission.

Package, &c., to be marked and numbered before admission into warehouse.

All goods shall be warehoused in the packages, butts, casks, or hogsheads in which they shall have been imported, except as provided in Section XCII of this Act. If any such goods be not so warehoused, or if any alteration be made in goods so warehoused, or in the packing thereof, except as provided in the said Section, or if any such goods be removed from the warehouse in which they were originally deposited, except in presence, or with the sanction of the proper Officer, or under the proper authority for their delivery, such goods shall be liable to confiscation.

Proviso as to confiscation

**LXXXIV.** If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall neglect to stow the goods warehoused therein so that easy access may be had to every package and parcel thereof, he shall for every such neglect be liable to a penalty not exceeding fifty Rupees.

Penalty for neglecting to stow goods properly in warehouse

**LXXXV.** If the keeper of any public warehouse, or the person who has obtained a license for any private warehouse, shall fail, on the requisition of any Officer of Customs, to produce any goods which shall have been deposited in such warehouse, and which shall not have been duly cleared and delivered therefrom, he shall, for every such neglect, be liable not only to pay the Duties due on such goods, but also to a penalty not exceeding fifty Rupees in respect of every package or parcel so missing or deficient.

Or for neglecting to produce goods when required

**LXXXVI.** If any goods entered to be warehoused shall not be duly warehoused in pursuance of such entry, or after being duly warehoused shall be fraudulently concealed in or removed from the warehouse, or abstracted

Goods entered to be warehoused, if not duly warehoused, or if concealed or removed, liable to be confiscated.

from any package, or transferred from one package to another or otherwise, for the purpose of illegal removal or concealment, such goods shall be liable to confiscation.

**LXXXVII.** The Officer in charge of the Custom House shall have authority at any time to issue his written order to cause any goods or packages lodged in any public or private warehouse to be opened, weighed, or otherwise examined as he shall direct; and after any goods shall have been so opened or examined, to cause the same to be sealed or marked in such manner as to him may seem fit. When any goods shall have been so sealed and marked, after examination, they shall not be again opened without permission from the Officer in charge of the Custom House; and when any such goods shall be opened with the permission of such Officer, the packages shall, if it shall seem fit to such Officer, again be sealed or marked as before.

**LXXXVIII.** The Officer in charge of the Custom House, or any Officer deputed by him for the purpose, shall have access to any private warehouse licensed under this Act, and if the person who has obtained a license for any such private warehouse shall not open the same when required so to do by any Officer entitled under this Act or under any other law to have access thereto, or shall, upon demand made by any such Officer at any time within the hours of business at the Port, refuse access to any such Officer, such person shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to have his license forthwith cancelled and withdrawn.

**LXXXIX.** Every bond executed for Duty chargeable on goods deposited in any private warehouse shall become due and may be put in suit for the levy of such Duties and other demands of Customs after seven days shall have passed from the date on which the Officer in charge of the Custom House shall have given notice that the license for such warehouse is withdrawn.

Officer in charge of Custom House may cause packages lodged in warehouse to be opened and examined.

Penalty for holder of license of private warehouse, refusing access to Customs Officers.

When bond shall become due, for Duty on goods in private warehouse deprived of license.

**XC.** Any importer, owner or consignee of goods lodged in a public or private warehouse under this Act, or the agent of any such importer, owner, or consignee shall, at any time within the hours of business, have access to his goods in presence of an Officer of Customs, and an Officer of Customs shall be deputed to accompany any such person upon application for the purpose being made in writing to the Officer in charge of the Custom House. When an Officer of Customs is deputed as above, the person making the application shall, if required so to do, pay into the hands of the Officer in charge of the Custom House a sum sufficient to meet the expense of employing a special Officer for this purpose, whenever the Officer in charge of the Custom House shall find it expedient to employ such special Officer.

**XCI.** If the importer, owner, or consignee of any warehoused goods, or the agent or any person in the employ of such importer, owner, or consignee, shall clandestinely open any warehouse, or, except in presence of the proper Officer of Customs, gain access to his goods, such importer, owner, consignee, or agent shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

**XCII** With the sanction of the Officer in charge of the Custom House, and after such notice given and under such rules and conditions as the Chief Customs Authority of the Presidency or place shall from time to time prescribe, it shall be lawful for any importer, owner, or consignee of goods, or his agent, either before or after warehousing, to sort, separate, pack, and re-pack any goods, and to make such alteration therein as may be necessary for the preservation, sale, shipment, or disposal thereof (such goods to be re-packed in the packages in which they were imported, or in such other packages as the Officer in charge of the Custom House shall permit); and also to fill up any casks of Wine, Spirits, or Beer from any casks of the same secured in the same warehouse;

and also to mix any Wines of the same sort, erasing from the cask all import brands, unless the whole of the Wine so mixed be of the same brand: and also to take such samples of goods as may be allowed by the Officer in charge of the Custom House, with or without entry, and with or without payment of Duty, except as the same may eventually become payable on a deficiency of the original quantity; and after such goods have been so separated and re-packed in proper or approved packages, the Officer in charge of the Custom House may, at the request of the importer, owner, or consignee of such goods, or his agent, cause or permit any refuse, damaged, or surplus goods remaining after such separation or re-packing (or, at the like request, any goods which may not be worth the Duty) to be destroyed, and may remit the Duty payable thereon.

**XCIII.** No importer, owner, or consignee of goods shall be entitled to claim from the Officer in charge of the Custom House, or from any keeper of a public warehouse, compensation for any loss or injury that may occur to such goods while they are being passed into or out of such warehouse, or while they remain therein, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of the warehouse-keeper or of an Officer of Customs.

**XCIV.** If any goods warehoused or entered to be warehoused, or entered to be delivered from a warehouse, shall be lost or destroyed by unavoidable accident or delay either on board of any vessel, or in landing, or during receipt into the warehouse, or in the warehouse, the Chief Customs Authority of the Presidency or place may remit the Duties due thereon or return them if paid. Provided that, if any goods be so destroyed in a private warehouse, notice thereof be given to the Officer in charge of the Custom House within forty-eight hours after the discovery of such destruction. If goods lodged in a warehouse shall receive damage through unavoidable accident, they shall be re-assessed for Duty according to their actual value, and a new bond for the same shall be executed for the unexpired term of warehousing.

Compensation for loss or injury not admissible, except in case of proved wilful neglect, &c

Chief Customs Authority may remit Duties on warehoused goods lost or destroyed, and if goods are damaged, Duty to be levied on actual value.

**XCV.** The Import Duty on all goods shall be settled on the quantity or value thereof, as the case

Import Duty to be on the quantity or value registered at time of importation.

may be, registered at the time of importation, without any deduction whatever.

Provided that if it shall appear, at the time of clearing any Wines, Spirits, Beer, or Salt from any ware-

Proviso as to wines, spirits, beer, or salt.

house, that a deficiency exists, an allowance (on account of ullage and wastage) shall be

made in adjusting the Duties thereon, to an extent not exceeding the rates specified below, or in such Table as may from time to time be prescribed in this behalf by the local Government and notified in the Official Gazette:—

*Rates of ullage or wastage in respect of Wines, Spirits, and Beer in cask*

For any time not exceeding —————	6 months	2½	per Cent.
Exceeding 6 months and not exceeding	12 months	5	"
Exceeding 12 months and not exceeding	18 months	7½	"
Exceeding 18 months and not exceeding	2 years	10	"
Exceeding 2 years and not exceeding	3 years	12½	"

When Salt is warehoused in a Government Golah or Store-house under charge of a Government Officer, Duty of Customs shall be chargeable only on the amount actually cleared

The rate of wastage to be allowed in adjusting the Duties on Salt warehoused in a private Golah or Store-house, shall be prescribed from time to time by the local Government and notified in the Official Gazette

**XCVI.** If any goods lodged in a private warehouse shall be found to be deficient at the time of de-

Penalty for deficiencies in a private warehouse, if beyond ullage and wastage allowed

livery therefrom, the person who obtained

the license for such warehouse shall, un-

less the deficiency be accounted for to the

satisfaction of the Officer in charge of the Custom House, be liable to a penalty equal to five times the Duty chargeable on the goods so deficient. Provided that nothing in this Section shall apply to any Wines, Spirits, Beer, or Salt, the deficiency in which is proved to be due solely to ullage or wastage; and that it shall be competent to the Chief Customs Authority of any Presidency or place to direct, in respect to any such article, and for the purposes of this Section, that allowance be made in any special case for a rate of ullage or wastage exceeding that contemplated in the last preceding Section.

**XC VII.** If any goods lodged in a private warehouse shall be found to exceed the registered quantity, such excess, unless accounted for to the satisfaction of the Officer in charge of the Custom House, shall be charged with five times the ordinary Duty thereon. When any penalty shall be incurred under this or the last preceding Section, the goods in respect of which such penalty is incurred shall not be removed until the penalty is paid.

**KCVIII.** No goods shall be removed from any warehouse except after application to the Officer in charge of the Custom House, for permission to pass the goods for exportation by Sea to some Foreign Port or place ; or for home consumption, in like manner as other goods are passed through the Custom House , or for removal to another warehouse, as provided in Sections CV, CVI, CVII and CVIII of this Act.

**XCIX.** Application to remove goods from any warehouse shall be made in the form marked D annexed to this Act, or in such other form as the Chief Customs Authority of the Presidency or place may from time to time prescribe. Such application shall ordinarily be made to the Officer in charge of the Custom House twenty-four hours before it is intended so to remove such goods

**C.** If any goods shall be taken out of any warehouse otherwise than as is provided in this Act, the bonder shall forthwith pay the Duties due upon such goods; and every person who shall so take out any goods without payment of Duty, or who shall aid, assist, or be concerned therein, shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If the person so offending be an Officer of Customs not acting in execution of his duty, and be prosecuted to conviction by the importer, owner, or consignee of such goods, no Duty shall be payable in respect of such goods, and any damage so occasioned

by such Officer shall, with the sanction of the Chief Customs Authority of the Presidency or place, be repaid by the Officer in charge of the Custom House to such importer, owner, or consignee.

CL. The expenses of carriage, packing, and stowage of goods on their reception into or removal from a warehouse, shall, if paid by the Officer in charge of the Custom House, or by the warehouse-keeper, be chargeable on the goods, and be defrayed by the importer, owner, or consignee, in like manner as the Duties of Customs.

CIL. If goods be lodged in a public warehouse, the importer, owner, or consignee shall further pay monthly, on receiving a bill or written demand for the same from the warehouse-keeper, the rent and warehouse dues. If any such bill for rent or warehouse dues be not discharged within ten days from the date of presentation, the Officer in charge of the Custom House shall have power, in liquidation of such demand, (any transfer or assignment of the goods notwithstanding) to cause to be sold by public auction, after due notice in the Official Gazette such sufficient portion of the goods as he may select. Out of the proceeds of such sale, the Officer in charge of the Custom House shall first satisfy the demand for the liquidation of which the sale was ordered, and shall then pay over the surplus, if there be any, to the importer, owner, or consignee, provided that application for the same be made within one year from the date of the sale of the goods, or that good reason be shewn why such application was not so made.

CIII. If any goods warehoused as provided in this Act shall be removed or taken from the warehouse, otherwise than for removal to another warehouse as provided in Sections CV, CVI, CVII, and CVIII of this Act, or for exportation by Sea to some Foreign Port or place; or

Expenses of carriage, packing, &c., to be borne by owners.  
Payment of rent and warehouse dues In case of failure, goods may be sold, &c.  
Disposal of proceeds  
On goods being removed otherwise than for export, &c., full Duty to be paid.

if any goods shall not have been cleared from the warehouse and so exported at the expiration of the time during which such goods are permitted by this Act to remain in warehouse, the Officer in charge of the Custom House shall thereupon demand the full amount of import Duty which is chargeable on account of such goods, together with all charges or penalties due on account of them.

CIV. If any importer, owner, or consignee shall fail to pay any Duty or penalty that shall fall due on

On failure to pay Duty, Officer in charge of Custom House may proceed against goods, or under the bond, and may detain goods and sell after ten days, if demand not paid

account of goods warehoused under this Act, it shall be lawful for the Officer in charge of the Custom House either to proceed upon the bond executed by such im-

porter, owner, or consignee, or to cause such portion as to him shall seem fit of the warehoused goods, on account of which the Duty or penalty is demanded, to be detained in satisfaction thereof, and if the demand be not discharged within ten days from the date of such detention (due notice thereof being given to the importer, owner, or consignee), the goods so detained shall be liable to be sold by public auction in satisfaction of the demand after due notice in the Official Gazette. The proceeds of

Disposal of proceeds

any sale so made of goods so detained, shall be written off upon the bond in discharge thereof to the amount received, less the charges of the sale; and if any surplus be obtained from such sale, beyond the amount of the demand, such surplus shall be paid over to the importer, owner, or consignee of the goods, provided that application for the same be made within one year from the date of the sale, or that good reason be shown why such application was not so made. No transfer or assignment of goods shall prevent the Officer in charge of the Custom House from proceeding against such goods in the manner above provided for any demand of Customs Duties or penalty claimed thereon.

CV Any importer, owner, or consignee of goods warehoused

Goods may be removed from one warehouse to another, application being made according to prescribed form.

under this Act, or any agent of such importer, owner, or consignee may, with the permission of the Chief Officer of Customs of the Port, and on such condition

and after giving such security as the Chief Customs Authority of the Presidency or place shall direct, remove goods from one public or private warehouse to another warehouse in the same Port. When any person shall desire so to remove any goods, he shall make application in the form marked E annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe.

**CVI** Goods warehoused under this Act at any Port or place in British India may in like manner be removed by Sea or by inland carriage in order to be re-warehoused at any other Port or place in British India in which the like kind of goods may lawfully be warehoused. Such goods may also again in like manner be removed to any other such Port or place to be there again warehoused. When any person shall desire so to remove any goods, he shall make application to the Chief Officer of Customs of the Port or place at which they are warehoused, stating the particulars of the goods to be removed, and the name of the Port or place to which it is intended that they shall be removed, together with such other information, and in such manner and form, as the Chief Customs Authority of the Presidency or place shall from time to time prescribe.

**CVII** When permission is granted for the removal of any goods from one warehousing Port or place to another under the last preceding Section, an account containing the particulars thereof shall be transmitted by the proper Officer of the Port or place of removal to the proper Officer of the Port or place of destination, and the person requiring the removal shall enter into a bond, with one sufficient surety, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and warehousing thereof at the Port or place of destination, within such time as the Chief Customs Authority of the Presidency or place shall direct. Such bond may be taken by the proper Officer, either of the Port or place of removal, or of the Port or place of destination, as shall best suit the residence or convenience of the persons

interested in such removal. If such bond shall be taken at the Port or place of destination, a certificate thereof, signed by the proper Officer of such Port or place shall, at the time of the entering of such goods, be produced to the proper Officer of the Port or place of removal, and such bond shall not be discharged unless such goods shall be produced to the proper Officer, and duly re-warehoused at the Port or place of destination, within the time allowed for such removal, or shall be otherwise accounted for to the satisfaction of such Officer; nor until the full Duties due upon any deficiency of such goods, not so accounted for, shall have been paid.

**CVIII.** It shall be lawful for the Chief Customs Authority  
Remover may enter into a general bond of any Presidency or place to permit any person desirous of removing warehoused goods, to enter into a general bond, with such sureties, in such amount, and under such conditions, as such Chief Customs Authority shall approve, for the removal from time to time of any goods from one warehouse to another, either in the same or in a different Port or place, and for the due arrival and re-warehousing of such goods at the Port or place of destination, within such time as the said Chief Customs Authority shall direct.

**CIX.** Upon the arrival of warehoused goods, at the Port or  
Goods on arrival at Port of destination to be subject to same laws as goods on first importation place of destination, they shall be entered and warehoused in like manner as goods are entered and warehoused on the first importation thereof, and under the laws and rules, in so far as such laws and rules can be made applicable, which regulate the entry and warehousing of such last mentioned goods.

**CX.** When goods are brought in any vessel to any Port in  
Goods brought into one Indian Port, but intended for another Indian Port, may be trans-shipped without payment of Duty on security being given British India, and application is made for leave to trans-ship such goods for removal to some other Port in British India, such trans-shipment shall be allowed without the payment of Duty at the Port of trans-shipment, provided that the person requiring such trans-ship-

ment shall enter into a bond with such security as may be required of him, in a sum equal at least to the Duty chargeable on such goods, for the due arrival and entry thereof at the Port of destination within such time as the Chief Officer of Customs of the Port of trans-shipment shall direct. Such goods shall thereupon be treated in all respects as warehoused goods, removed under the provisions of Sections CVI and CVII of this Act. An Officer of Customs shall, in every case, be deputed to superintend the removal of such goods from vessel to vessel.

CXI. If, on the arrival at the Port of destination, of goods removed under the last preceding Section, the person making the removal shall be desirous forthwith to export such goods by Sea to some Foreign Port or place, or to pay Duty thereon for home consumption without actually lodging the goods in the warehouse for which they had been entered, the Officer in charge of the Custom House at such Port of destination may, after all the formalities of entering and examining such goods for re-warehousing shall have been duly performed, permit the goods to be entered and shipped for exportation, or to be entered and delivered for home consumption, upon payment of the Duties due thereon, in like manner as if such goods had been actually lodged in such warehouse. All goods so exported, or for which the Duties have been so paid, shall be deemed to have been duly cleared from the warehouse.

CXII. When any goods warehoused as provided in this Act shall be removed from any public or private warehouse, the Officer in charge of the Custom House shall cause such removal to be noted on the back of the bond. Every note so made shall specify the quantity and description of goods removed, the purposes for which they have been removed, the date of removal, the name of the person removing them, the number and date of the Export Pass under which they have been taken away, if removed for exportation by Sea, or of the

On arrival at destination of goods removed under Section CX they may after formal re-warehousing, be entered for exportation or home use on payment of Duties.

Removal of goods to be noted on the bond, with particulars.

Import Pass or order, if removed for home consumption, and the amount of Duty (if any) paid.

**CXIII.** A register shall be kept of all bonds entered into for Customs Duties on goods warehoused as provided in this Act, and entry shall be made in such register of all particulars specified in the last preceding Section.

A register of bonds to be kept. When the bonds are to be cancelled and returned to the obligee

When the register shall show that the entire quantity of the goods covered by any bond has been withdrawn from warehouse, either owing to the goods being passed for home consumption on the payment of Duties, or owing to their re-exportation by Sea to some Foreign Port or place, and when all charges and penalties which have been incurred on account of such goods shall have been paid, it shall be competent to, and shall be the duty of, the Officer in charge of the Custom House, to cancel such bond, as discharged in full, and to deliver it, so cancelled, to the person who shall have executed or who shall be authorized to receive it.

Duty on warehoused goods to be settled within three years

of the first warehousing of the goods in British India.

Provisions relating to private warehouses applicable to Bengal Bonded Warehouse Association

shall receive bonded goods.

**CXIV** In no case shall the settlement of Duty on warehoused goods be delayed beyond three years from the date

**CXV.** All the provisions of this Act relating to private warehouses shall be applicable to all warehouses wherein the Bengal Bonded Warehouse Association

# EXPORTATION.

**CXVI.** No vessel shall be entitled to entry outwards, or to take on board any part of her export cargo, until a written application shall have been duly made to the Officer in charge of the Custom House by the Master or Commander of such vessel, or by his authorized agent, nor until an order shall have been given thereon by such Officer for such entry or shipment of cargo. Every application made under this Section shall specify the name, tonnage, and nation of the vessel, the name of the

Permission for entry outwards to be obtained before export cargo is put on board.

Master or Commander, and the name of every place for which cargo is to be shipped. If any goods be taken on board of any

Penalty vessel at any Port in British India before she shall have been so entered outwards

at such Port, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees.

CXVII A period of fifteen working days, after the expiration of the period allowed for dis-  
 Period allowed for the shipment of export cargo. charging import cargo under Section LI of this Act, or such further period as the

Officer in charge of the Custom House shall direct, shall be allowed (without charge for the Officer of Customs) for the shipment of export cargo on board of every vessel not exceeding six hundred tons. One additional day shall in like manner be allowed for every fifty tons in excess of six hundred.

Consequence of exceeding same. If the period occupied in the shipment of export cargo be in excess of that allowed, the vessel shall be charged with the expense of the Officer of Customs at a rate not exceeding five Rupees per diem (Sundays and holidays excepted) for such excess period. Due allowance shall in such case be made for any period during which a vessel, after the completion of the discharge of import cargo, and before the commencement of the shipment of export cargo, shall be laid up by the withdrawal of the Officer of Customs upon application from the Master or Commander. If the

Penalty for lading in the absence of Customs Officer. Master or Commander of any vessel so laid up shall, before application is made by him or his agent for an Officer of Customs to superintend the receipt of cargo, cause or suffer to be put on board of such vessel any goods whatever, such Master or Commander shall be liable to a penalty not exceeding one thousand Rupees, and the goods, if protected by a pass, shall be liable to be re-landed for examination at the expense of the vessel, and if not protected by a pass, shall be liable to confiscation.

CXVIII. Except with the written permission of the  
 Goods not to be shipped except on proper days and places, nor until entry and clearance. Officer in charge of the Custom House, no goods, with the exception of passengers' baggage, shall, on any Sunday, or

on any holiday or day on which the shipping of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be shipped or water-borne to be shipped for exportation from any Port in British India, nor, except with such written permission, shall any goods be so shipped or water-borne to be shipped on any day except between such hours as such Chief Customs Authority shall from time to time appoint by notice in the Official Gazette, nor from any place in any such Port except a Wharf duly appointed for such purpose, nor without the presence of the proper Officer of Customs, nor before due entry outwards of the exporting vessel, and of the goods nor before such goods shall have been duly cleared for shipment. Any person who shall cause or suffer any goods to be shipped or water-borne to be shipped contrary to any of the provisions of this Section shall, in every

Penalty for contravention

such case, be liable to a penalty not exceeding one thousand Rupees, and any goods so unauthorizedly shipped or water-borne for shipment, together with any vessel in which they are being so water-borne, shall be liable to confiscation

**CXIX** It shall be lawful for an Officer of Customs to open any package, and fully to examine any goods shipped or brought for shipment at any place in British India.

Customs Officer may open package and examine goods shipped.

**CXX** It shall be competent to the Officer in charge of the Custom House at any Port in British India at any time to send at his discretion one or more Officers of Customs on board of any vessel clearing from such Port

Officer in charge of Custom House may send Officers of Customs on board of any vessel clearing from Port.

Every Officer of Customs so sent shall remain on board of such vessel by day and by night, until it shall be otherwise ordered by the Officer in charge of the Custom House. Provided that it shall be competent to the Officer in charge of the Custom House to direct, whenever he may see

And may allow shipment without presence of Officer

fit so to do, and on such conditions as he may see fit to impose, that the shipment of cargo may take place without the presence of an Officer of Customs.

**CXXI.** Every Master or Commander of a vessel who shall refuse to receive on board an Officer of Customs deputed as above provided, shall be liable to a penalty not exceeding five hundred Rupees for each day during which such Officer shall not be received on board, and the vessel shall not be allowed to take in cargo until the penalty is paid

**CXXII.** Every Master or Commander of a vessel, who is bound to receive on board an Officer of Customs under Section CXX of this Act, shall also be bound to receive on board one servant of such Officer, and to provide such Officer and servant with suitable shelter and accommodation, and likewise with a due allowance of fresh water and with the means of cooking on board. If any Master or Commander shall wilfully disobey the directions contained in this Section, he shall in every such case be liable to a penalty not exceeding five hundred Rupees.

**CXXIII.** No goods shall be shipped or water-borne to be shipped for exportation, until the exporter or his agent shall have filled in and delivered to the Officer in charge of the Custom House, or other proper Officer, a shipping bill of such goods in the form marked F appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place

**CXXIV.** Before any warehoused goods, or goods subject to duties of Excise, or goods entitled to drawback of Customs on exportation, or goods exportable only under particular rules or restrictions, shall be permitted to be exported, the exporter or his agent shall, if required so to do, give security by bond in such sum, not exceeding twice the Duty leviable on such goods, as the Officer in charge of the Custom House shall direct, with one sufficient surety that such goods shall be duly shipped, exported and landed, at the place for which they

are entered outwards, or shall be otherwise accounted for, to the satisfaction of such Officer.

CXXV When any goods shall be sent for the purpose of being shipped for exportation on board of

Boat-note

any vessel, there shall be sent with each boat-load or other separate despatch a boat-note specifying the number of packages so sent and the marks and numbers or other description thereof. Each boat-note shall be signed by the proper Officer of Customs, and shall be delivered to the Officer of Customs who is on board of the vessel on which such goods are to be shipped, if any such Officer be on board. If no such Officer be on board, every such boat-note shall be delivered to the Master or Commander of the vessel, or to an Officer of the vessel appointed by such Master or Commander to receive it. If any person so receiving any such boat-note

Penalty for non-delivery of boat-note.

shall fail to deliver it, when required so to do by any Officer of Customs authorized to make such requisition, such person shall be liable to a penalty not exceeding five hundred Rupees.

CXXVI. No vessel, whether laden, partially laden, or in

No vessel to depart without a Port-clearance.

ballast shall depart from any Port in British India until a Port-clearance shall have been granted by the Officer in charge of the Custom House or other Officer duly authorized to grant the same. Every application for Port-clearance shall be made by the Master or Commander at least twenty-four hours before the intended departure of the vessel, and every Master or Commander of a vessel so applying for Port-clearance shall answer to the proper Officer of Customs such questions touching her departure and destination as shall be demanded of him. If any Master or Commander of a vessel shall attempt to depart without a Port-clearance, such Master

Penalties.

or Commander shall be liable to a penalty not exceeding five hundred Rupees. If any vessel shall actually depart without a Port-clearance, the Master or Commander shall be liable to a penalty not exceeding one thousand Rupees, and such penalty may be levied by the Chief Officer of Customs of any Port in British India to which such vessel

shall proceed or in which she shall be A certificate of departure without Port-clearance purporting to be signed by the Chief Officer of Customs of the Port from which any vessel is stated to have so departed, shall be sufficient *prima facie* proof of the fact so certified.

CXXVII. Except when duly appointed by the Master Attendant at any Port, or by some other Officer duly empowered in that behalf by the local Government, no Pilot shall take charge of any vessel proceeding to Sea, unless the Master or Commander of such vessel shall produce a Port-clearance Every person convicted before

No Pilot to take charge of any vessel proceeding to Sea without production of Port-clearance.

Penalty shall be liable to a penalty not exceeding one thousand Rupees.

CXXVIII. The Master or Commander of every vessel intending to leave any Port in British India shall, at the time of applying for Port-clearance, deliver to the Officer in charge of the Custom House, or other duly authorized Officer, a Manifest in duplicate according to such form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, containing a full and true specification of all goods to be exported in the vessel, and shall also deliver to the Officer in charge of the Custom House, or other duly authorized Officer, such certificates as the Officer in charge of the Custom House, acting under the general instructions of such Chief Customs Authority, shall require. The Officer in charge of the Custom House, or other duly authorized Officer, when satisfied, with the said certificates and as to the correctness of the Manifest, shall grant a Port-clearance to the Master or Commander and shall return at the same time to such Master or Commander one copy of the Manifest duly countersigned by the proper Officer of Customs.

CXXIX. It shall be competent to the Officer in charge of the Custom House to refuse Port-clearance to any vessel until the required Manifest and certificates are produced, and until all Port-dues and other charges

Port-clearance may be refused unless all documents are delivered and charges paid.

and penalties due by such vessel, or by the Master or Commander thereof, are duly paid or their payment secured by such guarantee, or by a deposit at such rate, as the Officer in charge of the Custom House shall direct.

**CXXX.** If any goods liable to Duty on importation, or taken from a warehouse to be exported, or entitled to drawback on exportation, which are enumerated in the Manifest of any vessel, shall not be duly shipped before the departure of such vessel, or shall not be duly certified by the proper Officer as short-shipped, such goods shall be liable to confiscation. If any goods not enumerated in such Manifest shall be taken on board of any such vessel, the Master or Commander shall be liable to a penalty not exceeding fifty Rupees in respect of every package of such goods. If any goods duly shipped on board of any such vessel be landed at any place other than that for which they shall have been so cleared, the Master or Commander of such vessel shall, unless the circumstance be accounted for to the satisfaction of the Officer in charge of the Custom House, be liable to a penalty not exceeding three times the value of such goods so landed.

Certain goods if entered in Manifest and not shipped, liable to confiscation. Penalty for shipment of goods not in Manifest, &c.

**CXXXI.** When goods are passed through the Custom House for shipment on an application presented after Port-clearance shall have been granted, two per cent upon the market value of any such goods not liable to Duty, or liable to specific Duties according to weight or quantity only or to Duty according to value, and upon the Tariff value of goods so passed, which are liable to Duties on fixed Tariff valuations, shall in every case be levied in addition to any Duty to which such goods shall be ordinarily liable. Provided that nothing in this Section shall be deemed to apply to any shipment of Treasure or Opium.

**CXXXII.** Upon an application being made to the Officer in charge of the Custom House, the Duty levied upon goods not shipped, or upon goods shipped and afterwards re-landed, shall be returned to the person on whose

Duty on goods not shipped or re-landed may be returned on application.

behalf such Duty was paid. Provided that no such refund shall be allowed unless application to re-land shall have been made, or notice of non-shipment shall have been given, before the vessel on which such goods were intended to be shipped, or from which they were re-landed, shall have left the Port

**CXXXIII** It shall be lawful for the Chief Customs Au-

Stations may be appointed at which outward bound vessels shall bring to land Officers of Customs.

thority of any Presidency or place to appoint, for any Port within such Presidency or place, stations at which any vessel departing from such Port may be required to

bring to for the landing from such vessel of Officers of Customs, or for further examination previous to such departure

**CXXXIV.** If the Master or Commander of any vessel departing from any Port in British India

Penalties in case of vessels not bringing to at prescribed Stations

shall, when so required, fail to bring to at any station that shall have been appointed by the Chief Customs Authority of any

Presidency or place under the last preceding Section, such Master or Commander shall, in every such case, be liable to a penalty not exceeding one thousand Rupees. If any vessel shall actually depart after failing to bring to when required, at any station appointed under the last preceding Section, the penalty leviable under this Section from the Master or Commander of such vessel may be levied by the Chief Officer of Customs of any Port in British India to which such vessel shall proceed, or in which she shall be. A certificate of such failure to bring to when required purporting to be signed by the Chief Officer of Customs of the Port from which the vessel is stated to have so departed, shall be sufficient *prima facie* proof of the fact so certified.

**CXXXV.** If any vessel, after having cleared from any Port in British India, shall, without having dis-

Goods re-landed from a vessel returning to Port, or putting into another Port, how to be dealt with

charged her cargo, return to such Port, or put into any other Port in British India not being a Free Port, any owner or ship-

per of cargo in such vessel, or the agent of any such owner or shipper, if he shall desire to land the same or any portion there-

of for re-export, may make application to the Officer in charge of the Custom House ; who, if he grant such application, shall thereupon send an Officer of Customs to watch the vessel, and to take charge of the cargo during such re-landing or removal from on board Goods on board of such vessel shall not be allowed to be trans-shipped or re-exported free of Duty, by reason of the previous settlement of Duty at the time of first export, unless such goods shall be lodged and shall remain, under charge of an Officer of Customs, in a place appointed by the Officer in charge of the Custom House, until the time of re-export All charges attending such custody shall be borne by the exporter

**CXXXVI** In any case of the return of any vessel to Port, after Port-clearance, it shall be lawful for the Master or Commander of such vessel, or for any owner or shipper of cargo therein to enter such vessel and to land such cargo under the rules for the importation of goods In every such case the Export Duty shall be refunded to, and the amount paid in drawback shall be reclaimed from such owner or shipper, and if any goods, on account of which drawback has been paid, be not found on board of any such vessel the Master or Commander shall be liable to a penalty not exceeding the entire value thereof, unless the fact be accounted for to the satisfaction of the Officer in charge of the Custom House

Vessel returning to Port may enter and land goods under import rules

Penalty for deficiency.

#### DRAWBACK

**CXXXVII** Upon the re-export by Sea, to any Foreign Port or place, of any goods, except Salt or Opium, imported by Sea into British India from any Foreign Port or place, and upon which Duties of Customs have been paid on importation, seven-eighths of such Duty shall be repaid as drawback, and one-eighth shall be retained as reserved Duty. Provided that in every such case the goods be identified to the satisfaction of the Officer in charge of the Custom House, and that the

Amount of drawback allowable on re-export

Conditions for grant of drawback.

re-export be made within two years from the date of importation, as shown by the Custom House Register, or within such extended term as the Chief Customs Authority of the Presidency or place shall on sufficient cause for such extension being shown, in any case determine. No re-payment shall be made under this Section on account of any article entered in the Export Manifest of the vessel as ship's stores. Articles on which, though they be not country articles, an Export Duty is chargeable by law, shall not, on re-exportation, be entitled to claim exemption from such Export Duty by reason of their having paid Duty on importation. But it shall be lawful for the said Chief Customs Authority in any such case to direct that no reservation of any part of the Import Duty be made on the re-exportation of such articles.

**CXXXVIII.** No payment of drawback shall be made upon any goods re-exported from any Port in British India, unless the claim to receive such drawback be made and established at the time of re-export, nor unless payment be demanded within one year from the date of entry for shipment. No such payment of drawback shall be made until the vessel carrying the goods has put out to Sea.

**CXXXIX.** No drawback shall be allowed upon the exportation of any goods entered for drawback, which shall be of less value than the amount of the drawback claimed. All such goods so entered shall be liable to confiscation.

Drawback not allowed on goods of value less than amount claimed. Such goods liable to confiscation.

**CXL.** No drawback shall be allowed upon goods not included in the Export Manifest.

**CXLI.** No drawback shall be allowed upon goods exported from one Port in British India, to another such Port, not being a Free Port. But drawback may be allowed upon goods which, after having been charged with Duty at one Port in British India, and thence exported to another such Port not

No drawback allowed except on goods exported out of India.

being a Free Port, are thence again re-exported by Sea to a Foreign Port or place. Provided that in every such case the

**Proviso** goods be identified to the satisfaction of the Officer in charge of the Custom House

at the Port of final exportation, and that such final exportation be made within three years from the date of first importation into British India

**CXLII** Any person, or the duly authorized agent of any person, claiming drawback on any goods duly exported, shall make and subscribe a declaration that such goods have been actually exported, and have not been re-landed and are not intended to be re-landed at any Port in British India, and that such person was, at the time of entry and shipment, and continues to be, entitled to drawback thereon

**CXLIII.** If any goods on the entry of which for re-export drawback shall have been paid shall not be duly exported to a Foreign Port or place, or shall be un-shipped or re-landed at any Port in British India (not having been duly re-landed or discharged as short-shipped under the care of an Officer of Customs, or under Section CXXXV, or Section CXXXVI of this Act), such goods, together with any vessel used in so un-shipping or re-landing them, shall be liable to confiscation, and the Master or Commander of the vessel from which such goods shall be so un-shipped or re-landed, and any person by whom or by whose orders or means such goods shall be so un-shipped or re-landed, or who shall aid or be concerned in such un-shipping or re-landing, shall be liable to a penalty not exceeding three times the value of such goods, or not exceeding one thousand Rupees

**CXLIV.** A drawback of the whole of the Duties of Customs shall be allowed for wine intended for the consumption of any Officer of Her Majesty's Navy, on board of any of Her Majesty's ships in actual service, unless such wine shall have been warehoused without payment of Duty on the first entry

**Drawback of Duties on wine allowed for Officers of the Navy**

thereof The quantity of wine on which drawback may be so allowed in any one year for the use of any such Officer shall not exceed the proportions specified below , that is to say :—

	Gallons.
For every Admiral . . . . .	1,260
Vice-Admiral .. . . .	1,050
Rear-Admiral .. . . .	840
Captain of 1st and 2nd rate . . . . .	630
Captain of 3rd, 4th, and 5th rate . . . . .	420
Captain of an inferior rate . . . . .	210
Lieutenant or other Commanding Officer, and for every Marine Officer, Master, Purser, or Surgeon ... ..	105

CXLV Every person clearing and claiming drawback for wine as provided in the last preceding Section, shall state in the entry the name of the Officer for whose use such wine is intended, and of the ship in which he serves, as well as the place and date of the last supply for which drawback was allowed All such wine shall be delivered into the charge of the proper Officers of Customs at the Port of shipment, to be shipped under their care, and when the Officer commanding the ship shall have certified the receipt of such wine into his charge, and the proper Officer of Customs shall have certified the shipment, the drawback shall be paid to the person entitled to receive the same

CXLVI The Officer in charge of the Custom House may permit the transfer of any such wine from one Naval Officer to another Naval Officer, on board of the same or of any other such ship, as part of his authorized proportion , or may permit the trans-shipment of any such wine from one ship to another for the use of the same Naval Officer , or the re-landing and warehousing of any such wine for future re-shipment. The Officer in charge of the Custom House may also receive back the Duties for any such wine, and allow the same to be cleared for home consumption

**CXLVII.** If any such wine be not laden on board of the ship for which it was intended, or be unladen from such ship without the permission of the proper Officer of Customs, such wine shall be liable to confiscation.

**CXLVIII.** Provisions and stores for the use of Her Majesty's Navy shall, in like manner, be passed free of Duty, and where Duties shall have been paid on such provisions and stores, drawback of such Duties, whether of Customs or Excise, shall be allowed on receipt of application in writing from the Officer commanding the ship for which they are intended, or from some other Officer duly authorized to make such application.

#### COASTING TRADE

**CXLIX.** No Duties of Customs shall be levied on any goods lawfully carried in any coasting vessel. Provided that nothing in this Section shall apply to Opium, Salt, or Spirits manufactured after the English method; or to goods brought from any Foreign Port or place to any Port in British India, and there trans-shipped for, or thence carried to, any other Port in British India without payment of Duty, or to goods removed in bond.

**CL.** No drawback shall be allowed for any goods shipped in any coasting vessel, but this shall not interfere with the allowance of drawback for goods duly manifested and exported by Sea to any Foreign Port or place in any Native vessel, other than a coasting vessel.

**CLI.** The local Government, acting under the general instructions of the Government of India, may from time to time determine, by rules to be published in the Official Gazette, on what conditions, and on what conditions only, goods may be carried coastwise, though not shipped at any Port in British India to be so carried, also in what cases, and in what cases

only goods may be shipped in a vessel to be carried coastwise, before all goods brought in such vessel from a Foreign Port or place shall have been unladen. If, in contravention of any

Penalty for contra- such rules so published any goods shall  
vention be taken into or put out of any coasting vessel; or any coasting vessel shall touch at any Foreign Port or place, or deviate from her voyage, unless forced by unavoidable circumstances, or if the Master or Commander of any coasting vessel which shall have touched at a Foreign Port or place shall fail to declare the same in writing to the Officer in charge of the Custom House at the Port in British India at which such vessel shall afterwards first arrive, the Master or Commander of such vessel shall be liable to a penalty not exceeding one thousand Rupees, and shall further be liable to pay double Duty upon all goods landed or shipped at such Foreign Port or place, in addition to the ordinary Duty which shall in every case be levied on such goods.

CLII Except with the written permission of the Officer in charge of the Custom House, no goods  
Times and places for shipping goods. with the exception of passengers' baggage,

shall on any Sunday or on any holiday or day on which the shipping or landing of cargo is or shall be prohibited by the Chief Customs Authority of the Presidency or place, be unshipped from any vessel arriving coastwise, or be shipped, or water-borne to be shipped, for carriage coastwise, at any Port in British India, nor, except with such written permission shall any goods be so unshipped, or shipped or water-borne to be shipped, on any day except between such hours as the Chief Customs Authority shall from time to time appoint by notice in the Official Gazette, nor from any place in any such Port except a wharf duly appointed for such purpose, nor without the presence or authority of the proper Officer of Customs. Any person who shall cause

Penalty for contra- or suffer any goods to be unshipped, ship-  
vention ped, or water-borne to be shipped, contrary to any of the provisions of this Section, shall in every such case be liable to a penalty not exceeding five hundred Rupees, and any goods so

unauthorizedly un-shipped, shipped, or removed for shipment, shall be liable to confiscation.

**CLIII.** The Master or Commander of every coasting vessel shall keep, or cause to be kept, a cargo-book in which shall be stated the name of the Master or Commander, the vessel, the Port to which she belongs, and the Port to which on each voyage she is bound. At every Port of lading such Master or Commander shall enter, or cause to be entered, in such book the name of such Port, and an account of all goods there taken on board of such vessel, with a description of the packages, and the quantities and descriptions of the goods contained therein or stowed loose, and the names of the respective shippers and consignees, in so far as such particulars are known to him. At every Port of discharge of any such goods, such Master or Commander shall enter, or cause to be entered, in such book the respective days on which such goods or any of them are delivered out of such vessel. The respective times of departure from every Port of lading, and of arrival at every Port of discharge, shall in like manner be duly entered. Every such Master or Commander shall, on demand, produce his cargo-book for the inspection of any Officer of Customs, and such Officer shall be at liberty to make any note or remark therein; and if, upon examination, any package entered in the cargo-book as containing Foreign goods, shall be found not to contain such goods such package, with its contents, shall be liable to confiscation, or if any package shall be found to contain Foreign goods not entered, or not entered as such, in such book, such goods shall be liable to confiscation. If any such Master or Commander shall fail correctly to keep such cargo-book, or to produce the same on demand; or if at any time there be found on board of any such vessel any goods not entered in such book as laden, or any goods noted as delivered; or if any goods entered as laden and not noted as delivered, be not on board, the Master or Commander of such vessel shall be liable to a penalty not exceeding five hundred Rupees.

Rules respecting cargo-book to be kept by Masters of coasting vessels.

Penalty for breach of rules.

**CLIV.** Before any coasting vessel shall depart from the Port of lading, an account, with a duplicate thereof in the form marked G appended to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place, shall be filled in and signed by the Master or Commander and delivered to the Officer in charge of the Custom House. Such Officer shall retain the duplicate and return the original account, dated and signed by him; and such account shall be the clearance of the vessel for the voyage and the pass for the goods expressed therein. If any such account be false, the Master or Commander shall be liable to a penalty not exceeding five hundred Rupees.

Coasting vessels to deliver account and obtain Port-clearance, before leaving Port of lading

Penalty in case of account being false

**CLV.** The Officer in charge of the Custom House may, on good and sufficient reason, refuse Port-clearance to any vessel declared to be bound to any Port in British India, unless the Owner, Agent, Master, or Commander shall give a bond with sufficient security for the production to the Officer in charge of the Custom House of a certificate from an Officer of the Port to which such vessel is said to be bound, of her arrival at such Port within a fair and reasonable time to be prescribed in each case by the Officer requiring the bond. On failure to produce such certificate, or to show sufficient reason for its non-production, the parties to the bond shall be bound to pay a penal sum equal to double the amount of Customs Duties which would have been chargeable on the export cargo of the vessel had she been declared to be bound to a Foreign Port.

Officer in charge of Custom House may require a bond before Port-clearance is granted

Penalty for failure to produce certificate

**CLVI.** The Chief Customs Authority of any Presidency or place may, on cause being shown, permit a general pass to be given, on any conditions which may be deemed expedient, for the lading and clearance, and for the entry and unlading, of any coasting Steam vessel at any Ports of

Grant and revocation of general pass.

despatch or destination, or at any intermediate Ports at which she may touch for the purpose of receiving goods or passengers. Any such general pass may be revoked by notice in writing, under the hand of the proper Officer, delivered to the Master or Commander, or to the owner of such Steam vessel, or to any of the crew on board.

**CLVII.** Within twenty-four hours after the arrival of any coasting vessel at the Port of discharge, and before any goods are unladen therefrom, the pass, with the name of the place or wharf where the cargo is to be discharged noted thereon, shall be delivered to an Officer of the Port, who shall note thereon the date of delivery. Any Master or Commander who shall fail so to deliver the pass within twenty-four hours after arrival, shall be liable to a penalty not exceeding two hundred Rupees.

**CLVIII.** If any of the goods on board of any coasting vessel be subject to any Duty of Excise, such goods shall not be unladen without the permission of the proper Officer of Excise.

**CLIX.** If, contrary to the provisions of this or any other Act relating to the Customs, any goods shall be laden on board of any vessel in any Port or place in British India and carried coastwise, or any goods which have been brought coastwise shall be unladen in any such Port or place, or any goods shall be found on board of any coasting vessel without being entered in the clearance thereof, such goods shall be liable to confiscation, and the Master or Commander of such vessel shall, in every such case, be liable to a penalty not exceeding five hundred Rupees.

**CLX.** Any duly empowered Officer of Customs may go on board of any coasting vessel in any Port or place in British India, and may at any period of a voyage search any such vessel and examine all goods on board and all goods then lading or unloading, and may demand the production of any document which ought to be on board of any such vessel. The Officer in

charge of the Custom House may further require that any such document belonging to any coasting vessel then in Port shall be brought to him for inspection. If the Master or Commander of any such vessel shall refuse to bring any such document to the Officer in charge of the Custom House when so required, such Master or Commander shall be liable to a penalty not exceeding two hundred Rupees.

Penalty for refusal to  
produce documents

#### CARGO BOATS.

CLXI. It shall be lawful for the local Government of any Presidency or place to declare with regard to any Port within its jurisdiction, by Notification in the Official Gazette, that after a stated date no boat which shall not have been duly licensed and registered will be allowed to ply as a cargo-boat for the landing and shipping of merchandize within the limits of such Port. After the issue of such Notification with regard to any Port, any goods found within the limits of such Port on board of any boat not duly licensed and registered shall, unless such goods be covered by a special permit from the Officer in charge of the Custom House, be liable to confiscation.

Local Government  
may prohibit plying of  
unlicensed cargo-boats.

Goods found in unli-  
censed cargo-boats may  
be confiscated

CLXII. It shall be lawful for the Chief Officer of Customs of any Port with regard to which a Notification shall have been issued under the last preceding Section, to issue licenses for and to make registration of cargo-boats, under such rules, and on payment of such fees as the local Government shall from time to time prescribe. Any table of fees prescribed under this Section shall be published in the Official Gazette.

Issue of licenses

#### SPIRITS.

CLXIII. It shall be lawful for the Chief Customs Authority of any Presidency or place to prescribe from time to time the conditions on which and the rules under which spirits manufactured in British India

Rules for removal of  
spirits from distillery  
without payment of  
Duty, and for exporta-  
tion thereof.

after the English method may be removed from any licensed distillery for exportation without payment of Duty of Excise. The person so removing any such spirit, shall execute to the Government a bond with one or more sureties, in the form marked H annexed to this Act, or in such other form as the said Chief Customs Authority shall from time to time prescribe, for the payment of Duty on such portion of the said spirits as shall not be exported within four months from the date of the bond, and upon any portion which shall be exported to any other Port in British India, not being a Free Port, but proof of the landing whereof and of payment of Duty of Customs whereon at the Port of destination shall not be furnished to the satisfaction of the proper Officer within six months from the date of the bond. It shall be lawful for the Chief Officer of Customs of the Port of exportation, to extend for a further term not exceeding four months, on sufficient cause shown, the period allowed for the exportation of any such spirits, or for the production of such proof that Duty has been paid.

**CLXIV** Spirits for exportation under bond for the Duty of

*Spirits for export to be taken direct from distillery to Custom House under pass*

Excise shall be taken from the distillery direct to the Custom House under passes to be granted for that purpose by the Officers of Excise.

**CLXV** Spirits brought to the Custom House for export-

*Rules to be observed in the exportation of spirits.*

ation by Sea shall, previous to shipment, be gauged and proved by an Officer of Customs. Any drawback to be allowed

for spirits on which Duty has been paid shall be regulated by the strength and quantity of such Spirits as ascertained by such proof and gauge, and the quantity of spirits for which credit is to be given in the settlement of any bond shall be determined in the same manner.

**CLXVI.** Duty shall be recoverable upon any difference

*Duty to be recovered on any deficiency in spirits under bond.*

between the quantity of spirits passed from a distillery and the quantity ascertained by gauge and proof at the Custom

House, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government and notified in the Official Gazette.

**CLXVII.** A drawback of Duty of Excise paid on spirits manufactured in British India after the English method, and exported to any Foreign Port or place under the provisions of Section CXXIV of this Act, shall be allowed by the Officer in charge of the Custom House, at the Port of exportation. Provided that the exportation be made within one year from the date of payment of such Duty of Excise, and that the spirits, when brought to the Custom House, are accompanied by the pass in which such payment is certified.

**CLXVIII.** No drawback shall be allowed on spirits exported from any Port in British India to any other Port in British India not being a Free Port. But it shall be lawful, on the conditions and under the rules prescribed from time to time under Section CLXIII of this Act, to export from any such Port to any other such Port, under bond for the duty of Excise, spirits manufactured in British India after the English method. Every such bond shall be cancelled on the production, by the exporter or his agent, of a certificate from the Officer in charge of the Custom House at the Port of importation, testifying to the due entry at such Port of the full quantity of such spirits so exported, less an allowance for ullage and wastage at such rates as shall from time to time be prescribed by the local Government, and notified in the Official Gazette.

**CLXIX.** Spirits manufactured in British India after the English method and exported under bond for the Duty of Excise from any Port in British India to any other Port in British India not being a Free Port, shall be chargeable at the Port of destination with Duties of Customs at the ordinary rate fixed for Duties on Spirits of the like kind and strength imported into such Port.

Drawback of Excise Duty on spirits manufactured after the English method

No drawback allowed on spirits exported to Indian Ports not being Free Ports, but such spirits may be exported under bond.

Duty on spirits exported from one Indian Port to another, how to be adjusted.

**CLXX.** Any Rum Shrub, cordial, and other such liquor

Rum Shrub, &c., how  
to be charged with Duty.

May be exported under  
the same rules as  
spirits

prepared in a licensed distillery under supervision of the Surveyor or Officer in charge of the distillery, shall be charged with Duty according to the quantity of spirit used in its preparation as ascertained by such Surveyor or Officer. The provisions of this Act respecting Spirits manufactured after the English method, except such as relate to gauge and proof, shall apply to such liquor. When any such liquor is removed for exportation, without payment of Duty of Excise, the bond to be executed by the person removing it shall be in the form marked H, annexed to this Act, or in such other form as may from time to time be prescribed by the Chief Customs Authority of the Presidency or place

**CLXXI** Spirits brought to the Custom House for export-

Spirits intended for  
exportation may be re-  
moved for local con-  
sumption

ation under bond for the Duty of Excise may, on payment of such Duty, be removed for local consumption under passes to be granted for that purpose by the Officers of Excise. Credit for every such payment shall be given on settlement of the bond to which it relates.

**CLXXII** No drawback shall be allowed for any Spirits on

Conditions of draw-  
back and remission of  
Duty on Spirits

Re-land of Spirits  
shipped.

which Duty has been paid, nor shall the Duty due on any Spirits under bond be remitted, unless the Spirits shall be shipped from the Custom House, and in a vessel whereon an Officer of Customs has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from an Officer of Excise in addition to the usual order of the Officer in charge of the Custom House.

**CLXXIII** Every person who, without a special pass from

Penalty for irregular-  
ly re-landed spirituous  
liquors.

an Officer of Excise at the place of exportation, re-lands or attempts to re-land any spirituous liquor shipped for exportation, shall for every such offence be liable to a penalty not exceeding five hundred Rupees and all such liquor together with every

cask or other article containing the same, and every boat, cart, or animal employed in conveying it, shall be liable to confiscation.

#### AGENTS.

**CLXXIV** No person shall act in any Custom House as an Agent for the transaction of any business relating to the entrance or clearance of any vessel, goods, or baggage, unless authorized so to do by the Officer in charge of the Custom House. It shall be lawful for such Officer to require any person so authorized, to give a bond with sufficient securities, in any sum not exceeding five thousand Rupees, for the faithful behaviour of such person, as regards the Custom House Regulations and Officers. Every person who, not being so authorized, shall act as an agent, shall for every such offence be liable to a penalty not exceeding five hundred Rupees.

**CLXXV** When any person shall make application to any Officer of Customs to transact any business on behalf of any other person, such Officer may require the person so applying to produce a written authority from the person on whose behalf such business is to be transacted, and in default of the production of such authority may refuse to transact such business. The Clerk or servant or known agent of any person or of any mercantile Firm may transact business at the Custom House, on account of such person or Firm, if such person or a member of such Firm shall identify to the Officer in charge of the Custom House the person so empowered to transact his or their business, and shall deposit with such Officer a written authority duly signed, empowering such Officer to pay to such person all drawbacks, re-funds, and other monies for which he shall produce receipts.

#### DUPLICATE BILLS OF ENTRY, &C.

**CLXXVI.** Upon the entry or clearance of any goods, for importation or exportation, the importer, exporter, owner, or consignee, or the agent of such importer, exporter, owner, or

Importer or exporter to deliver a duplicate of the bill of entry, or shipping bill, if required.

consignee shall, if the Officer in charge of the Custom House so requires, deliver to such Officer a duplicate of the bill of entry or shipping bill thereof. In such duplicate all sums and numbers may be ~~in~~ figures.

**CLXXVII.** Every importer, exporter, owner, or consignee, and every agent of any such importer, exporter, owner or consignee, who shall wilfully fail to comply with the provisions of the last preceding Section, shall be liable to a penalty not exceeding two hundred Rupees.

#### TAKING OF SAMPLES

**CLXXVIII.** An Officer in charge of a Custom House may, on the entry or clearance of any goods, or at any time while such goods are being passed through the Custom House, take samples of such goods for examination, or for ascertaining the value thereof on which Duties are payable, or for any other necessary purpose. Every such sample shall, if the owner so desire, and if it be possible, be restored to the owner; otherwise it shall be disposed of and accounted for to the owner as the Officer in charge of the Custom House shall direct.

#### MISCELLANEOUS PROVISIONS.

**CLXXIX.** It shall be lawful for the local Government of any Presidency or place, with the sanction of the Governor-General of India in Council, to fix from time to time by notice in the Official Gazette, a value for any article liable to *ad valorem* Duty, and the value so fixed shall, until it is altered by a similar notice, be taken to be the value of such article for the purpose of levying Duty on the same.

**CLXXX.** In all cases in which goods are liable to Duty according to the value thereof, and in which no value shall have been fixed by a general tariff or under the last preceding Section, the value shall be assessed at the wholesale cash price less trade discount, for which goods of the like kind and quality

Local Government may, with sanction, fix value of *ad valorem* articles.

Assessment of goods liable to Duty according to value.

are sold, or are capable of being sold at the time and place of importation or exportation respectively, without any abatement or deduction whatever, except of so much as the Duties payable on the importation thereof shall amount to.

**CLXXXI.** Any person entering any timber or wood chargeable with Duty by measurement, shall, at his own expense, pile, sort, frame, or otherwise place the same in such manner as the Officer in charge of the Custom House shall deem necessary to enable the Officers of Customs to measure and take account thereof. In all cases in which timber or wood is measured in bulk, the measurement shall be taken to the full extent of the pile, and no allowance shall be made by the Officers on account of interstices.

**CLXXXII.** If two or more vessels belonging to the same owner be at any Port in British India at the same time, any articles of Marine Stores in use or ordinarily shipped for use on board may, at the discretion of the Officer in charge of the Custom House, be transhipped from one such vessel to any other such vessel without payment of import Duty

**CLXXXIII** Provisions and other such Ship's Stores warehoused at the time of importation, may be exported without payment of Duty for use and consumption on board of any vessel proceeding to a Foreign Port or place. Articles of Indian produce or manufacture, including rum, required for use on board of any vessel proceeding to any Foreign Port or place, may also be exported free of Duty, whether of Customs or Excise, in such quantities as the Officer in charge of the Custom House shall determine, with reference to the tonnage of the vessel, the numbers of the crew and passengers, and the length of the voyage on which the vessel is about to depart. Provided that no such rum shall be shipped as stores free of Duty on any vessel not going to a Foreign Port or place, or going on a voyage of less than thirty days' probable duration.

**CLXXXIV.** If any dispute shall arise as to the proper

In case of dispute the  
Duty to be deposited  
pending orders of Chief  
Customs Authority

rate of Duty payable in respect of any goods imported into, or exported from, any Port in British India, the importer, exporter, owner, or consignee of such goods, or his agent, shall deposit in the hands of the Officer in charge of the Custom House at the Port of importation or exportation respectively, the amount of Duty demanded by such Officer, pending the decision of the Chief Customs Authority. Upon payment of such deposit and compliance with the provisions of this Act relating to the entry of such goods, the Officer in charge of the Custom House shall cause the goods to be delivered to such importer, exporter, owner, or consignee, or his agent.

**CLXXXV.** When Duty or other Customs dues or charges

Payment of Duties  
short-levied or errone-  
ously refunded

have been short-levied through inadvertence, error, or mis-construction on the part of the Officers of Customs, or when Duty, after having been levied, has been erroneously refunded, the person chargeable with the Duty or charge so short-levied, or to whom such refund has erroneously been made, shall pay the deficiency or repay the amount paid to him, in excess on demand being made within six months from the date of the first assessment, or making of the refund, and it shall be lawful for the Officers of Customs to refuse to pass any goods belonging to such person until the said deficiency or excess be paid or repaid.

**CLXXXVI.** No Duty or other Customs dues or charges

No refund of charges  
erroneously levied or  
paid, unless application  
be made within six  
months.

which shall have been charged and paid, and of which, or of a portion of which, repayment is claimed in consequence of the same having been charged or paid under an erroneous construction of law or from other error shall be returned, unless such claim is made within six months from the date of such payment.

**CLXXXVII.** The un-shipping, carrying, shipping, and land-

Importer and export-  
er to pay expense inci-  
dental to compliance  
with Custom House  
rules.

ing of all goods, and the bringing of them to the proper place for examination or weighing, and the putting of them into and out of the scales, and the opening, un-pack-

ing, balking, sorting, letting, marking and numbering of goods, where such operations are necessary or permitted, and the removing of goods to, and the placing of them in, the proper place of deposit, shall be performed by or at the expense of the importer, exporter, owner, or consignee of such goods.

**CLXXXVIII** No importer, exporter, owner, or consignee of goods shall be entitled to claim from any Officer of Customs compensation for any loss or injury that may occur to such goods at any time while they remain or are lawfully detained in any Custom House, or on any Custom House Wharf, or under charge of any Officer of Customs, unless it shall be proved that such loss or injury was occasioned by the wilful act or neglect of an Officer of Customs.

**CLXXXIX.** The Chief Customs Authority of any Presidency or place may from time to time fix the rate to be charged on goods left on any Custom House Wharf or other authorized landing place, or part of the Custom House premises, for a period exceeding that prescribed by such Chief Customs Authority

**CXC** Nothing contained in this Act shall be construed to prevent the levy of any anchorage or harbour dues now leviable at any Port in British India, or the levy of any special Duties on Opium, Tobacco, Ganja, Spirits, or Salt, under any law which is or shall be in force in any part of British India.

**CXCI** A Duplicate of any Certificate, Manifest, Bill, or other Custom House document may, on payment of a fee of not less than one Rupee and not more than ten Rupees, be furnished, at the discretion of the Officer in charge of the Custom House, if he is satisfied that no fraud has been committed or is intended. The Officer in charge of the Custom House may also authorize any amendment to be made in any document, after it has been entered and recorded in the Custom House, upon payment of a like fee for every document so amended

**CXCII.** No Commissioner or Collector of Customs, or Officer of Customs whom a Commissioner or Collector of Customs shall deem it necessary to exempt on grounds of public duty, shall be compelled to serve on any jury or inquest.

Customs Officers may be exempted from service on any jury or inquest.

#### OFFENCES AND PENALTIES.

**CXCIII.** If any goods be put on board of any tug-steamer or pilot-vessel from any Sea-going vessel inward bound, or if any goods be put out of any tug-steamer or pilot-vessel for the purpose of being put on board of any outward bound vessel, or if any goods on which drawback shall have been granted shall be put on board of any tug-steamer or pilot-vessel for the purpose of being re-landed without the authority of the Officers of Customs, such goods shall be liable to confiscation, and the Master or Commander of such tug-steamer or pilot-vessel shall, in every such case, be liable to a penalty not exceeding one thousand Rupees.

**CXCIV** Any person shipping or landing goods, or aiding in the shipment or landing of goods, or knowingly keeping or concealing, or knowingly permitting or procuring to be kept or concealed, any goods shipped or landed or intended to be shipped or landed, contrary to the provisions of this Act, and any person who shall be found to have been on board of any vessel liable to confiscation under Section XIII of this Act, while such vessel was within any bay, river, creek, or arm of the Sea which had not then been declared to be and was not then existing as a Port for the landing or shipment of goods, shall be liable to a penalty not exceeding one thousand Rupees.

**CXCV.** If any vessel which shall have been within the limits of any Port in British India with cargo on board, be afterwards found in any Port, bay, river, creek, or arm of the Sea in British India, light or in ballast, and if the Master or Commander be unable to give a due account of the

Vessels in Port with a cargo and afterwards found in ballast and cargo unaccounted for, liable to confiscation.

Port or place in British India where such vessel lawfully discharged her cargo, such vessel shall be liable to confiscation.

**CXCVI** The confiscation of any vessel shall be deemed to include her tackle, apparel, and furniture. The confiscation of any goods shall be deemed to include any package in which they are found, and all the contents thereof. Every boat, cart, or other means of conveyance, and every horse or other animal used in the removal of any goods liable to confiscation, shall in like manner be liable to confiscation.

Tackle, &c., and packages and contents included in confiscation of vessels and goods. Also conveyances used in removal

**CXCVII** If any person in charge of or owning a vessel shall have become liable to any fine or penalty on account of any act or omission relating to the Customs, the Officer in charge of the Custom House may refuse Port-clearance to such vessel until the fine or penalty be discharged. If any person passing goods through the Custom House shall have become liable to any fine or penalty, the Officer in charge of the Custom House may detain such goods until the fine or penalty be discharged.

**CXCVIII** Any person against whom a reasonable suspicion exists that he has been guilty of an offence under this or any other Act relating to the Customs, may be detained by any Officer of Customs or other person duly employed for the prevention of smuggling.

Persons reasonably suspected may be detained

**CXCIX** Any vessel or goods liable to confiscation may be seized, and any person liable to be detained under this or any other Act relating to the Customs, may be detained in any place either upon land or water, by any Officer of Customs or other person duly employed for the prevention of smuggling.

Vessels, goods, and persons may be seized or detained

**CC** Every vessel, and all goods seized on the ground that they are liable to confiscation, shall as soon as conveniently may be, be delivered into the care of the Officer appointed to

Vessels and goods seized how to be dealt with.

receive the same. If there be no such Officer at hand, all goods so seized shall be carried to and deposited at the Custom House nearest to the place of seizure. If there be no Custom House within a convenient distance, such goods shall be deposited at the nearest Office appointed by the Chief Customs Authority of the Presidency or place for the deposit of goods so seized.

CCI. Every person detained on the ground that he has been guilty of an offence under this or any other Act relating to the Customs, shall forthwith be taken before the nearest Magistrate or Officer in charge of a Custom House

Persons detained to be taken to nearest Magistrate or Officer of Custom House.

CCII. When any person, detained on the ground that he has been guilty of an offence against this or any other Act relating to the Customs, shall be taken before a Magistrate, such Magistrate may, if he see reasonable cause, order such person to be detained in gaol or in the custody of the Police for such time as shall be necessary to enable such Magistrate to communicate with the Officers of Customs. Provided that any person so detained shall be liberated on giving recognizance or security to the satisfaction of the Magistrate to appear at such time and place as shall be appointed by such Magistrate for his appearance.

CCIII. If any person liable to be detained under this or any other Act relating to the Customs, shall not be detained at the time of committing the offence for which he is so liable, or shall, after detention, make his escape, such person shall at any time afterwards be liable to be detained and taken before a Magistrate, to be dealt with as if he had been detained at the time of committing such offence.

CCIV. When any person employed on the crew of any of Her Majesty's ships, shall be detained under this or any other Act relating to the Customs, the detaining Officer shall forthwith give notice thereof to the Commanding Officer of the ship, who shall thereupon place such

Persons in Her Majesty's Navy when detained to be secured on Board until warrant procured.

person in security on Board of such ship, until the detaining Officer shall have obtained a warrant from a Magistrate for bringing up such person to be dealt with according to law. A Magistrate shall duly grant a warrant upon complaint made to him by the detaining Officer, stating the offence for which the person is detained.

CCV. When any vessel or goods shall be seized or any person shall be detained under this or any other Act relating to the Customs, it shall be the duty of the Officer, or other person making such seizure or detention, on demand of the person in charge of the vessel or goods so seized, or of the person so detained, to give to such person a statement in writing of the reason for such seizure or detention

When seizure is made,  
seizing Officer to give  
reason in writing

CCVI. When any goods liable to confiscation under this or any other Act relating to the Customs, shall be seized by any Police Officer on suspicion that they had been stolen, it shall be lawful for such Officer to carry such goods to any Police Station or Court at which a complaint or information connected with the stealing or receiving of such goods, shall have been made, or enquiry connected with such stealing or receiving shall be in progress, and there to detain such goods until the dismissal of such complaint or information, or the conclusion of such enquiry or of any trial thence resulting. In every such case the Police Officer who seized the goods shall send written notice of their seizure and detention to the nearest Custom House; and immediately after the dismissal of the complaint or information, or the conclusion of the enquiry or trial, the said Police Officer shall cause such goods to be conveyed to and deposited at the nearest Custom House, to be there proceeded against according to law

Procedure in respect  
of goods seized on sus-  
picion

Penalty for neglect of  
Police Officer to give  
notice.

If any Police Officer, whose duty it is, under this Section, to send a written notice or cause goods to be conveyed to a Custom House, shall neglect so to do, such Officer shall be liable to a penalty not exceeding one hundred Rupees.

**CCVII.** Any duly empowered Officer of Customs or other person duly employed for the prevention of smuggling, may search any cart, or other means of conveyance, for smuggled goods, provided that such Officer shall have reasonable ground to suppose that smuggled goods are contained therein.

Officers of Customs may stop carts, &c., and search for goods on reasonable suspicion.

**CCVIII.** It shall be lawful for the Magistrate of a District, or Division of a District, on application by an Officer in charge of a Custom House, stating his belief that dutiable or prohibited goods are secreted in any place in such District or Division, to issue a warrant to search for such goods. Such warrant shall be executed in the same way, and shall have the same effect, as a search warrant issued under the Code of Criminal Procedure

Magistrate of District may issue search warrant on application

**CCIX.** Any Officer of Customs duly employed in the prevention of smuggling may search any person on Board of any vessel or boat in any Port in British India, or any person who shall have landed from any vessel or boat. Provided that such Officer shall have reasonable ground to suppose that such person has dutiable or prohibited goods secreted about his person. If any person on board of any such vessel or boat, or who may have landed from any such vessel or boat, shall, upon being asked by any such Officer whether he has dutiable or prohibited goods about his person or in his possession, affirm that he has not, and if any such goods shall, after such denial, be discovered to be or to have been upon the person or in the possession of such person, such goods shall be liable to confiscation, and such person shall be liable to a penalty not exceeding three times the value of such goods.

Persons may be searched on reasonable suspicion.

Penalty for possession of smuggled goods

**CCX.** When any Officer of Customs is about to search any person under the provisions of the last preceding Section; such person may require the said Officer to take him previous

Persons before search may require to be taken before a Magistrate, &c

to search, before the nearest Magistrate or Officer in charge of a Custom House. If such requisition be made, the Officer of Customs may detain the person making it until he can bring him before the nearest Magistrate or Officer in charge of a Custom House. The Magistrate or Officer in charge of a Custom House before whom any person shall be so\* brought, shall, if he see no reasonable ground for search, forthwith discharge such person; but if otherwise, shall direct that the search be made. A female shall not be searched by any but a female.

CCXI. If any Officer of Customs shall require any person to be searched, for dutiable or prohibited goods without having reasonable ground to believe that he has such goods about his person, such Officer shall be liable to a penalty not exceeding one hundred Rupees

Penalty for searching persons on insufficient grounds

CCXII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall be guilty of a wilful breach of the provisions of this or any other Act relating to the Customs, such Officer or person shall on conviction before a Magistrate be liable to simple imprisonment for any term not exceeding two years, or to fine, or to both

Customs Officers, if guilty of breach of duty, how punishable.

CCXIII. If any Officer of Customs, or other person duly employed for the prevention of smuggling, shall practise or attempt to practise any fraud for the purpose of injuring the Customs Revenue, or shall abet or connive at any such fraud or any attempt to practise any such fraud, such Officer or other person shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding two years, or to fine, or to both.

Customs Officers committing, or conniving at frauds, how punishable

CCXIV. No suit, action, or other proceeding shall be commenced against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action or other proceeding

No suit or proceeding to be commenced without notice or after stated interval.

and of the cause thereof, nor after the expiration of twelve months from the accrual of the cause of suit, action, or proceeding.

**CCXV.** Whoever intentionally obstructs any Officer of Customs or other person duly employed for the prevention of smuggling in the exercise of any powers given under this Act to such Officer or person, shall on conviction before a Magistrate be liable to imprisonment of either description for any term not exceeding six months, or to a fine not exceeding one thousand Rupees, or to both.

**CCXVI.** If any person shall knowingly make or sign any declaration or document used in the transaction of any business relating to the Customs, such declaration or document being false in any particular; or if any person shall counterfeit, falsify, or fraudulently alter or destroy any such document, or any seal, signature, initials, or other mark made or impressed by any Officer of Customs in the transaction of any business relating to the Customs; or if any person required under this or any other Act relating to the Customs to produce any document shall refuse or neglect to produce such document; or if any person required under this or any other Act relating to the Customs to answer any question put to him by an Officer of Customs shall not truly answer such question, such person shall, on conviction of any such offence before a Magistrate, be liable to a penalty not exceeding one thousand Rupees.

**CCXVII.** Any person subscribing or attesting any declaration of the value of any goods upon an application to pass such goods through the Custom House, shall, if he be not the importer, owner, or consignee of such goods, or have not proper and sufficient authority from the importer, owner, or consignee be liable in every such case to a penalty not exceeding one thousand Rupees.

**CCXVIII.** In every case in which, under this Act, any vessel, cart, or other means of conveyance, or any horse or other animal is liable to confiscation; or any goods are liable to confiscation or to increased rates of Duty; or any person in charge of or owning a vessel, or landing or shipping goods, or passing them through the Custom House, is liable to a penalty, an Officer in charge of a Custom House may, unless it be otherwise provided in this or any other Act relating to the Customs, adjudge such confiscation, penalty, or increased rates of Duty

Officer in charge of Custom House may adjudge confiscations and penalties

**CCXIX.** In respect to cases cognizable under the last preceding Section by an Officer in charge of a Custom House, the local Government may empower any Officer of Customs in like manner to adjudge any confiscation, penalty, or increased rates of Duty. Provided that the power to adjudge confiscation shall not extend, as regards a Deputy Collector, to goods of a greater value than one thousand Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to goods of a greater value than one hundred Rupees, and that the power to adjudge a penalty shall not extend, as regards a Deputy Collector, to a sum exceeding fifty Rupees, nor as regards an Assistant Collector, or other subordinate Officer, to a sum exceeding ten Rupees.

Local Government may confer like powers on other Officers of Customs

Proviso

**CCXX.** In any case adjudicated by an Officer of Customs, any party aggrieved by the award may appeal to the Chief Customs Authority of the Presidency or place, or to any superior Officer of Customs empowered in that behalf by the local Government. It shall thereupon be lawful for such authority or superior Officer to make such further enquiry, and to pass such order as he shall think proper, confirming, altering or annulling the original award. Provided that no such order in appeal shall have the effect of subjecting any person to any

Appeal from subordinate to Chief Customs Authority

greater confiscation, penalty, or rates of Duty than shall have been adjudged against him in the original award.

**CCXXI.** The award of any confiscation, penalty, or increased rates of Duty under this Act by an Officer of Customs shall not interfere with any punishment to which the person affected thereby shall be liable under any other law.

**CCXXII.** All offences against this Act, other than those cognizable under Section CCXVIII of this Act by an Officer in charge of a Custom House, may be adjudicated in a summary manner by a Magistrate.

**CCXXIII.** If, upon consideration of the circumstances under which any penalty or confiscation has been adjudged under this Act, by an Officer of Customs or by a Magistrate, the Chief Customs Authority of the Presidency or place shall be of opinion that such penalty or confiscation ought to be remitted in whole or in part, or commuted, such Chief Customs Authority may remit the same or any portion thereof, or may commute any order of confiscation to a penalty not exceeding the value of the goods ordered to be confiscated.

**CCXXIV** When a penalty is adjudged against any person under this Act by any Officer of Customs, it shall be lawful for such Officer, if the penalty be not paid, to levy the same by sale of any goods of the said person which may be in his charge, or in the charge of any other Officer of Customs. When an Officer of Customs, who has adjudged a penalty against any person under this Act, shall fail to realize the unpaid amount of such penalty from the goods of such person, it shall be lawful for such Officer to notify in writing to any Magistrate within whose jurisdiction such person or any goods belonging to such person shall be, the name and residence of the said person and the amount of

penalty unrecovered, and such Magistrate shall thereupon proceed to enforce payment of the said amount in like manner as if the penalty had been adjudged by himself.

CCXXV. When a penalty or fine is adjudged against any person under this Act by a Magistrate, such Magistrate shall, at the same time, fix, within the following limits, a period of imprisonment in default of payment of such penalty or fine —

Periods of imprisonment in default of payment of penalty or fine to be fixed within certain limits

If the penalty or fine do not exceed fifty Rupees, the term of imprisonment to be fixed in default of payment shall not exceed one month.

If the penalty or fine do not exceed one hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed two months

If the penalty or fine do not exceed five hundred Rupees, the term of imprisonment to be fixed in default of payment shall not exceed four months.

When the penalty or fine exceeds five hundred Rupees, the term of imprisonment to be fixed in default of payment may extend to six months

It shall be lawful for the Magistrate at any time to enforce payment of any penalty or fine, or of any portion thereof by distress and sale of the goods of the defaulter.

CCXXVI The imprisonment which is imposed in default of payment of fine or penalty under this or any other Act relating to the Customs shall terminate whenever that fine or penalty is either paid or levied by process of law.

Imprisonment to terminate upon payment of the fine

CCXXVII. If before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine or penalty be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine or penalty still unpaid, the imprisonment shall terminate.

Or upon payment of proportional part of fine

**CCXXVIII.** When the confiscation of any vessel, cart, or other means of conveyance, horse or other animal, or any goods shall be adjudged under Section CCXVIII or Section CCXIX of this Act, the property in such vessel, means of conveyance, animal, or goods shall thereupon vest in Her Majesty. It shall be the duty of the Officer adjudging confiscation to take and hold possession of the same, and it shall be the duty of every Officer of Police, on the requisition of such Officer, to assist him in taking and holding such possession.

**CCXXIX.** The proceeds of all confiscations and penalties imposed under this Act shall, after deducting therefrom all Government demands, be paid into a General Fund, out of which it shall be lawful for the Chief Customs Authority of the Presidency or place to grant a reward to any person by whose information, assistance, or instrumentality, any seizure shall have been made or any offence punished.

**CCXXX.** This Act shall come into operation on the 1st day of May 1863

A  
FORM OF APPLICATION FOR A LICENSE FOR  
PRIVATE WAREHOUSE.

(See Section LXXIV)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to comply with my request to be furnished with a license under Act VI of 1863 •  
for a warehouse situated at \_\_\_\_\_ and  
about the distance of \_\_\_\_\_  
from the Custom House. The dimensions and other parti-

culars of the godown are stated below. It is intended for the reception of all goods, as a general store-house—(or as the case may be)—The period of license not to exceed—(mention the time for which required).

*Particulars of Godown*

	<i>Feet—Inches</i>	Dry, airy, well flued and puckah built; can contain with perfect safety and convenience _____ tons of goods (—as the case may be—)
Length		
Breadth		
Height	.. .	

This godown is my own property—(or the property of  
,—from whom I have engaged the same on a lease of )

(Signed) ( )

*Name of Applicant.*

Place

Date

B

FORM OF APPLICATION TO WAREHOUSE GOODS.

(See Section LXXV)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to order the reception into the public warehouse  
(or the private warehouse,—of Mr A B., situate at  
and licensed by No  
dated ) of the  
undermentioned goods, arrived from—Port or place to be men-  
tioned,—on the—(British or other)—ship whereof  
is Commander.



C

FORM OF BOND FOR IMPORT DUTY.

(See Sections LXXVII and LXXVIII.)

BOND

No 18

We, A B,

now of

, and C D,

of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in the sum of Government Rupees

to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives, and we agree that, in case of dispute touching the matter of this obligation or the condition thereof, the same may be heard and determined in the High Court of Judicature at

Sealed with our seals ( date )

(Signed)

The above,

bounden

having applied to the

Officer in charge of the Custom House at

for and obtained permission to lodge in the warehouse for a period of

the following goods, that is to say— imported by Sea from

on board of the ship and entered in the Custom House Books as No of the Register of Goods Imported by Sea,

The condition of this bond is, that,

If the \*their heirs, or representatives, shall observe all the rules prescribed in Act No. VI of 1863 to be observed by owners, importers or consignees of goods warehoused, and by persons obtaining permission to warehouse goods under the provisions thereof,



exportation by Sea on the ship  
 whereof is Commander and which is bound  
 to—(or for internal consumption)—the same having been en-  
 tered in the books of your Office for the said warehouse, under  
 No. dated by me—(or by Messrs. B.  
 & Co.—in the latter case add—whose certificate of the transfer  
 of the goods is herewith annexed )

Marks and No of cases, B and Co ,

(Name of the goods):

No 1 to 4.

□ × ✓

Scaled

Warehoused for exportation

Four cases of—(name of goods)—1 case,—

(box, bale, or parcel)—containing—

(here insert the quantity in each case).

1 Ditto

1 Ditto

1 Ditto

Four cases,—(boxes, bales, or parcels)—

containing—(total contents to be here

stated)

The Custom House value of the above is Government Rupees

(Signed) ( )

Name of Owner, Agent, or Consignee of goods.

Place

Date

E.

## FORM OF APPLICATION TO REMOVE GOODS FROM ONE WAREHOUSE TO ANOTHER.

(See Section CV.)

To

THE OFFICER IN CHARGE OF THE CUSTOM HOUSE

AT

SIR,

PLEASE to permit the removal of the under-  
 mentioned goods from the public—(or private)—ware-  
 house—(describe the warehouse)—to—(the warehouse into which  
 the removal is intended to be made must here be distinctly  
 described)—for the unexpired period of warehousing remaining

in respect to the goods, the same having been originally entered by virtue of Act VI of 1863 in the books of the warehousing department, No.                      dated                      for fifteen months—(or such other, period as may have been allowed)—under the obligations and conditions at present attached to the goods.

Marks and numbers of packages.	Description of packages and of goods.	Contents of packages.	Rate of value of goods	Amount of value of goods as entered in Custom House books	Rate of Duty chargeable or paid upon the goods	Name of the persons by whom goods first passed into warehouse.
1	2	3	4	5	6	7

NOTE.—If the goods to be removed shall have been sold or transferred by, the original proprietor or agent, a certificate of such sale or transfer shall accompany the application

(Signed) (                      )

Name of Owner, Agent, or Consignee of goods.

Place

Date



G.

## FORM OF COASTING PASS—(See Section CLIV.)

*Port of*

Ship's name.	Tonnage c	Port of Re- gistry.	Master's name	Whether bound	Foreign goods, duty paid.	Warehoused goods removed in bond	Country goods	Restricted goods and goods liable to duty or excise
1.	2	3.	4	5	6	7	8	9.

13

*Here state the particulars according to the above Headings*

Cleared the

day of

18

(Signed)

(

)

Officer in charge of Custom House

(Signed)

(

Name of Master.

## H.

FORM OF BOND FOR THE REMOVAL OF SPIRITS  
FROM LICENSED DISTILLERY.

(See Section CLXIII.)

We

are jointly and severally bound to Her Majesty's Secretary of State for India, in the sum of Government Rupees \_\_\_\_\_ to be paid to the said Secretary of State, for which payment we jointly and severally bind ourselves, our heirs, and representatives, and we agree that in case of dispute touching the matter of this obligation, or the condition thereof, the same may be heard and determined in the High Court of Judicature at \_\_\_\_\_

Sealed with our seals, dated this \_\_\_\_\_ day of \_\_\_\_\_ 18 \_\_\_\_\_

(Signed) ( \_\_\_\_\_ )

The above bounden \_\_\_\_\_ being indebted to Her Majesty's Secretary of State for India in the sum of Government Rupees \_\_\_\_\_ being the amount of Duty payable at the rate of Rupees \_\_\_\_\_ per Imperial gallon London proof, for \_\_\_\_\_ gallons of \_\_\_\_\_ or for \_\_\_\_\_ gallons of proof spirit used in the preparation of \_\_\_\_\_ dozens of bottles or \_\_\_\_\_ gallons of cordials and liquors as specified in the annexed Schedule)—manufactured at \_\_\_\_\_ which the said \_\_\_\_\_ have been allowed to remove thence for exportation by Sea, subject to the provisions of Act VI of 1863 without having paid such Duty

The condition of this obligation is, that, if the above bounden \_\_\_\_\_ their heirs, or representatives, shall, at the expiration of four calendar months from the date of this obligation, pay or cause to be paid to the said Secretary of State Duty at the rate of \_\_\_\_\_ rupees per Imperial gallon of proof spirits for all or any portion of the above-mentioned, \_\_\_\_\_ which shall not have been then exported by Sea, subject to the aforesaid provisions (of which exportation, if any, due

proof shall be given) or passed for local consumption on payment of Duty, then this Bond shall be void ; otherwise the same shall remain in full force.

Sealed and delivered in the presence of

Place

Date

*(If the bond be for cordials and other liquors under Section*

*CLXX, add*

*Schedule.*

Description of cordials and liquors.	Quantity in bottles or gallons	Quantity of proof spirit.
---	-----------------------------------	------------------------------

2

3

## EMIGRATION TO ST. CROIX.

## ACT No VII of 1863.

(Received the assent of the G. G. on the 4th February 1863.)

Recites expediency of extending Act XXXI 1855, to emigration to St. Croix.

- 1 Repeals Act XIV 1839, so far as it applies to emigration to Saint Croix from presidency ports.
- 2 Extends Act XXXI. 1855, and Act XLIX 1860, to emigration to Saint Croix.
- 3 Act to take effect from date of notification in the Gazette.
- 4 Extends Act XIX. 1856, to emigration to St. Croix.

An Act relating to the Emigration of Native Laborers to the Danish Colony of St. Croix.

WHEREAS it is expedient to render lawful the emigration of laborers, being Native inhabitants of British India, to the Danish Colony of Saint Croix, and to extend the provisions of Act XXXI of 1855 (*relating to the emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada*) to the emigration of Native Inhabitants of British India who may emigrate to Saint Croix, It is enacted as follows.—

I Act XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the Danish Colony of Saint Croix, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed

II. All the provisions of Act XXXI of 1855, and of the Schedule thereto as modified by Act XLIX of 1860 (*relating to Vessels carrying emigrant Passengers to the British Colonies*) shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to the Danish Colony of Saint Croix, and that Act shall be read as, if the words "or the Danish Colony of Saint Croix" had been inserted therein

after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

III. This Act shall take effect as to the said Colony of Saint Croix from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided and such measures taken as the Governor-General in Council deems necessary for the protection of such emigrants during their residence in the said Colony of Saint Croix and in respect of their return to India.

IV. All the provisions of Act XIX of 1856 (*to enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers*) shall apply to Emigration to the said Colony of Saint Croix.

## CONVICTS OF COURTS IN NATIVE STATES.

### ACT No VIII OF 1863.

(Received the assent of the G. G. on the 23rd February 1863)

Receives expediency of amending the law relating to the confinement of prisoners tried by British Courts in Native States, and to make provision for safe custody of prisoners convicted of suttee and sumadh in Native States.

1. Repeals Bombay Reg IX 1833, Act XVIII 1843; and Act V 1847
- 2—3. Empowers officers in charge of jails to give effect to sentences passed by Courts in non-regulation ports, (3), under warrant from such Courts but not to apply to jails in presidency towns
4. Authorises the execution in British territory of prisoners convicted in Native States, &c., of offence of thuggee, dacoity, &c., suttee, sumadh, or other offences specified in proclamation, &c
5. Officer in charge of jail, if in doubt as to legality of warrant, may refer the matter to Government.
6. General prison regulations to apply to prisoners under this Act.

An Act for the amendment of the law relating to the confinement of prisoners sentenced by Courts acting under the au-

thority of Her Majesty, and by certain other Courts, and of prisoners convicted of offences in Native States.

WHEREAS it is desirable to amend the law relating to the  
 Preamble. confinement of prisoners who have been  
 sentenced by Courts acting under the

authority of Her Majesty, or of the Government of India, or of any local Government, and whereas it is expedient to make the same provision for the secure custody of persons convicted of participation in the offence of Suttee (burning alive) or Sumadh (burying alive) and of such other offences as the Governor-General in Council shall from time to time, by an order to be published in the Government Gazette, think fit to prescribe, within the Territories of Native Princes or States in alliance with Her Majesty as is already made in regard to persons convicted of Thuggee or Dacoity in such States, It is enacted as follows —

I Regulation IX of 1833 of the Bombay Code (*to provide for the reception in the Jails under that Presidency of prisoners sentenced by Courts of Justice or Tribunals acting under British Superintendence other than those provided for in the existing Regulations*), Act XVIII of 1843 (*for the better custody of persons convicted of Thuggee and Dacoity*), and Act V of 1847 (*to facilitate the execution of the sentences of Courts established by the authority of the Governor-General in Council for the administration of Criminal Justice in States or Territories administered by Officers acting under the authority of the East India Company*) are hereby repealed.

II. Officers in charge of Jails within the British Territories in India shall be competent to give effect to any sentence which shall be passed by any Court or Tribunal acting under the authority of Her Majesty, or of the Government of India, or of any local Government, although, such Court be not situate in a place not subject to the general Regulations.

Provided that this Section shall not apply to any Officer in charge of any Jail or House

of Correction within the local limits of the ordinary original Civil Jurisdiction of any Court established by Royal Charter.

III. A warrant under the official signature of an Officer of the Court or Tribunal as aforesaid shall be sufficient authority for holding any prisoner in confinement, or for transmitting any prisoner for transportation beyond sea, in pursuance of the sentence passed upon him

Warrant of Officer of such Court to be sufficient authority.

IV It shall be lawful for the Executive Government of any part of the British Territories in India to authorize the reception, detention, or imprisonment in any part of those Territories, for the periods specified in their respective sentences, of persons sentenced within the Territories of any Native Prince or State in alliance with Her Majesty to imprisonment or transportation for the offence of Thuggee or Dacoity, or the offence of belonging to any gang of Thugs or Dacoits, or for participation in the offence of Suttee or Sumadh, or for such other offences as the Governor-General in Council shall from time to time, by an order published in the Government Gazette, think fit to prescribe. Provided always that such sentences shall have been pronounced after trial before a Tribunal in which an Officer of Government, duly authorized in that behalf by such Prince or State, shall be one of the presiding Judges. Every Officer of Government so authorized as aforesaid shall forward with every prisoner a certificate of his conviction, and a copy of the proceedings held at the trial, that the same may be forthcoming for reference at the place where the sentence of imprisonment or transportation may be carried into effect.

Proviso

Procedure of Officer in charge of Jail if he doubt the legality of any warrant sent to him for execution.

V If any Officer in charge of a Jail shall entertain any doubt as to the legality of any warrant sent to him for execution under this Act, or as to the competency of the person or persons whose official seal and signature may be annexed thereto to pass the sentence and issue such warrant, such

Officer shall refer the matter to the Government to which he is subject, by whose order on the case such Officer and all other public Officers shall be guided as to the future disposal of the prisoner. Pending any such reference, the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant.

# VI. The provisions of the existing Acts and Regulations

Provisions of existing Acts, &c., relating to the treatment and security of prisoners generally, to apply to prisoners confined under this Act.

and all other rules in force for the treatment and security of prisoners confined in the said Jails shall apply and be of equal force and effect in the case of prisoners confined therein under this Act as in the case of other prisoners confined therein.

## CODE OF CIVIL PROCEDURE.

### ACT No. IX OF 1863.

*(Received the assent of the G. G. on the 23rd February 1863.)*

Recites the necessity of amending Act VIII 1859, Section 386

1—2. Vests in one judge the powers vested in two by this Section, when the highest court in non-regulation parts, consists of only one judge ; and (2) gives validity to acts of one judge in such cases before Act passed.

### An Act to amend the Code of Civil Procedure

WHEREAS the Code of Civil Procedure requires that appeals from decisions or orders to the Sudder

Preamble.

Court shall ordinarily be heard and determined by two or more Judges of the said Court, and whereas in the Territories, not subject to the general Regulations, the highest Civil Courts of Appeal, which are declared by Section 386 of Act VIII of 1859 to be included in the expression "Sudder Court", in any part of the said Territories to which the said Code may be extended, generally consist of only a single Judge, and it is expedient to make provision for the powers to be exercised by such single Judge in hearing appeals from decisions and orders, or in proceedings relating to any other matter which may be brought before him ; It is enacted as follows —

I. When in any part of the British Territories in India to which the Code of Civil Procedure has been or shall be extended under the provisions of Section 385 of the said Code, the highest Civil Court of Appeal consists of a single Judge, such Judge shall have all the powers vested by such Code in two or more Judges of the Sudder Court.

II. No order passed by or proceeding held before the single Judge of any such highest Civil Court of Appeal, subsequent to the extension of the Code of Civil Procedure to such part of the British Territories in India, shall be deemed invalid, or be liable to be questioned on the ground that such order or proceeding was passed by or held before a single Judge.

In certain places the highest Civil Court of Appeal to have powers of Sudder Court.

No order or proceeding of such Court to be void because passed or held by a single Judge.

#### ADMINISTRATION OF JUSTICE, DARJEELING.

##### ACT No X OF 1863

*(Received the assent of the G. G. on the 23rd February 1863.)*

Recites expediency of improving administration of justice in Darjeeling

1—6. Gives the Superintendent, &c, same immunity from appeal as Small Cause Courts under Act XLII 1860, but new trial may be granted, &c, and (2) authorizes them to state case on certain points for opinion of High Court, (4) to be decided by two Judges; (5) at an early day; (6) at the hearing parties may appear; (3) but Court may proceed nevertheless with suit, but execution not to issue.

7—8 High Court to transmit copy of its judgment, &c, to the Superintendent, &c, who shall proceed according to the judgment, and (8) High Court costs to be costs in the suit.

9—11 Gives a regular appeal in suits not exceeding 5,000 Rs., to the Judge of Dinapore; and (10) a special appeal from him to the High Court in specified cases; and (11) a regular appeal to High Court in suits exceeding 5,000 Rs.

12—14 Commitments for Court of Sessions to be made to Sessions Judge of Dinapore; and (13) criminal appeals from Darjeeling Judge to Judge of Dinapore; and (14) High Court to have same jurisdiction over his proceedings as in other cases.

An Act to improve the Administration of Justice in the District of Darjeeling.

WHEREAS it is expedient to improve the Administration of Justice in the District of Darjeeling; It  
Preamble  
is enacted as follows —

**L.** Every decision or order passed by the Superintendent of the District of Darjeeling in suits of the nature cognizable in Courts of Small Causes under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), or by the Judge of any Court constituted in the said District under the said

Act shall be final, and no appeal shall lie from such decision or order. Provided that it shall be competent to the Superintendent, or Judge of any such Court as aforesaid, if he shall think fit to grant a new trial, if applied for within the period of thirty days from the date of the decision, but no new trial shall be granted unless the party applying for the same shall, with his application, deposit the amount for which judgment shall have been given against him, including the costs (if any) of the opposite party.

**II.** If in the trial of any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision shall arise on which the Superintendent or Judge of any Court constituted as aforesaid shall entertain reasonable doubt, the Superintendent or Judge as aforesaid may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it with his own opinion for the decision of the High Court.

**III.** The Superintendent or Judge as aforesaid may proceed in the case notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court until the receipt of the order of that Court.

**IV.** Cases referred for the opinion of the High Court shall be dealt with by two or more Judges of that Court.

No appeal from decisions in suits of the nature cognizable in Small Cause Courts, under Act XLII of 1860

In case of doubt as to question of Law, &c., statement of case may be submitted for decision of High Court.

And decree may be passed contingent thereon, but pending receipt, execution not to issue.

Full bench of the High Court to decide cases referred under this Act.

High Court to fix an early day for the hearing of the case.

Proclamation thereof.

Parties may appear and be heard in person or by pleader.

V. The High Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court House of that Court.

VI. The parties to the case may appear and be heard in the High Court in person or by pleader.

VII. The High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the Register, to the Superintendent or Judge as aforesaid, and the Superintendent or Judge as aforesaid shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court shall be costs in the suit.

IX. In all suits other than those mentioned in Section I of this Act, in which the amount or value of the suit shall not exceed Rupees five thousand, an appeal from the decision of the Superintendent, or of any other Court which is or hereafter may be established in the said District of Darjeeling shall lie to the Judge of Dinagore, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

X. A special appeal shall lie to the High Court of Judicature at Fort William from all decisions passed in regular appeal by such Judge, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and upon no other ground, and such special appeal shall be subject to the rules contained in the Code of Civil Procedure regarding special appeals.

**XI.** In all suits heard and determined by the Superintendent, or by any other Court which is or hereafter may be established in the said District of Darjeeling in which the amount or value of the suit shall exceed Rupees five thousand, an appeal shall lie to the said High Court, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

**XII.** When a commitment in a case triable under the Code of Criminal Procedure by a Court of Sessions is made by the said Superintendent, or by any other Officer in such District competent to make commitments to the Court of Sessions, such commitment shall be made to the Sessions Judge of Dinagore, and shall be heard and determined by him.

**XIII.** Appeals from sentences and orders passed by the said Superintendent or by any Officer subordinate to him from which an appeal is allowed under the Code of Criminal Procedure shall lie to the Sessions Judge of Dinagore, and shall be heard and determined by him.

**XIV** The High Court of Judicature at Fort William in Bengal shall exercise the same jurisdiction, appellate or otherwise, in respect of any sentence or order passed by such Sessions Judge under this Act, which the said High Court may exercise in respect of any other sentence or order passed by such Judge.

#### PROCESS-SERVING PEONS.—NORTH-WESTERN PROVINCES.

ACT No. XI OF 1863.

*(Received the assent of the G. G. on the 25th February 1863.)*

Recites expediency of consolidating the law relating to the remuneration and employment of Court peons.

1 Repeals as to the North-Western Provinces Bengal Reg. XXVI. 1814, Section 14; Reg. VII. 1832, Section 5.

3—6. Subject to the approval of the Sudder Court the Zillah Judges are to fix the number of peons for their Courts, and the subordinate Courts, and Small Cause Court Judges to do the same for their Courts; and (3) the Nazir to appoint them, and (4) none but such peons to be employed except by leave of the Court, and (5) Court peons to be distinguished by plate and belt; and (6) be remunerated either by salaries or fees to be fixed by Government.

7. Salaries for peons to be paid out of fee fund, and surplus applied to the improvement of the administration of justice, &c.

8. Directs an account to be kept, and returns made, of fee fund.

9. All process under this Act to be deemed process within Act VIII. 1859, Section 186, and Act XXIII. 1861, Section 2.

10. Authorizes the Sudder Court to make rules for fixing costs of service and process, &c.

11. Empowers the G. G. in C. and Lieut.-Governor of Punjab to extend this Act to any territories under their respective Governments.

12—18. Interprets the term "Judge;" and (13) the term "Sudder Court."

**An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.**

**WHEREAS** it is expedient to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal and in other parts of the British Territories in India, to which this Act shall be extended as hereinafter provided; It is enacted as follows :—

**Preamble.** relating to the employment and remuneration of Peons for the service and execution of Civil process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal and in other parts of the British Territories in India, to which this Act shall be extended as hereinafter provided; It is enacted as follows :—

**I.** From and after the passing of this Act, Section XIV of Regulation XXVI. 1814 of the Bengal Code (*for modifying some of the Rules at present in force regarding the admission and trial of special and summary appeals from decisions passed in regular suits, for limiting and altering some of the existing provisions respecting the pleadings and processes, and the mode of executing decrees and regular suits and appeals; and for explaining and making certain additions to the provisions of Regulation I. 1814*), Section V of Regulation VII. 1832 of the said Code (*for modifying certain of the provisions of Regulation V. 1831 and for providing supplementary Rules to that enactment*), and Act XIV of 1845 (*to provide for the appointment of Nazirs*)

in the *Munsiff's Courts*), shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal.

II. Subject to the approval of the Sudder Court the Judges of the several Zillah Courts in the said North-Western Provinces shall fix the number of Peons necessary to be employed in the said Zillah Courts and in the several Courts subordinate to them for the service and execution of processes issued out of such Courts, respectively, and the Judges of the Courts of Small Causes in the said Provinces shall in like manner fix the number of Peons necessary to be employed in the said Small Cause Courts for the service and execution of processes issued out of such Courts. Subject to the like approval the said Judges may from time to time alter the number of Peons to be so employed.

III. The appointment of Peons in the several Courts mentioned in the last preceding Section shall be made, subject to the approval of the Judge of the Court, by the Nazir of the Court in which the Peons are employed, or by the Clerk of the Court where there is such an Officer, and every such appointment shall be registered in the Court with the following particulars, the name of the Peon, his age, his place of abode, his father's name, and date of appointment.

IV. No person who shall not be appointed and registered as a Peon in the manner hereinbefore provided shall be employed in the service or execution of the process of any Court without the special leave of such Court.

V. The Peons who are appointed and registered in the manner above prescribed, shall be furnished at the expense of the State with a uniform belt and plate, on which shall be inscribed the Court to

which the Peon belongs and the number of the Peon in the Register.

**VI.** The Peons appointed and registered under this Act shall either receive fixed salaries, or be remunerated by fees for the service of the processes served or executed by them, as the local Government shall direct. The amount of salary shall be fixed by the local Government.

**VII.** When the Peons appointed under this Act are remunerated by a fixed salary, the money paid under this Act for the service or execution of processes shall be carried to the credit of Government, and shall be formed into a fund out of which the salaries of such Peons shall be paid. Any surplus that may accrue from such fund, after paying the salaries of the Peons, shall be at the disposal of the local Government, and may be applied by such Government, subject to the approval of the Governor-General in Council, to the improvement of the administration of Civil Justice in the North-Western Provinces.

**VIII.** A regular account of all moneys received into and paid out of Court under this Act shall be kept, and extracts from this account shall be forwarded to the local Government at such times and in such form as such Government shall direct.

**IX.** Every process served or executed under this Act shall be held to be a process within the meaning of Section 188 of the Code of Civil Procedure and Section 2 of Act XXIII of 1861 (*to amend Act VIII of 1859 for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*).

**X.** The Sudder Court shall make rules prescribing the cost of serving and executing processes issued by the said Court, and by the Courts subordinate to such Court, as well as by the Courts of Small Causes, established

Disposal of sums paid under Act for execution of process.

Account of moneys received into and paid out of Court

Construction of process.

Sudder Court to make rules for fixing cost of serving process, remuneration of peons, &c.

within the local limits of the jurisdiction of such Sudder Court, and for levying the same, and also rules for the remuneration of the Peons appointed and registered under this Act who are not paid by fixed salaries, and of all other persons who may be employed in the service or execution of processes by leave of a Court under the 4th Section of this Act, and also such other rules as the Sudder Court shall deem necessary, and shall not be inconsistent with the provisions of this Act for carrying out the provisions of this Act. The rules made under this Section, after being confirmed by the local Government, shall have the force of law. Subject to the same confirmation the Sudder Court may from time to time vary the rules made under the authority of this Section. The rules made and confirmed under this Section, and a table of costs for serving and executing processes, shall be exposed to public view in every Court for which Peons are appointed and registered under this Act.

XI. The Governor-General of India in Council shall have power, by an order to be published in the Calcutta Gazette, to extend the provisions of this Act to any part of the Territories under the immediate administration of the Governor-General in Council, and the Lieutenant-Governor of the Punjab shall have power, by an order to be published in the Official Gazette, to extend the provisions of this Act to any part of the Territory under his Government.

XII. The term "Judge" in this Act shall denote the presiding Judicial Officer in every Court of Civil Judicature by whatever title he shall be designated. And in any place not subject to the General Regulations to which the provisions of this Act extend, or shall hereafter be extended as provided in the last preceding Section, the Judges of the Principal Courts of original Civil Jurisdiction in such place shall be the Judges to fix the number of Peons necessary to be employed in such Courts, and in any Courts subordinate to such Courts, as

Powers of Governor-General and of Lieutenant-Governor, Punjab, to extend Act.

Interpretation of "Judge."

provided in Section II of this Act, and subject to the approval therein mentioned.

**XIII.** When this Act shall be extended to any place under Section XI of this Act the term "Sudder Court" as used in this Act shall be taken to mean the highest Civil Court of Appeal established in the place to which this Act shall be so extended.

Interpretation of  
"Sudder Court" in  
places to which Act  
shall be extended.

### MAHOBIA AND JEITPORE, IN HUMEERPORE, BUNDLEKUND.

#### ACT No XII OF 1863.

*(Received the assent of the G. G. on the 25th February 1863)*

Recites expediency of bringing Mahobia and Jeitpore under the same Regulations as the rest of the District

1—5 Places those Pergunnahs under the same Regulations, &c., as the rest of the District; save (2) as to pending, and (3) remanded proceedings, and (4 and 5) as to pending appeals

6 Act to take effect from time fixed in Gazette

An Act to bring the Pergunnahs' of Mahobia and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations.

**WHEREAS** the District of Humeerpore in Bundlekund is, with the exception of the Pergunnahs of Mahobia and Jeitpore, subject to the General Regulations, and whereas it is expedient that the said Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the District; It is enacted as follows —

Preamble.

**I.** The Laws and Regulations established for the internal administration of the District of Humeerpore shall have full force and effect in the Pergunnahs of Mahobia and Jeitpore, and the administration of Civil and Criminal Justice, and the superintendence of the settlement and realization of the public revenue, and of all matters relating to rent in the said Pergunnahs, are hereby vested in the Officers who are, or may hereafter be, appointed by the Lieutenant-

Laws and Regulations  
for internal administration  
of Humeerpore to  
have full force in Maho-  
bia and Jeitpore, &c.

Governor of the North-Western Provinces for the said District of Humeerpore.

II. All suits and proceedings arising in the said Pergunnahs which, at the time of the passing of this Act, shall be pending in any Court, or before any Officer, shall be heard and determined in the same manner as if the said Pergunnahs had not been brought under the operation of the General Regulations.

III. Any suit which, before the passing of this Act, had been determined and which has been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

IV. All appeals or proceedings now pending in the Court of the Commissioner of Jhansie shall be determined by such Commissioner in the same manner as if this Act had not been passed, and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court or Officer existing at the time of the passing of this Act, shall be made to the Court or Officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard and determined by the Court or Officer who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

VI. This Act shall take effect from such date as the Lieutenant-Governor of the North-Western Provinces shall fix by an order to be published in the Official Gazette.

**PRISONERS AND HOUSE OF CORRECTION.—BOMBAY.****ACT No. XIII OF 1863**

*(Received the assent of the G. G. on the 25th February 1863.)*

Recites the want of sufficient prison room for convicts in Bombay

1.—2 Authorises the Judges to sentence to rigorous imprisonment, either in the house of correction, whether it be under the control of the Sheriff or not, or in the common jail; also (2) as the place of intermediate custody when sentence is to transportation or penal servitude

3 Gives the same power to Magistrate on commitments for trial.

An Act to empower Judges of the High Court and other Authorities at Bombay to direct Convicts to be imprisoned either in the House of Correction or the Common Jail.

WHEREAS great inconvenience is occasioned in the administration of Criminal Justice by reason of the House of Correction in the Town of Bombay not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences; and it is desirable that the Judges of Her Majesty's High Court at Bombay, and the Justices of the Peace and Magistrates of Police in the Town and Island of Bombay should be empowered to send prisoners to the Common Jail in the Town of Bombay, as well as to the House of Correction; It is enacted as follows.—

L. Whenever, from and after the passing of this Act, any

person shall be sentenced by Her Majesty's High Court of Judicature at Bombay to rigorous imprisonment, or to imprisonment with hard labor or solitary confinement, it shall be lawful for the Judges or

Persons sentenced by High Court to rigorous imprisonment, &c., may be imprisoned in House of Correction or Common Jail in Bombay

Judge of the said Court of Judicature to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as to them or him shall seem fit.

II. Whenever, from and after the passing of this Act, any person shall be sentenced by the High Court at Bombay to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Common Jail in Bombay, as the place of intermediate custody.

Where also persons sentenced by the said Court to transportation, &c., may be kept

III. Whenever, from and after the passing of this Act any person shall be sentenced by a Justice of the Peace or Magistrate of Police in the Town and Island of Bombay to rigorous imprisonment, or imprisonment with hard labor, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the Common Jail in Bombay, as to such Justice of the Peace or Magistrate shall seem fit.

Where also persons sentenced by a Justice of the Peace or Police Magistrate to rigorous imprisonment, &c., may be committed

## RENT ACT.—NORTH-WESTERN PROVINCES.

### ACT NO. XIV OF 1863.

*(Received the assent of the G. G. on the 10th March 1863.)*

Recites expediency of amending Act X 1859, as respects the North-Western Provinces.

2 Adds to suits specified in Act X 1859, Sections 23 and 24, suits by certain lumberdars, &c., by certain co-sharers, &c., and by certain masfeedars, &c., and by certain talookdars, and (2) limits the time for bringing such suits

3. Adds to grounds specified in Act X. 1859, Section 18, other grounds for claiming an abatement of rent.

4. Adds specified words to Act X. 1859, Section 23, Clause 2

5. Repeals, as to North-Western Provinces, Act X. 1859, Sections 34 and 36, and substitutes new Sections for them, numbered 34 and 36

6 Applies Act VIII. 1859, Sections 243 and 244, to suits under Act X. 1859, or this Act in which a Collector awards money to Government

7. Amends Act X. 1859, Section 112, by adding words of qualification.

8—12. Empowers Government to invest specified settlement officers with the powers of Collector within certain local limits, and (9) defines what matters shall

be within his cognizance ; and (10) lays down a rule as to suits for enhancement of rent , and (11) as to suits by and against ryots collectively , and (12) gives same appeal against decisions of such officer as against Collectors , and (13) except on the ground of want of jurisdiction in suits entertained by such officers before this Act.

12. Authorizes settlement officers to commute rents paid in kind to money rents on application either of rents-payer or receiver

14 Extends Act VIII 1859, Chapter 6 (on Arbitration) to suits under Act X. 1859

15 Empowers local Government to appoint proprietor, &c , to be lumberdar for collection of water rate, &c., with commission, and legal powers for enforcement of rate.

16 Persons arrested under Act X. 1859, Section 145, to be brought before Collector with all convenient speed for trial, who may take security, &c

17 Declares that decisions of Zillah Judges under Act X 1859, are open to special appeal

18. This Act to be read as part of Act X 1859, wherever it is in force.

19. Empowers G G in C, the Lieut -Governor of North-Western Provinces and Punjab to extend this Act to territories under their respective Governments

An Act to amend Act X. of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal )

WHEREAS it is expedient to amend Act X of 1859 (*to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal*) so

Preamble

far as it relates to the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces of the Presidency of Fort William in Bengal, and to authorize the extension of the Act to places to which its provisions do not now apply ; It is enacted as follows :—

I. In addition to the suits specified in Sections XXIII and XXIV of Act X of 1859, the following suits shall be cognizable by the Collectors of Land Revenue under the provisions of the said Act, and, except in the way of appeal as provided in the said Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner, (that is to say) :—

Suits cognizable by Collectors in addition to those specified in Sections XXIII and XXIV of Act X 1859.

1st. Suits by Lumberdars for arrears of Government Revenue payable through them by the co-sharers whom they represent.

2nd. Suits by co-sharers for their share of the profits of an estate or any part thereof after payment of the Government Revenue and village expenses, or for a settlement of accounts.

3rd. Suits by Maafedars or assignees of Government Revenue for arrears of Revenue owing to them as such Maafedars or Assignees.

4th. Suits by Talookdars and other superior proprietors for arrears of Revenue or otherwise (not being rent claimable under Section XXIII of the said Act X of 1859) due to them as such Talookdars or other superior proprietors.

II. Suits instituted under the preceding Section shall be instituted within three years from the date when the arrear or the amount of profits claimed shall have become due, or if the suit be for an arrear, or for profits due at the time of the passing of this Act, it shall be instituted within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. If the suit be for a settlement of accounts, the suit shall be brought within one year after the expiration of the year to which the accounts relate, or in the case of any claim for such settlement now existing, within one year from the time of the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire.

III. In addition to the grounds mentioned in Section XVIII of the said Act X of 1859, upon which a ryot, having a right of occupancy, can claim an abatement of the rent previously paid by him, every such ryot may claim abatement on the ground that the rate of rent paid by him is above the prevailing rate payable by the same class of ryots for land of a similar description, and with similar advantages, in the places adjacent.

IV. Clause 2 of Section XXIII of the said Act X of 1859 shall be read as if the words "or by any other means not warranted by law" were added thereto.

Limitation of suits under preceding Section.

Additional ground for claim to abatement of rent.

Addition to Clause 2, Section XXIII of Act X of 1859.

V. From the date of the passing of this Act, Sections XXXIV and LXXXVI of the said Act X of 1859 shall cease to have effect in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and shall not come into force in any place to which this Act shall be extended as hereinafter provided, and the following Sections are enacted in lieu thereof:—

“Section XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance and value of the claim estimated according to any law for the time being in force for the valuation of suits; and the date of the cause of action.”

“Section LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property. Such process may be issued on the oral application of the judgment-creditor, his agent, or mookhtar, made at the time the decree is passed, or thereafter upon the written application of the judgment-creditor, his agent, or mookhtar. Process of execution against the person or moveable property of a debtor shall be in form E or F contained in the Schedule to the said Act X of 1859, or to the like effect.”

VI. The provisions of Sections 243 and 244 of the Code of Civil Procedure shall be applicable to decrees passed in suits under the said Act X of 1859, or this Act, in which the Collector shall award a sum of money on account either of an arrear of Government Revenue, or of profits, or otherwise. Orders passed by a Collector under either of the said Sections shall be

Repeal and re-enactment of Sections XXXIV and LXXXVI of Act X of 1859

Procedure in the institution of suits under this Act.

Issue of process of execution.

Certain provisions of Civil Procedure Code applicable to decrees in rent suits.

Revision and Appeal

subject to revision by the Commissioner of the Division, and the Sudder Board of Revenue, but shall not be open to appeal to the Civil Court.

VII. Section CXII of the said Act X of 1859 shall be read as if the words "or where the rent of a puttee is not collected by a lumberdar, through the putteedar who is entitled to collect the rent" were added at the end of such Section.

VIII. The local Government may invest any Officer employed in making or revising settlements of the Land Revenue, with the powers of a Collector as described in the said Act X of 1859, for the decision of suits arising within the local limits of the jurisdiction assigned to such Officer, of the nature mentioned in Section XXIII of the said Act, or in this Act while such Officer is so employed.

IX. In the exercise of the powers given under the last preceding Section, the Officer so invested shall have power to determine all disputes existing between Zemindars, Talookdars, or other Sudder Malgoozars, or Farmers of land, or any person duly authorized on their behalf, and any dependent Zemindar, ryot, or other under-tenant of whatever denomination, regarding the rates of rent payable by such dependent Zemindar, under-tenant, ryot, or other tenant.

X. If a suit for enhancement of rent be brought before any Officer empowered under Section VIII of this Act to hear the same, such suit shall be heard and determined by such Officer notwithstanding that no notice of enhancement shall have been served under Section XIII of the said Act X of 1859 on the party from whom such enhanced rent is claimed. In such case the statement of claim shall set forth the grounds on which such enhancement of rent is claimed. If a decree be passed in favour of the claimant, such decree shall have effect only from the commencement of the next agricultural year after the date of the

**XI.** Whenever a claim to enhancement or abatement of rent against or by any number of ryots is brought before an Officer engaged in making or revising settlements, and empowered under Section VIII of this Act to hear such claim, such ryots may be sued or may sue collectively, and it shall be no ground for dismissing or refusing to hear the claim that such ryots are wrongly joined as plaintiffs or defendants, provided all such ryots cultivate in the same Estate, but no decree shall be passed in any such case in which an enhancement of rent is claimed, unless such Officer as aforesaid shall be satisfied that every ryot has had an opportunity to appear and make objection to the claim preferred against him. Provided also that every decree passed in any such case shall specify the extent to which each of the ryots named in the decree shall be affected thereby.

**XII.** All decisions passed under the foregoing Sections by an Officer engaged in making or revising settlements, and invested as above, shall be open to the same appeal as is given by the said Act X of 1869 in respect to decisions passed by a Collector in suits of the same description. Provided that no decree passed in any such suit by an Officer engaged in making or revising settlements before the passing of this Act, shall be open to question solely on the ground of want of Jurisdiction in the Officer who passed such decree, or of any error, defect, or irregularity in procedure not productive of injury to either party, but an appeal shall lie against such decrees in like manner as if the suit had been decided under this Act.

**XIII.** In all cases in which rents have heretofore been paid in kind, or by the estimated value of a portion of the crop, it shall be lawful for an Officer employed in making or revising the settlement of the Land Revenue, on the application either of the payer or the receiver of the rent, to commute such rent into a fixed money payment. The rate or amount of

rent thus fixed shall be binding upon the parties concerned, subject to the provisions of the said Act X of 1859. All decisions already passed by any such Officer, commuting rents in kind, or by valuation, to fixed rents in money, shall, subject to the same appeal as is given by the said Act X of 1859 in respect to decisions passed by a Collector in suits under the said Act, be legal and binding.

XIV. The provisions of Chapter VI (relative to Arbitration) of the Code of Civil Procedure shall apply to suits under the said Act X of 1859, and under this Act

Arbitration Chapter  
of Civil Procedure Code  
made applicable.

XV. In any District through which any canal passes, in respect of which any water rate is payable to Government, it shall be lawful for the local Government to appoint any proprietor or farmer of an estate through which such canal passes in such District, with the consent of such proprietor or farmer, to be a lumberdar for the collection of such water rate in such estate, and thereupon the amount annually payable on account of such water rate by the dependent zemindars, ryots, and other under-tenants in such estate shall (subject to such abatement on account of commission or otherwise as shall be allowed by the local Government to such lumberdar), be held to be a charge on the estate of such proprietor or farmer, and shall be added to the assessment payable to Government in respect of such estate, and the amount thereof shall be recoverable in like manner as the assessment on such estate, and for the purpose of collecting such water rate from the dependent zemindars, ryots, and other tenants in such estate liable thereto, such lumberdar shall have the like powers and shall be subject to the same rules as are provided in any law for the time being in force in respect of the collection of the rent of land.

XVI. If any person, shall be arrested under Section CXLV of the said Act X of 1859; he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case, if the case cannot be at

Rule as to person ar-  
rested under Section  
CXLV of Act X of  
1859.

once heard and determined, the Collector may, if he think fit, require the party arrested to give security for his person whenever the same may be required. In default of such security, the party arrested may be committed to the Civil Jail until the case is tried.

**XVII.** Doubts having been entertained as to whether the decisions passed by a Zillah Judge in regular appeal under the said Act X of 1859 are open to special appeal, it is hereby declared that it was the intention of the said Act that such decisions should be open to special appeal to the Sudder Court in the same manner, and subject to the same rules, as the decisions of Zillah Judges passed in regular appeal are open to special appeal under the Code of Civil Procedure.

**XVIII.** This Act shall be read and taken, in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces, and in all places to which this Act shall be extended under the next following Section, as part of the said Act X of 1859.

**XIX.** It shall be lawful for the Governor-General of India in Council to extend the provisions of Act X of 1859 as amended by this Act to any territories immediately administered by the Government of India, or for the Lieutenant-Governor of the North-Western Provinces, and of the Punjab, respectively, to extend the said Act amended as above to any part of the Territories under their respective Governments, in which the said Act X of 1859 is not now in force. Whenever the said Act amended as above shall be so extended, the Governor-General of India in Council or the Lieutenant-Governor, who shall so extend the same, shall declare by what Officers in the said territories or any parts thereof, to which the said Act X of 1859 amended as above shall be extended, the powers given by the said Act shall be exercised, and such Officers shall thereupon be authorized to exercise such powers.

## MERCHANT SEAMEN.

## ACT No. XV of 1863.

*(Received the assent of the G. G. on the 10th March 1863.)*

Recites expediency of amending Act I. 1859

1. Repeals Act I. 1859, Sections 17, 21, 61, 82 and Act XXVIII. 1861.

2. Enacts that Act I. 1859, Sections 9 to 16, shall not apply to ships registered under Act X. 1841, &c., when navigated exclusively by Asiatics, &c., or to ships of less than 300 tons and trading between Straits Settlements.

3. Prescribes rules, &c., for agreements with Native Seamen, except ships only in home trade not exceeding 300 tons, and saves engagements for single Seaman for British or Colonial ships, and provides for Native Seamen whose engagements end at any out-port in India.

4-5. Empowers every Court having Admiralty Jurisdiction, &c., to enquire into charges against Masters, Mates, and Engineers, and report to Government, (5) such Court to declare its decision in open Court, &c., and (7) to give opportunity for defence is to summon such Master, &c

6. Local Government may direct investigation in certain cases of unfitness for duties.

7. Supra.

8-9. Defines the case in which the local Government may cancel or suspend certificates of competency or service (1) in case of loss, &c., by default of Master, &c., (2) of incompetency, gross misconduct or tyranny, &c., (3) in other specified cases, (4) of supercession by order of Admiralty Court, &c., and (9) obliges Master, &c., to deliver up certificate if cancelled, under penalty.

10-11. Saves certain powers of Admiralty Courts in India under Act I. 1859, Section 80, and (11) this Act to be read as part of Act I. 1859

An Act to amend Act I of 1859 (for the amendment of the law relating to Merchant Seamen.)

WHEREAS it is expedient to amend the provisions of Act I of

Preamble 1859 (*for the amendment of the law relating to Merchant Seamen*) in so far as the said

Act relates to agreements with Natives of India; to vessels trading from the Straits' Settlement to the Gulf of Siam, and the Eastern Archipelago; and to the cancelment and suspension of certificates of competency and service; It is enacted as follows:—

I. Sections XVII, XXI, LXXXI, and LXXXII of the said Act I of 1859, and Act XXVIII of

Certain Sections of Act I of 1859, and Act XXVIII of 1861, repealed.

1861 (*to extend the provisions of Act I of 1859 for the amendment of the law relating to Merchant Seamen*) are hereby repealed.

II. Sections IX to XVI of the said Act I of 1859 shall not apply to ships registered under Act X of

Sections IX to XVI of Act I of 1859 not to apply to ships registered under Act X of 1841, under certain circum-  
 1841 (*for prescribing the rules to be observed in order that ships or vessels belonging to Ports within the Territories under the Government of the East India Company, or belonging to Native Princes or States, or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute 3 and 4 Victoria, Chapter 56*), and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen, or to ships of less than two hundred tons burden registered under the said Act X of 1841, and trading between any Port of the Settlement of Prince of Wales' Island, Singapore and Malacca, and the Gulf of Siam, or the Eastern Archipelago, when such ships are navigated exclusively by Malays, Lascars, or other Asiatic Masters and Seamen.

III. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every Seaman and with every Native of India not being a Seaman whom he carries to sea from any Port in India as one of his crew, in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor-General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any Seaman or other person aforesaid signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as Sailors.

3.—The time at which each Seaman and each Native of India not being a Seaman is to be on board or to begin work.

4.—The capacity in which each Seaman and each Native of India not being a Seaman is to serve.

5.—The amount of wages which each Seaman and each Native of India not being a Seaman is to receive.

6.—A scale of the provisions which are to be furnished to each Seaman and to each Native of India not being a Seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted, and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations to be adopted at the will of the Master and Seaman, and each Native of India not being a Seaman, in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any

Proviso as to forms for  
British or Colonial ships

other stipulations which are not contrary to Law. Provided that, if the Master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew, made in due form according to the law of the place to which such ship belongs, or in which her crew were engaged, and engages single Seaman, or any Native of India not being a Seaman, in any Port in India, such Seaman or other person aforesaid may sign the agreement so made, and it shall not be necessary for such Sea-

Proviso where Lascars,  
&c., are shipped.

man or other person aforesaid to sign an agreement under this Act. Provided also that, in the case of Lascars or other Native Seamen, and every Native of India not being a Seaman, when it shall be agreed that the service of any such Seaman or other person aforesaid shall end at any Port not in India, the agreement shall contain stipulations for providing for such Seaman or other person aforesaid fit employment on board some other vessel bound to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be

agreed on; and every such stipulation shall be signed by the owner of the vessel, or by the Master on his behalf.

IV. Every Court having Admiralty Jurisdiction in India,

Court authorized to make enquiry into charges against Masters, Mates, and Engineers, and to report to local Government.

and the principal Court of ordinary Criminal Jurisdiction, at every Port in India where there is no Court having Admiralty Jurisdiction, is hereby authorized to investigate and try charges of incompetency or misconduct on the part of any Master, Mate, or Engineer of any ship, who shall have obtained his certificate from the Board of Trade, and to make enquiry as to shipwreck or other casualties affecting ships; and if on such investigation it shall appear to any such Court as aforesaid, that the loss or abandonment of, or any serious damage to, any ship, or loss of life, has been caused by the wrongful act or default of any such Master, Mate, or Engineer, or that any such Master, Mate, or Engineer has been guilty of any gross act of misconduct, drunkenness, or tyranny, such Court may suspend, for such period as it shall think fit, or may cancel, such certificate, whether of competency or service, of such Master, Mate, or Engineer, and the Court shall report the same to the local Government within whose limits such Court is situated. Provided that no certificate shall be cancelled or suspended,

Provided.

unless a copy of the report, or a statement of the case upon which the investigation is made, shall have been furnished to the owner of the certificate before the commencement of the investigation. Provided also that the Report of such Court is confirmed by the Governor or other person administering the local Government wherein such Court is held.

V. Every Court by which any investigation or trial is held

Procedure of such Court.

under the last preceding Section shall, at the conclusion of the case, or as soon afterwards as possible, state in open Court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full Report upon the case with the evidence to the Board of Trade, and shall also,

if they determine to cancel or suspend any certificate, forward such certificate to the Board of Trade with their Report.

VI. If the local Government, on the information of any Shipping Master, or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, or from any other local Government, is, from incompetency or misconduct, unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation into such charge of incompetency or misconduct, and shall, on the conclusion of the investigation, make a Report upon the case to the local Government which ordered the investigation

VII. For the purpose of any such enquiry under Section IV or Section VI, the Court, Board, or Officer may summon the Master, Mate, or Engineer, as the case may be, to appear, and shall give him full opportunity of making a defence, either in person or otherwise, and may summon and examine witnesses and may make such order with respect to the costs of such investigation, and may require such security for costs, as such Court, Board, or Officer may deem just. Every order in respect of costs under this Section may be enforced in like manner as a fine may be enforced by a Magistrate in the Port where such investigation is held

VIII. The local Government may suspend or cancel the certificate (whether of competency or service) granted by such local Government, or by any other local Government, under the said Act I of 1859, to any Master or Mate, in the following cases; (that is to say)—

Clause 1. If upon any investigation conducted under the provisions of Sections C, CI, and CII, of Act I of 1859, it is reported that the loss or abandonment of, or serious damage to,

Local Government may direct investigation in cases of incompetency and misconduct.

Powers of Court, &c., in making enquiry

Local Government may cancel or suspend certificates in certain cases

Loss, abandonment or serious damage by default of Master or Mate.

any ship, or loss of life, has been caused by his wrongful act or default.

*Clause 2.* If upon any investigation held under Section VI of this Act, the Master or Mate shall be reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

Incompetency, gross misconduct, drunkenness or tyranny of Master or Mate.

*Clause 3.* If upon any investigation held under the provisions of the Merchant Shipping Act 1854, or after other investigations. or the Merchant Shipping Amendment Act 1862, or upon any investigation made by a Naval Court constituted as is provided by any law for the time being in force, or upon any investigation made by any Court or Tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of ships, or as to shipwreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to, any ship, or loss of life, has been caused by his wrongful act or default, or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any Report by any such last mentioned Court or Tribunal, the Report shall have been confirmed by the Governor or person administering the Government of such possession.

*Clause 4.* If he has been superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act 1854, or any other law for the time being in force.

Supersession

*Clause 5.* If he is shown to have been convicted of any offence.

Conviction of any offence.

**IX.** Every Master, Mate, or Engineer whose certificate is cancelled or suspended under the provisions of this Act, shall deliver it to the Shipping Master, or to such other person as the Court or the local Government

Master, Mate, or Engineer to deliver up his certificate. Penalty otherwise.

which cancelled or suspended the certificate shall direct, and in default shall, for each offence, incur a penalty not exceeding five hundred Rupees. Provided that

Previous for report to other local Governments. if the local Government which cancels or suspends a certificate of a Master or Mate is not the local Government that granted the same, the local Government which so cancels or suspends the certificate shall report the proceedings, and the fact of cancelment or suspension, to the local Government which granted such certificate. Provided also that it shall be competent to any local Government at any subsequent time to grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

X. Nothing in this Act shall be held to affect the powers of removal vested by Section CCXL of the Merchant Shipping Act of 1854, or Section LXXX of the said Act I of 1859, in Courts having Admiralty Jurisdiction in India. The said powers may be exercised by the principal Court of Ordinary Criminal Jurisdiction at any Port in India where there is no Court having Admiralty Jurisdiction, if the Master or Mate shall have received his certificate from any local Government.

Saving of powers vested in certain Admiralty Courts.

Same powers may be exercised by Chief Criminal Court in Indian Port, where there is no Admiralty Court

Act to be taken as part of Act I of 1859

XI. This Act shall be read and taken as part of the said Act I of 1859.

## EXCISE DUTY ON ART-CHEMICALS.

ACT No. XVI OF 1863.

*(Received the assent of the G. G. on the 10th March 1863.)*

Rechts expediency to make special provision as to excise duty on spirits used exclusively in Arts, &c.

1—7. Prescribes *ad valorem* duty 10 per cent. on spirits removed from distillery to be used exclusively in Arts, &c., the same being first rendered unfit for human consumption, by means (2) to be approved by Government; under (3) penalty for contravention; and (4) establishes penalty for attempting to render spirits so removed fit for human consumption; (5) such penalty to be levied by distress and

sale of offender's goods ; and (6) of detention of offender till realization , and (7) for imprisonment on failure to realise.

8. Exempts from Act III. 1852, Section 11, as to mixing spirits removed under this Act.

9. Establishes confiscation of liquor, &c., in case of conviction under Sections 3 and 4 of this Act.

**An Act to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry**

**WHEREAS** it is expedient to make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures

Preamble.

or in Chemistry ; It is enacted as follows :—

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed

Such spirits may be removed from Distillery on payment of Duty, on condition.

from any licensed Distillery in any part of British India on payment of Duty calculated at ten per cent. on the value of the

Spirits, provided that no Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

II. The Board of Revenue, or other Authority specially authorized in that behalf by the local Go-

Rules for ascertaining and determining that spirits to be removed have been rendered unfit for human consumption, &c

vernment, shall prescribe from time to time, subject to the approval of the local Government, rules for ascertaining and determining that Spirits proposed to be

removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section I of this Act ; for causing such Spirits to be so rendered, if necessary, by its own Officers at the expense of the person who wishes to remove them ; and for fixing the value of the Spirit on which the *ad valorem* Duty shall be levied.

III. Every person who shall wilfully contravene any rule

Penalty for breach of such rules. prescribed by the Board of Revenue, or other Authority as aforesaid, under the

last preceding Section of this Act, shall be liable on con-

viction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees for every such offence.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption, Spirits removed from a Distillery under the provisions of this Act, shall be liable to a penalty not exceeding one thousand Rupees; and the possessor of such Spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred Rupees.

Penalty for attempting to render fit for human consumption, spirits removed under this Act.

V. Any penalty imposed under either of the last two preceding Sections may in case of non-payment be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the Officer by whom such penalty was imposed.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody, until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time, as shall be appointed for the return of the warrant of distress.

In case of non payment of penalty, offender may be detained pending return to distress warrant

VII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail, there to be imprisoned, according to the discretion of such Officer, for any term not

Imprisonment of offender in case of failure to recover penalty by distress.

exceeding two Calendar months when the amount of penalty shall not exceed fifty Rupees, and for any term not exceeding four Calendar months, when the amount shall not exceed one hundred Rupees, and for any term not exceeding six Calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

VIII. The prohibition contained in Section XI of Act III of 1852 (*to amend the law relating to spir-*

Provisions of Section XI Act III of 1852 relating to adulteration, not to apply to spirits rendered unfit for consumption under this Act.

*tuous and intoxicating liquors, drugs, and preparations within the Territories subordinate to the Presidency of Bombay)*

against mixing any noxious drug or material in, or by other process adulterating Spirits manufactured under the provisions of Regulation XXI of 1827 of the Bombay Code, or of the said Act III of 1852, shall not apply to Spirits rendered unfit for human consumption under this Act.

IX. In every case of conviction under Section III or Section VI of this Act the liquor or Spirits

Confiscation in cases of conviction under Section III or IV.

with the cask or vessel containing the same, and the cart, boat, and animal or

animals employed in carrying such liquor or Spirits, shall be liable to confiscation

## MUNICIPAL COMMISSIONERS, STRAITS SETTLEMENTS.

### ACT No. XVII OF 1863

(*Received the assent of the G G on the 10th March 1863*)

Enacts expediency of extending term of office of Municipal Commissioners

1. Repeals Act XXVII, 1856, Section 19
2. Empowers Governor to extend time of office for not exceeding three years
- 3—8 Provides graduated time of office for elected Commissioners; and (5, 6, 7, 8) graduated scale does not apply; Governor to fix terms of office.
- 9—10 Limit term of office of Commissioners filling up vacancies.
11. Enjoins publication of the names of Commissioners.
12. Year of Office to commence on 1st January after election, limits the number of Commissioners
13. Act to be read as part of Act XXVII 1856

An Act to authorize the extension of the term of Office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

**Preamble.** WHEREAS it is expedient that the term of Office of the Municipal Commissioners in the Straits' Settlement should be extended; It is enacted as follows:—

**I.** Section XIX of Act XXVII of 1856 (*for appointing Municipal Commissioners, and for levying rates and taxes in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*), is repealed. The operation of Section XV of the said Act shall be suspended at the election of Municipal Commissioners under the said Act, to be held next after the passing of this Act:

**II.** The Governor of the Settlement shall, upon the appointment of the Commissioner whom he is empowered by the said Act XXVII of 1856 Section V to appoint, declare for what number of years, not exceeding three, such Commissioner shall hold Office

Governor to declare for what period Commissioner appointed by him shall hold Office

**III.** The Municipal Commissioners of Prince of Wales' Island, Singapore, and Malacca, respectively, who shall be chosen at the said next election by the largest number of votes, shall hold their Office for one, two, or three years, as shall be determined in manner hereinafter mentioned.

Elected Commissioners to hold Office for periods to be determined as provided

**IV.** The Municipal Commissioner who is chosen at such next election by the largest number of votes shall hold his Office for three years; the Municipal Commissioner who is chosen by the next largest number of votes shall hold his Office for two years, and the remaining Municipal Commissioner shall hold his Office for one year

Allotment of periods for tenure of Office, by number of votes.

V. If at any of the said Stations the three Municipal Commissioners chosen at the said next election

AlLOTMENT in case of votes for all three Commissioners being equal.

shall be elected by an equal number of votes, the Governor, or in his absence from such Station, the Resident Councillor shall declare and appoint the periods of three years, two years, and one year, respectively, for which every such elected Municipal Commissioner shall hold office.

VI. If at any of the said Stations at the said next election,

And in case of votes for two being equal and yet greater than for the third

two of the Municipal Commissioners chosen shall have an equality of votes, but such number shall be greater than the number of votes given for the third Municipal Commissioner; the Governor, or, in his absence, the Resident Councillor shall declare and appoint the periods of three years, and two years respectively, for which each of the said two Municipal Commissioners shall hold Office; and the other Municipal Commissioner shall hold Office for one year only.

VII. If at any of the said Stations at the said next election,

And in case of one having a majority, and the other two an equal number

one of the Municipal Commissioners chosen shall have a number of votes larger than the other two Municipal Commissioners, and such other two Commissioners shall have an equality of votes, the Municipal Commissioner who shall have such larger number of votes shall hold Office for three years, and the Governor, or, in his absence, the Resident Councillor shall declare the periods of two years, and one year, respectively, for which each of the other two Municipal Commissioners shall hold Office.

VIII. If at any of the said Stations an equal number of

When two or more candidates have an equal number of votes, election how to be determined.

votes be given for any two or more candidates at the next said election, so that the Sheriff or his Deputy is not able to declare as between such persons, which of them has been elected the Governor, or, in his absence, the Resident Councillor shall give a casting vote for one or more of such

persons, and reckoning such vote, shall declare the period for which such person or persons shall hold Office in manner provided in Section IV.

**IX.** Every Commissioner appointed, under Section XVI of the said Act XXVII of 1856, in consequence of a refusal to act, a failure of election, or otherwise, shall hold Office for such term as the Governor or Resident Councillor of the Station shall declare. Provided that such term shall in no case exceed three years, and shall be a term which shall conform to the terms for which the other Commissioner or Commissioners shall have been declared and appointed to hold Office under Section IV of this Act, so that the three Commissioners shall hold their Offices for three years, two years, and one year, respectively.

**X.** Every Commissioner appointed under the provisions of Section XVII of the said Act XXVII of 1856, in place of any Commissioner elected at the said next election, shall hold Office for the term for which the Commissioner in whose place he is appointed was entitled to hold Office.

**XI.** The names of the persons elected or appointed to be Municipal Commissioners under this Act, and the terms for which such persons shall hold Office, shall be published in such manner as the Governor may direct.

**XII.** The Municipal Commissioners at each of the said Stations, elected under the provisions of this Act, shall enter upon their Office on the first day of January after their election, and shall hold Office for the periods hereinbefore provided. At every subsequent election under the said Act XXVII of 1856, one Commissioner only shall be elected. The Commissioner elected at such subsequent election shall hold Office for three years. Appointments to fill up any vacancy occasioned by the death, resignation, or refusal to act, of any such Commissioner, shall have effect for the period for

which such Commissioner would have held Office, but for such death, resignation, or refusal to act, and all the provisions of the said Act XXVII of 1856, so far as they are not effected by this Act, which relate to the election of three Commissioners at each annual election, shall, so far as practicable, be construed to apply to the election of one Commissioner only.

Construction of Act.

XIII. This Act shall be read and taken as part of the said Act XXVII of 1856.

### MASTER'S OFFICE, FORT WILLIAM; OATHS; CIVIL PROCEDURE.

#### ACT No. XVIII OF 1863.

*(Received the assent of the G G on the 10th March 1863)*

1—3 Gives Master special powers to enable him to settle and wind up matters, and (2) to report, and (3) supplements the Master's power

4. That no fresh references shall be made to the Master except in suits already before him

5 That all powers possessed by the Master may be exercised by the Judges

6 Authorizes the Court to dismiss suits on certificate of the Master of no proceedings within one year

7. Empowers Division Court to refer matters for investigation by a single Judge

8 Empowers High Court to make general rules for winding up pending business.

#### OATHS

All the Presidencies

9. Substitutes affirmation for oath in H M's Courts

#### CIVIL PROCEDURE

10 Process to be served by Attornies instead of Sheriffs

11. Relieves Judge from signing process

12. Empowers Governor of Bombay and Governor of Madras to extend the provisions of this Act to those Presidencies

**An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.**

WHEREAS, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible; and whereas it is expedient that the law concerning the administration of oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such oaths in Courts not established by Royal Charter; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its Ordinary Original Civil Jurisdiction; It is enacted as follows:—

I. In order as expeditiously as may be to wind up all the suits, matters, and things which are now pending before the Master of the said High Court of Judicature at Fort William in Bengal, it shall be lawful for the Master at any time after the passing of this Act, at his own discretion, and without application on behalf of any of the parties to the suit or reference, and in such manner as he shall deem fit, to summon all or any of the parties to any suit, matter, or thing so pending, or their Solicitors, and thereupon to proceed with such suit, matter, or thing and to give such directions and make such orders as he may think necessary for the purpose of settling and winding up the same, but any such order shall be subject to be discharged or varied by the said Court upon application made for that purpose, and the Master shall be at liberty to proceed *ex-parte* for the purposes aforesaid in the absence of any of the parties, or their Solicitors neglecting or refusing to attend the summons, and it shall also be lawful for the Master at his discretion to proceed with the reference, and to make a special report to the Court notwithstanding the death of any of the parties to the suit or reference, or their absence from the jurisdiction of the Court, or in cases in which, after search to the satisfaction of the Master, parties are not to be found

Power to Master to summon parties, &c., and to settle and wind up proceedings before him.

within the jurisdiction of the Court, or it is uncertain whether such parties are living or dead.

II. In case the Master shall be unable by reason of the conduct

Power to Court upon Master's report or certificate, to make order for prosecution and final disposal of any suit, &c., and for payment of costs, &c.

of parties, or otherwise, to dispose finally of any suit, matter, or thing referred to or pending before him (within such time as he shall in that behalf determine), he shall be at liberty to report on or to dispose of

any part thereof within his power, and to report or certify on the whole of the case; and upon such report or certificate the Court shall make such order as it shall think proper on all or any of the parties, for the further prosecution of the suit or matter, or for the final disposal thereof, and for the payment of the costs thereof, including any of the costs which may have been incurred by reason of the conduct of the parties.

III. If within a time to be fixed by the Master in that

Neglect to bring report before the Court.

behalf, the report or certificate of the Master shall not be brought before the

Court, the Registrar shall bring such report or certificate before the Court, and the Court is hereby empowered to make such order or decree in the suit as to the Court shall seem fit.

IV. From and after the passing of this Act no reference

No fresh references to Master except in suits already before him

shall be made to the Master except in cases in which, from some previous reference made in the suit or matter, or in

some other suit or matter connected therewith, the Court may think it expedient to make such reference.

V. From and after the passing of this Act all or any of the

All powers possessed by Master may be exercised by Judges.

powers, authorities, and jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be

exercised by the High Court, or by a Judge of the said Court.

VI. Whenever it shall appear from the certificate of the

Power to Court to dismiss suits upon certificate of Master that no proceedings have been taken for a year

Master that no proceedings have been taken in his Office for a period of one year in any reference pending before him, the Court shall have power to dismiss such

suit, or to make such other order or decree in the suit as to the Court shall seem fit.

VII. It shall be lawful for any division Court consisting of more than one Judge to adjourn, for the consideration of a single Judge, any matters of account, detail, or other description which in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in Chambers, and such matters shall thereupon be investigated by a single Judge, who shall proceed with such investigation sitting either in Chambers or in open Court, and shall report thereon to a division Court, and such report shall as regards such division Court be final, but shall be open to revision by any Court of Appeal to whom the order or decree founded thereon may be appealed. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

VIII. The said High Court shall have power to make general rules for orders for winding up the business now pending in the Office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted in the Master's Office, and for regulating the procedure of a single Judge touching investigations before him under the provisions of this Act. Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

IX. The proviso contained in Section IV of Act V of 1840 (*concerning the oaths, and declarations of Hindoos and Mahomedans*), that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's Courts of Justice, is hereby repealed, and Section I of the said Act V of 1840 shall be read as if the words following had been added thereto.

Power of division Court to refer matters for investigation by a single Judge.

Power to make rules

Extension of Act V of 1840, concerning oaths and declarations, of Hindoos and Mahomedans, to High Court.

“And when verifying an Affidavit to the following effect:—  
I solemnly affirm in the presence of Almighty God that the  
signature to this is my name and hand-writing, and that the  
contents of this Affidavit are true.”

X. After the passing of this Act notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under Section XLI of Act VIII of 1859 (*the Code of Civil Procedure*) and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the Ordinary Original Civil Jurisdiction of the said High Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

XII. This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively, to be published in the Official Gazettes of Madras and Bombay, respectively; and when so extended by such order, shall take effect in the said Courts from the date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

## PARTITION OF ESTATE—NORTH-WESTERN PROVINCES.

## ACT No. XIX OF 1863.

*(Received the assent of the G. G. on the 10th March 1863.)*

Recites expediency of consolidating, &c., the law relating to the partition of estates paying revenue to Government, &c.

1—2. Repeals so far as concern the North-Western Provinces, (except as to pending proceedings) Bengal Reg. IX. 1811; Bengal Reg. XI. 1811; Bengal Reg. XIX. 1814; Acts XX. 1836, and XI. 1838; and (2) directs that all future partitions shall be made under this Act.

3—5. Declares all recorded joint proprietors entitled to claim partition; (4) by an application in writing; (5) signed by applicant, &c.

6—8. Directs Collector what to do upon receiving such application; and (7) to refuse same on valid objection made; and (8) if the objection be to proprietary title of applicant Collector is to proceed according to Civil Code of Procedure.

9—10. Gives an appeal to District Court against all orders and decisions of Collectors for declaring rights, and (10) a special appeal to Sudder from District Courts.

11. Civil Court to have only appellate jurisdiction.

12—13. Directs Collectors what to do on partition being ordered; and (13) by whom order is to be carried out.

14. Directs that the expense of making partition shall be ascertained, &c., and in default of payment may be recovered how.

15. Partition may be stayed and proceedings quashed on grounds not known when commenced.

16. Directs by what steps partition is to be determined.

17—20. Empowers Collector to examine parties and papers; and (18) at end of enquiry to give the option of settlement by private agreement, or by arbitration, and (19) may, if parties cannot agree as to arbitrators, appoint them, and (20) appoint new arbitrator in case of vacancy.

21—23. Directs the Collector what to do to put arbitrators in action, and (22) what arbitrators shall do, and (23) entitles them to remuneration.

24—27. In default of first arbitrators to make award new ones may be appointed; and (25) in default of private agreement, &c., officer may be appointed to make partition, who (26) shall summon parties concerned; and (27) estates may be put under khas management.

28. Provides for payment of revenue if it falls in arrear pending proceedings for partition.

29. Empowers settlement officer to engage all necessary assistants in measuring, &c.

30—33. Directs Collector to declare the principal and rule under which lands held in common are to be divided; and (31) to refuse partition of such lands in certain cases; and (32) to transfer as separate estate lands held in severally.

33. Deprives of his right to make objection shareholder who fails to attend at partition.

34. In case of wish of parties interested Collector, &c., may stop partition.

35 Directs that in making partition property shall be allotted so as to be as compact as possible.

36—37 The public revenue to be assessed on the new estates according to law for the time being ; and (37) to be adjusted in amount according to difference of productive value and various circumstances specified

38—40 Directs in case in which house of one sharer is on land of another, what shall be done ; and (39) what shall be done in case of tanks, wells, water-courses, &c., property belonging to estate in common which cannot be divided ; and (40) what as to places of worship

41—44 Directs Settlement Officer, when partition of estate, and apportionment of revenue are complete, to submit papers, with map, to the Collector , who (42) shall take the whole matter into consideration , and (43) confirm or modify, partition, subject to appeal, and may direct lots to be drawn for-shares ; and (44) in case of appeal to Board, Collector shall publish and give effect to Board's decision

45 Empowers Government to order new apportionment of revenue in case of error in apportionment or partition, from collusion, fraud, or other cause

46 Party interested in estate, and entitled to hold at a fixed rent, but not making his claim by suit, to be barred his right, after partition, unless he can show good cause to the contrary.

47—49 Entitles decree-holders to claim partition of his share, and (48) holder of several shares originally undivided to have them united , application for which (49) is to be made, how

50—51 The procedure directed by this Act may be applied in certain respects to pending cases , and (51) to partition of estate not paying revenue, so far as applicable

52—53 Collector's duty under this Act to be subject to general control, &c, of Board , and (53) all his orders, except under Section 9, to be open to revision

54—55 The powers of Collector may be exercised by Deputy Collector , (55) with the powers described in Regulation II 1819, Regulation VII. 1822, and Regulation IX. and XIV 1825.

56. Gives Collector and Settlement Officer the same powers as Civil Court under Code of Criminal Procedure, of committing for offences.

57 Subordinates Board of Revenue to Government in the exercise of its functions under this Act

58. Interpretation of words of Number and Gender

59. Confines Act to Regulation parts of North-Western Provinces

**An Act to consolidate and amend the Law relating to the Partition of Estates paying Revenue to Government in the North-Western Provinces of the Presidency of Fort William in Bengal**

**WHEREAS it is expedient to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government in the North-**

Preamble

**Western Provinces of the Presidency of Fort William in Bengal ; It is enacted as follows :—**

I. From the date of the passing of this Act Regulation IX. of 1811 of the Bengal Code (*for facilitating the Division of landed property, and for securing the Rights of joint Sharers in joint undivided Estates*), Regulation XI. 1811 of the same Code (*for extending the period fixed by the existing Regulations for revising the Summa on Lands ordered to be divided into two or more Estates*), Regulation XIX. 1814 of the same Code (*for reducing to one Regulation, with alterations and additions, certain Regulations respecting the Partition of Estates paying Revenue to Government*), Act XX. of 1836, and Act XI of 1838, except in so far as the said Regulations and Acts repeal any Regulation or Act, or any part of any Regulation or Act, and except as to the partition of any estate which shall be pending at the time of the passing of this Act, shall cease to have effect in the North-Western Provinces of the Presidency of Fort William in Bengal Unless as hereinafter provided, the partition of any estate which shall be pending at the time of the passing of this Act shall be proceeded with and completed in the same manner as if this Act had not been passed

II. Except as directed in the last preceding Section, all partitions of estates which shall be ordered to be made by the Officers of Government after the passing of this Act, shall be made under the provisions of this Act, whatever may be the tenure of the estate ordered to be divided.

III. Every recorded proprietor of a joint undivided estate paying Revenue to Government, or of any portion thereof, whether such estate is held in common tenancy or otherwise, is entitled to claim partition under this Act.

IV. When any one or more of the recorded proprietors of an estate, as described in the last preceding Section, shall desire to have his or their shares of the estate separated, in order that he or they may hold the same as a separate property, or as separate properties, such proprietor or proprietors shall

make a written application for the purpose to the Collector of the District. Any two or more proprietors may apply to have their shares separated, and to hold the same as a joint estate.

V. The application shall be signed by the party or parties applying for the partition, and shall specify the nature of the tenure of the estate sought to be divided. The names of all the co-sharers in the estate, the nature and extent of their respective shares so far as the same may be known to the applicant or applicants, or can be ascertained by him or them, and the mode of partition desired, shall also be stated. If the application does not contain the particulars above-mentioned, the Collector may reject it.

VI. The Collector, on the receipt of an application for partition, shall, if the application be in order, and not open to objection on the face of it, publish a Notification on the same at his Office, and at some conspicuous place on the estate to which the application relates, and shall invite any party in possession, who may not have joined in the application, and who may object to the partition applied for, to appear before him either in person or by a duly constituted agent, on a day to be specified in the Notification not being less than fifteen, or more than thirty days from the date of the Notification, and state his objection. If the application for partition shall not have been made by all the recorded proprietors of the estate, notice of the application shall be served, in the manner usual in the District for serving notices of the Revenue Officers, on such of the recorded proprietors of the estate as shall not have joined in the application. Provided that, if from any cause such service cannot take place, a proclamation notifying such application shall be published, by affixing it at the Maal Cutcherry of such estate, or other conspicuous place thereon, or at the village Chowrie,

Application to be signed, and certain particulars specified.

Otherwise may be rejected.

Procedure of Collector on receipt of application.

Notice to proprietors who have not joined therein.

Proclamation in case of service of notice being impracticable.

Chowpal, or other conspicuous place in each village in such estate.

VII. If any objection be made to the partition, by any party in possession, within the time allowed, and the Collector, on a consideration of such objection, be of opinion that there is any good and sufficient reason, not inconsistent with the provisions of this Act, why the partition should be absolutely disallowed, he may refuse the application, recording the grounds of his refusal.

In case of valid objection being made within time allowed, application may be refused.

VIII. If the objection raise any question of title, or of proprietary right, which shall not appear to have been already determined by a Court of competent jurisdiction, the Collector may either decline to grant the application until the question in dispute shall have been determined by a competent Court, or he may proceed to enquire into the merits of the objection. In the latter case the Collector, after making the necessary inquiry and taking such evidence as may be adduced, shall record a proceeding declaring the nature and extent of the interests in the actual possession of the party or parties applying for the partition, and any other party or parties who may be affected thereby. The procedure to be observed by the Collector in trying such cases shall be that laid down in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) for the trial of original suits, and the Collector shall have power to refer any question that may arise in such case to arbitration, and the provisions of Chapter VI (relative to arbitrators) of the Code of Civil Procedure shall apply to cases so referred by a Collector.

Reference to arbitrators.

IX. All orders and decisions passed by the Collector under the last preceding Section, for declaring the rights of parties, shall be held to be decisions of a Court of Civil Judicature of first instance, and shall be open to appeal to the District or Sudder Court, according to the value of the claim, under the

Decision of Collector equivalent to decision of Civil Court and open to appeal.

rules applicable to regular appeals to those Courts. Upon such appeal being made, the 'District or Sudder' Court, as the case may be, may issue a precept to the Collector desiring him to stay the partition pending the decision of the appeal.

Appellate Court may, on appeal, stay partition.

X. From every decision passed under the last preceding Section by a District Court, a special appeal shall lie to the Sudder Court under the rules for the time being in force relating to special appeals to that Court.

XI. It shall not be competent to the Civil Court to entertain a suit, or application for the partition of an estate, except on appeal from the decision of the Collector as hereinbefore provided, anything contained in Section 225, Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) to the contrary notwithstanding.

Civil Court to entertain suits only on appeal from decision of Collector

XII. When the Collector, after disposing of the objections (if any) taken to the partition, shall order a partition to be made, he shall cause a Notification to be published in his own Office, in the District Court, and at some conspicuous place on the estate which is to be divided, intimating his intention to proceed with the partition after thirty days from the date of the Notification

Notification on partition being ordered.

XIII. The partition shall be made by the Collector in whose District the estate is situate, or if the estate be situate in two or more Districts then by the Collector of any one of such Districts, who may be specially ordered by the Commissioner of the Division to superintend the partition. If the estate be situated in two or more Divisions, the partition shall be made by such Collector as the Board of Revenue shall order.

Partition by whom to be carried out.

XIV. The expense of making the partition, and the allowances of the establishment necessary for the measurement and survey of the lands, the preparation of papers, and any other

Assessment and levy of costs incurred in making partition

charges shall be fixed by the Collector. The amount shall be paid under such rules as may from time to time be laid down by the Board of Revenue with the sanction of the local Government, and, in default of payment, may be realized under the rules applicable to the recovery of arrears of rent or Revenue.

XV At any stage of the proceedings after a partition shall have been ordered, if it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any reason not inconsistent with the provisions of this Act exists, why the partition should not be proceeded with, it shall be competent to the Commissioner, on the report of the Collector, and subject to any orders that the Board of Revenue may pass in the case, to stay the partition, and to order the proceedings to be quashed. The decision of the Revenue Authorities under this Section shall not be open to revision by the Civil Court.

XVI After the expiration of the period mentioned in the Notification referred to in Section XII of this Act, the Collector shall, if necessary, cause a measurement of all the lands comprised in the estate to be made, and a rent-roll of the same to be prepared. The village papers which are required to be prepared and periodically deposited in the Office of the Collector, under the provisions of Sections XI and XII, Regulation IX. 1833, *(to modify certain portions of Regulation VII. 1822, and Regulation IV. 1828; to provide for the more speedy and satisfactory decision of Judicial Questions, cognizable by Officers of Revenue employed in making Settlements under the above Regulations; for enforcing the production of the village accounts; for the more extensive employment of Native Agency in the Revenue Department; and to declare the intent of Section V, Regulation VII. 1822, touching claims to Mahkams)* may be used for the purposes of this Act. Provided that any of the proprietors

shall be permitted to file a rent-roll of the estate, which shall be accepted if acknowledged to be correct by all the proprietors.

**XVII.** The Collector may examine the parties on solemn affirmation in regard to the papers produced before him, whether by the Officer appointed to make the partition, the proprietors, or otherwise. He shall also allow any shareholder to examine the papers so produced, and to take a copy of the same, and after such examination he shall hear any objections which any of the shareholders may make in respect to such papers. The Collector may direct any Deputy Collector or other Officer subordinate to him to examine the papers produced before him, and to make a report upon the same.

**XVIII.** The Collector, on the completion of the enquiry allowed by the last preceding Section, shall allow the parties the option of making a private partition of the estate and allotment of the public Revenue amongst themselves, within such time as he may fix, or, if the parties shall not consent to make a private partition of the estate, or shall fail to make such partition within the time fixed by the Collector, the Collector shall call upon them to state, whether they are willing to refer the partition of the estate, and the apportionment of the public Revenue, to an arbitrator or arbitrators to be appointed by them. The Collector may also offer the parties the option of referring any point arising in the course of a partition to arbitration. The partition and allotment of the public Revenue made by the parties or by arbitrators appointed by them, shall be subject to the confirmation of the Collector, and the orders of the superior Revenue Authorities.

**XIX.** If the parties consent to refer the partition of the estate, and the allotment of the public Revenue, or any point arising in the course of the partition, to arbitration, but they cannot agree amongst themselves

If parties cannot agree as to arbitrators, matter may be appointed by Collector

as to the arbitrator or arbitrators to be appointed, the Collector or may appoint two or more persons to be

*In case of equality of votes, Collector to act as umpire.*

arbitrators in the case. If the arbitrators are equally divided in opinion, the Collector

shall act as umpire, and the partition made by the arbitrator or arbitrators with whom the Collector shall concur shall be the partition in the case. The same rule shall apply in respect of any point arising in the course of a partition, which shall be referred to arbitration.

XX. If any person, on being appointed an arbitrator, shall

*Appointment in place of arbitrator refusing, or being unable to act*

refuse to act, or, after accepting the appointment, shall die or become incapable of acting, another person shall be appointed arbi-

trator in his stead, in the same manner in which the first person was appointed.

XXI. After the arbitrators shall have accepted the appoint-

*Powers of Collector with regard to arbitrators*

ment, the Collector shall transmit the whole of the papers to them, and it shall be com-

petent to the Collector to exercise towards the arbitrators the same powers and authority for securing their attendance, and the due completion of their award which he is competent to exercise towards witnesses summoned before him when acting judicially, for the purpose of compelling them to attend and give evidence. The Collector shall also fix a time within which the arbitrator or arbitrators shall deliver the paper of partition. On sufficient cause shown, the Collector may extend such period.

XXII. The arbitrators shall deliver a full and complete

*Particulars to be specified in partition paper.*

paper of partition, specifying the separate estates into which they propose that the

estate shall be divided, the names of the parties to whom the several estates are proposed to be allotted, and the amount of public Revenue to be assessed on each of such estates.

XXIII. The arbitrators, on delivering the paper of parti-

*Remuneration of arbitrators.*

tion as aforesaid, shall be entitled to reasonable fees for their services, the amount

to be fixed by the Collector.

**XXIV.** If the paper of partition be not delivered within the time fixed by the Collector, or within any

*In default of award by first arbitrators, partition may be referred to others*

further period to which the time may have been extended, the Collector may order that the partition shall be referred to another

arbitrator or arbitrators, to be chosen in the same manner and subject to the same rules as the first.

**XXV.** If the partition of the estate cannot be made by the

*In default of private agreement, or settlement by arbitration, Officer may be appointed to make partition.*

parties themselves, or by arbitration under the foregoing rules, the Collector shall appoint an Officer, to make the partition, and shall forward the whole of the papers to

such Officer, and shall direct him to proceed to the estate, and to make the partition within a time to be fixed by the Collector.

**XXVI.** The Officer appointed to make the partition shall

*Who shall summon proprietors by proclamation to attend proceedings*

issue a proclamation at the Maal-Cutcherry of the estate, or other conspicuous place thereon, or at the village Chouree, or Choupal, requiring the several proprietors

of the estate to attend upon him in person, or by agent, during the time that the partition is being made.

**XXVII** At the commencement of the Revenue year current

*Estate may be attached and brought under Khas management under superintendence of Officer*

in the District, the Collector may direct the Officer appointed to make the partition or some other person, to attach the estate, and to bring it under Khas management

under the personal superintendence of such Officer. The collections of the estate, after defraying the expenses of management, and any other expenses with which the estate is chargeable, shall be applied to the payment of the Government Revenue, and the residue shall be divided amongst the proprietors in proportion to their respective shares, at such periods as the Collector may see fit.

**XXVIII.** If, an arrear of public Revenue shall accrue on

*Procedure in case of arrears of revenue accruing during course of partition of estate*

an estate ordered to be divided, while the partition of the estate is being made, any one or more of the proprietors may tender

to the Collector his or their quota of the balance, and the Collector shall receive the same, and credit the amount to the share or shares of such proprietor or proprietors. If a sale of any part of the estate shall ultimately become necessary for the liquidation of any part of such arrear which may remain due, only the share or shares of the proprietor or proprietors who shall not have contributed their quota of the balance shall be sold in the first instance, and the partition shall go on and be completed, in the same manner as if no arrear of public Revenue had accrued. The purchaser or purchasers of the share or shares sold shall be entitled to separate possession of the estate or estates which, under the partition, would have been allotted to the defaulting proprietor or proprietors. Provided always that, in all cases of a partition, the entire estate shall be considered responsible for the public Revenue assessed upon it, until the partition shall have been completed, and the several proprietors shall have been put into possession of the separate estates into which the estate may be ordered to be divided, according as the same may be allotted to them.

**XXIX.** If the Officer appointed to make the partition shall consider it necessary, to assist him in making the same, to cause a detailed measurement to be made of all the lands comprised in the estate, or a map of the estate to be prepared, he shall exercise the same powers for making such measurement and map as are vested in the Collector by any law for the time being in force.

**XXX.** When some of the lands forming the estate are held in common, the Collector shall declare, by a proceeding to be held under the provisions of this Act, the principle and rule under which, in accordance with the village custom, such lands shall be divided; and he shall cause the partition of such lands to be made in conformity to the provisions of this Act. The portion of the common land falling by such partition to the shares of the several co-sharers shall be added to the lands held by

Powers of Officer charged with partition, in respect of measurement, &c

Division of lands held in common.

them in severalty, and the several estates thus formed shall be assessed and declared separate estates.

*Proviso.*

Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to by the parties, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

**XXXI.** The Collector may refuse to declare any lands held in severalty, and not liable to re-distribution according to special village custom, a separate mehal, if the lands be so intermixed with other properties as to render the formation of a compact estate impossible, and if the parties affected by the partition decline to permit of the transfers necessary for curing such defect.

*Collector may refuse to separate lands in certain cases*

**XXXII.** Where there may be no lands held in common, the lands in severalty, held by the applicant for partition, or assigned to him by the Collector under the provisions of this Act, shall be assessed and declared a separate estate. Provided that it shall be in the discretion of the Collector to cause any transfer of lands, agreed to, or directed by his order, as provided in Section XXX, to be made previous to such declaration, and the new estate shall be declared subject to the transfer so made.

*Where no lands held in common, lands in severalty may be declared a separate estate*

*Proviso as to transfers*

**XXXIII.** If any sharer, after the issue of the proclamation mentioned in Section XXVI of this Act, shall fail to attend, the Officer appointed to make the partition during the time the partition is being made, no objection taken by such sharer to the partition shall be heard, unless such sharer can show that his absence was not wilful, or unless for any good and sufficient reason it shall appear just and proper to allow him to be heard against the partition.

*Sharer failing to attend after proclamation liable to forfeit right of objection.*

**XXXIV.** If at any time after an order shall have been passed for making a partition, it shall appear, either from the report of the Officer appointed to make the partition, or from any other information, that

*Partition may be stayed if parties so desire.*

the parties are not desirous that the partition should proceed, it shall be competent to the Collector, with the sanction of the Commissioner, to stop the partition, and to strike the case off the file, recovering from the sharers all costs and expenses incurred up to that time.

**XXXV.** It shall be the duty of the Officer appointed to make the partition, so far as circumstances will admit, to take care that the estates into which the estate is divided shall consist of contiguous mehals or villages. Provided that, if the estate ordered to be divided shall not consist of a sufficient number of villages to admit of one or more entire village or villages being included in each estate, the partition of the village or villages of which the estate shall consist shall be made so as to render each estate as compact as

**XXXVI.** The public Revenue shall be assessed on each estate into which the property shall be ordered to be divided, in conformity to the rules contained in any law for the time being in force.

**XXXVII.** In selecting the villages or lands to be included in each separate estate, the advantages or disadvantages arising from situation, the vicinity of roads, Railways, navigable rivers, or canals; the nature and quality of the soil and produce; the quantity of culturable and unculturable waste land; the depth at which water may be procurable, the number of tanks and wells; the estate of the embankments and water-courses; and any other local circumstances affecting the present, or likely to influence the future value of the lands, shall be duly considered: and the villages or lands to be included in each estate shall be fairly and impartially selected. So far as may be practicable, and consistent with compactness of partition, lands held in severalty shall be left in the possession of the parties holding the same.

**XXXVIII. If a dwelling-house belonging to one sharer**

Rule when dwelling-house belonging to one sharer, is situate on ground to be allotted to another sharer

shall be situate on any land, or in any village, which it may be necessary to include in the share of another sharer, the proprietor of such house shall be at liberty to retain it, with the offices, buildings, and grounds, immediately attached thereto, upon agreeing to pay to the proprietor of the land or village in which the same is situate an equitable rent for the ground. The limits of the ground and the rent to be paid for it shall be fixed by the Officer making the partition, and shall be stated in the paper of partition.

**XXXIX. Tanks, wells, water-courses, and embankments,**

Rule as to tanks, wells, water-courses, and embankments

shall be considered as attached to the land, for the benefit of which they were originally made. In cases in which, from the extent, situation, or construction of such works it shall be found necessary to continue them the joint property of the proprietors of two or more of the estates into which the estate may be divided, the paper of partition shall specify, as far as circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

**XL. Places of worship, which shall have been held in com-**

Rule as to places of worship

mon previous to the partition of an estate, shall continue to be so held, unless the party shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Officer making the partition shall enter a note of the agreement in the paper of partition.

**XLI. When the Officer appointed to make the partition**

Particulars to be contained in the paper of partition to be submitted by Officer making same.

shall have completed the partition, and allotted the public Revenue on each of the estates into which it is proposed that the estate shall be divided, he shall prepare and submit to the Collector a paper of partition, showing how he proposes to divide the estate, and to apportion the public Revenue. This paper

shall specify the names of the Mehals or villages included in each separate estate; the gross produce of each Mehal and village for the three years immediately preceding the year in which the partition is ordered to be made; the names of the parties to whom the several estates are allotted, and the proportion of the public Revenue proposed to be assessed on each of such estates, with any remarks regarding the mode observed in selecting the lands included in each estate, and the accounts upon which the apportionment of the public Revenue assessed thereon shall have been based, as may be necessary for the information of the Collector. The paper shall further contain a detail of the adjustments, if any, which shall have been made in respect to any tanks, places of worship, or other matters, Map to be also submitted as specified in the preceding Sections. The Officer appointed to make the partition shall also submit a map, showing the several estates into which the estate is proposed to be divided.

XLII. The Collector shall take into consideration the partition proposed by the Officer appointed to make the partition, and, after calling for any further information which he shall deem necessary, and disposing of any objections which shall be taken to the partition, and allotment of public Revenue, as proposed by such Officer, he shall submit a report to the Commissioner together with such of the papers of the case as shall appear to him essential. He shall also forward a list of the papers not sent. The Collector shall record his opinion whether the proposed partition should be confirmed or modified, and in the latter case, he shall state the nature of the modification which, in his opinion, should be made.

XLIII. The Commissioner shall either uphold the partition proposed by the Collector, or modify the same. The decision of the Commissioner shall not be open to revision by the Civil Court, but shall be subject to appeal to the Board of Revenue. The Commissioner, before coming to a decision, may call for any additional papers, or direct any further inquiry that he

shall consider necessary. He may also, if he think proper, direct that, when two or more of the estates into which it is proposed to divide the estate shall consist of the same proportions of the entire estate, the parties entitled thereto shall draw lots for the same before the Collector.

And may direct division by lot under certain circumstances

**XLIV.** On the receipt of the order of the Commissioner, or if an appeal be preferred to the Board of Revenue, then, of the order passed on the appeal, the Collector shall cause the same to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order. The Collector shall at the same time specify the date from which each of the estates shall be held to be a separate estate, and shall enter the several estates into which the estate has been divided in the Register of Estates paying Revenue to Government. The Collector shall give the several proprietors possession of the estates allotted to them, and, if necessary, may avail himself of the assistance of the Magistrate in giving possession

Procedure by Collector on receipt of order of Commissioner, or of Board of Revenue on appeal.

**XLV.** In order to prevent collusion or error in the distribution of the public Revenue assessed upon an estate which may be ordered to be divided into two or more distinct estates, if it shall be proved to the satisfaction of the Government, within twelve years from and after the date of confirmation of the partition, that the public Revenue was fraudulently or erroneously apportioned at the time of the partition, the Government shall have power to order a new allotment of the public Revenue upon the several estates into which such estate may have been divided, conformably to the principles prescribed in this Act, on an estimate of the gross produce of each estate at the time of the partition, to be made agreeably to the best evidence and information which may be procurable respecting the same. Such order shall not be liable to be contested in the Civil Court. The parties whose estates may be declared to have been under-

Government may order new allotment of public Revenue among estates formed by partition, in case of fraud or error in original allotment being proved

shall be required to pay to the proprietors of the estates which shall have been over-assessed the sum in which they shall be found to have been over-assessed, and in default of payment, the amount shall be leviable by the process prescribed for the recovery of arrears of rent or Revenue.

**XLVI.** If, during the time an estate is under attachment with a view to the partition of the same, any party shall neglect or omit to claim, by a suit, any right or title he may then have to the ownership or occupancy, at a fixed rent, of any land situated in such estate, or any other interest therein, such neglect or omission shall be a valid plea in bar of any suit relating to such right, title, or interest, unless the party can satisfy the Court that there was good and sufficient reason for his neglect or omission to institute the suit at or before such time. Provided that this Section shall not bar any action for arrears of rent, or the enhancement or alteration of rent.

**XLVII.** Whenever any Court of Civil Judicature shall pass a decree, awarding to any person the proprietary right in a portion of an estate paying Revenue to Government, whether the portion so awarded shall consist of a fractional share in the whole, or a part, of the estate, or of specific lands, the decree-holder may apply to the Collector for a partition of the estate; and on the receipt of such application, the Collector shall proceed thereupon under the provisions of this Act, which are hereby declared applicable to such applications.

**XLVIII.** If two or more estates, which may have originally formed portions of the same estate, shall come into the possession of one person, such person shall be entitled to have such estates united, and to hold them as a single estate; or if two or more persons shall have separate possession of their respective shares of an estate which was originally held as a joint undivided estate, such persons may

Consequence to party having interest in any estate, if he neglect to affirm or establish such interest, while the estate is under attachment with a view to partition

Holder of decree of Civil Court, awarding right to portion of an estate, may apply for partition, and Collector may proceed thereon under Act.

Union in certain cases of severed portions of estates originally undivided.

apply to have their shares united, and to hold them as one estate.

**XLIX.** The applications for the union of the estates, or of the shares of the estate, as the case may be, shall be made in writing to the Collector of the District in which the estates, or shares of the estate, are situate, and the Collector (provided he see no objection) shall comply with the application, and cause the necessary entries to be made in the records of his Office, reporting the case to the superior Revenue Authorities.

Application for such union how to be made, and how to be dealt with

**L.** The provisions of this Act, so far as they relate to the completion and confirmation, or to the staying or quashing, of the partition of an estate, may be applied, at the discretion of the Collector, in all cases of the partition of estates pending at the time of the passing of this Act.

Certain provisions of Act, applicable to partition cases pending at the time of its passing

**LI.** The provisions of this Act may, in so far as the same, are applicable, be applied by order of the local Government to the partition of any estate held free from the payment of Government Revenue.

Provisions of Act may be applied to partition of estates held free from payment of Revenue

**LII.** In the performance of his duties under this Act, the Collector shall be subject to the general direction and control of the Commissioner of the Division, and the Board of Revenue.

Control of Collector's proceedings under Act.

**LIII.** All orders passed by a Collector under this Act, unless otherwise provided, not being orders or decisions within the meaning of Section IX, shall be open to revision by the superior Revenue Authorities.

Orders of Collector, except in certain cases, open to revision by superior Revenue Authorities.

**LIV.** The powers vested in a Collector by this Act may be exercised by a Deputy Collector, or other Officer vested with the full powers of a Collector, subject to the control of the Collector of the District.

What other Officers may exercise powers vested in Collector by this Act.

**LV.** In carrying out the provisions of this Act, the Collector or shall exercise the powers described in Regulation II 1819, Regulation VII. 1822, and Regulations IX. and XIV. 1825. Any Officer appointed to make a partition under this Act, may also exercise the powers described in the foregoing Regulations, so far as the same may be applicable.

**LVI.** If, in any case in which a Collector or other Officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other Officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a Civil Court, when any such offence is committed before or against such Court, or when a document charged to be a forgery is given in evidence in any proceedings in such Court.

**LVII.** In the execution of the duties vested in the Board of Revenue by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the local Government, to whom they shall apply in all cases which shall appear to the Board not to have been provided for by the existing law.

**LVIII** Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

**LIX.** This Act shall extend only to such parts of the North-Western Provinces of the Presidency of Fort William in Bengal as are subject to the general Regulations of that Presidency; but

the Act may be extended, by order of the local Government, either wholly or in part, to any Non-Regulation Province under such Government.

# **NATIVE RELIGIOUS ENDOWMENTS.—BENGAL AND MADRAS.**

## **ACT No. XX OF 1863.**

*(Received the assent of the G G on the 10th March 1863.)*

Recites the expediency of relieving Boards of Revenue, &c., in Bengal and Madras, from managements, &c., of religious endowments

1 Repeals so much of Bengal Regulation XIX 1810, and Madras Regulation VII, 1817, as relates to endowments for support of temples and other religious purposes.

2 Interpretation of words "Civil Court," "Court," and of Number and Gender

3 Directs local Government to make the special provision described in the Act to transfer its powers over certain religious endowments to trustee, &c.

4—6. In cases in which religious trusts are vested in trustee, &c., but the endowments are in the possession of Board of Revenue, such property except, &c., shall be transferred to trustee, &c., and (5) gives Civil Court jurisdiction in case of dispute about succession to office of trustee, and (6) such trustee's rights, duties, and responsibilities shall be same as if this Act had not passed

7—9. Directs that in every Division a committee or committees shall be appointed to perform duties now performed by Board of Revenue, &c.; (8) committee to be composed of persons likely to be agreeable to the persons interested in the Temple, &c., who (9) shall hold office for life, unless removed by Civil Court.

10—11. Directs how vacancies in committees are to be filled up; and (11) that no trustee, &c., shall be a committee man

12. On appointment of committee, Board, &c., to transfer property.

13—18. Makes it the duty of trustee, &c., to keep accounts, &c., and (14) entitles any persons interested pecuniarily, or (15) otherwise to sue trustee, &c., but (16) only by leave of Court; and (16) such suit may be referred to arbitrators, or (17) dispute may be referred under Code of Civil Procedure.

19. Court may order trustees to file accounts

20. Civil suit not to prevent proceedings for criminal breach of trust.

21. Limits application of Act to such portions of property held for religious and secular purposes, as applies to the former, and provides for management of the latter by Board, &c.

22—23. Prohibits, except as provided by this Act, Government superintendence of property held for religious endowment, and (23) saves the Regulations mentioned in Section 1, except as to Mosques, &c.

24. Interprets the word "India."

**An Act to enable the Government to divest itself of the management of Religious Endowments.**

**WHEREAS** it is expedient to relieve the Boards of Revenue, and the Local Agents, in the Presidency of Fort William in Bengal, and the Presi-

**Preamble.**

dency of Fort Saint George, from the duties imposed on them by Regulation XIX. 1810 of the Bengal Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, Colleges, and other purposes; for the maintenance and repair of Bridges, Serays, Kuttras, and other public buildings, and for the custody and disposal of Nuzzool Property or Escheats*), and Regulation VII. 1817 of the Madras Code (*for the due appropriation of the rents and produce of lands granted for the support of Mosques, Hindoo Temples, and Colleges, or other public purposes; for the maintenance and repair of Bridges Choultries, or Chuttrums, and other public buildings; and for the custody and disposal of Escheats*), so far as those duties embrace the superintendence of lands granted for the support of Mosques or Hindoo Temples, and for other religious uses, the appropriation of endowments made for the maintenance of such religious establishments; the repair and preservation of buildings connected therewith, and the appointment of Trustees or Managers thereof, or involve any connection with the management of such religious establishments: and whereas it is expedient for that purpose to repeal so much of Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes; It is enacted as follows:—

I. So much of Regulation XIX. 1810 of the Bengal Code, and so much of Regulation VII. 1817 of the Madras Code, as relate to endowments for the support of Mosques, Hindoo Temples, or other religious purposes, are repealed.

II. In this Act words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

Number

Gender

Words importing the masculine gender shall include females.

The words "Civil Court" and "Court" shall mean the Principal Court of Original Civil Jurisdiction in the District in which the "Civil Court" and "Court" Mosque, Temple, or religious establishment is situate, relating to which, or to the endowment whereof, any suit shall be instituted or application made under the provisions of this Act

III. In the case of every Mosque, Temple, or other religious establishment to which the provisions of either of the Regulations specified in Section I are applicable, and the nomination of the Trustee, Manager, or Superintendent whereof, at the time of the passing of this Act, is vested in, or may be exercised by, the Government, or any public Officer, or in which the nomination of such Trustee, Manager, or Superintendent shall be subject to the confirmation of the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, make special provision as hereinafter provided.

Local Government to make special provision respecting Mosques, &c, in certain cases

IV. In the case of every such Mosque, Temple, or other religious establishment which, at the time of the passing of this Act, shall be under the management of any Trustee, Manager or Superintendent, whose nomination shall not vest in, nor be exercised by, nor be subject to the confirmation of, the Government, or any public Officer, the local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee, Manager, or Superintendent, all the landed or other property which, at the time of the passing of this Act, shall be under the superintendence or in the possession of the Board of Revenue, or any local Agent, and belonging to such Mosque, Temple, or other religious establishment, except such property as is hereinafter provided; and the powers and responsibilities of the Board of Revenue, and the local Agents, in respect to such Mosque, Temple, or other religious establishment, and to all

Transfer to independent Trustees, &c, of all property belonging to their Trusts, &c, remaining in charge of Revenue Board or others.

land and other property so transferred, except as regards acts done and liabilities incurred by the said Board of Revenue, or any local Agent, previous to such transfer, shall cease and determine.

V. Whenever from any cause a vacancy shall occur in the office of any Trustee, Manager, or Superintendent, to whom any property shall have been transferred under the last preceding Section, and any dispute shall arise respecting the right of succession to such office, it shall be lawful for any person interested in the Mosque, Temple, or religious establishment, to which such property shall belong, or in the performance of the worship or of the service thereof, or the Trusts relating thereto, to apply to the Civil Court to appoint a Manager of such Mosque, Temple, or other religious establishment, and thereupon such Court may appoint such Manager, to act until some other person shall by suit have established his right of succession to such office. The Manager so appointed by the Civil Court shall have, and shall exercise, all the powers which, under this or any other Act, the former Trustee, Manager, or Superintendent, in whose place such Manager is appointed by the Court, had or could exercise, in relation to such Mosque, Temple, or religious establishment, or the property belonging thereto.

VI The rights, powers, and responsibilities of every Trustee, Manager, or Superintendent, to whom the land and other property of any Mosque, Temple, or other religious establishment is transferred in the manner prescribed in Section IV of this Act, as well as the conditions of their appointment, election, and removal, shall be the same as if this Act had not been passed, except in respect of the liability to be sued under this Act, and except in respect of the authority of the Board of Revenue, and local Agents, given by the Regulations hereby repealed, over such Mosque, Temple, or religious establishment, and over such Trustee, Manager, or Superintendent, which authority is hereby determined and repealed. All the powers which might be exercised by any

Board, or local Agent, for the recovery of the rent of land or other property transferred under the said Section IV of this Act may, from the date of such transfer, be exercised by any Trustee, Manager, or Superintendent to whom such transfer is made.

VII. In all cases described in Section III of this Act, the local Government shall once for all appoint one or more Committees in every Division, or District, to take the place, and to exercise the powers, of the Board of Revenue and the local Agents under the Regulations hereby repealed. Such Committee shall consist of three or more persons and shall perform all the duties imposed on such Board and local Agents, except in respect of any property which is specially provided for under Section XXI of this Act.

VIII. The Members of the said Committee shall be appointed from among persons professing the religion for the purposes of which the Mosque, Temple, or other religious establishment, was founded, or is now maintained, and in accordance, so far as can be ascertained, with the general wishes of those who are interested in the maintenance of such Mosque, Temple, or other religious establishment. The appointment of the Committee shall be notified in the Official Gazette. In order to ascertain the general wishes of such persons in respect of such appointment, the local Government may cause an election to be held, under such rules (not inconsistent with the provisions of this Act) as shall be framed by such local Government.

IX. Every Member of a Committee appointed as above shall hold his office for life, unless removed for misconduct or unfitness, and no such Member shall be removed except by an order of the Civil Court as hereinafter provided.

X. Whenever any vacancy shall occur among the Members of a Committee appointed as above, a new Member shall be elected to fill the vacancy, by the persons interested, as above provided. The

remaining Members of the Committee shall, as soon as possible, give public notice of such vacancy, and shall fix a day, which shall not be later than three months from the date of such vacancy, for an election of a new Member by the persons interested as above, provided under rules for elections which shall be framed by the local Government and whoever shall be then elected, under the said rules, shall be a Member of the Committee to fill such vacancy. If any vacancy as aforesaid shall not be filled up by such election as aforesaid within three months after it has occurred, the Civil Court, on the application of any person whatever, may appoint a person to fill the vacancy, or may order that the vacancy be forthwith filled up by the remaining Members of the Committee, with which order it shall then be the duty of such remaining Members to comply, and if this order be not complied with, the Civil Court may appoint a Member to fill the said vacancy.

XI. No Member of a Committee appointed under this Act shall be capable of being, or shall act,

No Member of a Committee to be Trustee, &c., of the Mosque, &c., under charge of such Committee

also as a Trustee, Manager, or Superintendent of the Mosque, Temple, or other religious establishment, for the manage-

ment of which such Committee shall have been appointed

XII. Immediately on the appointment of a Committee, as

On appointment of Committee, Board and Local Agents to transfer property

above provided for the superintendence of any such Mosque, Temple, or religious establishment, and for the management of

its affairs, the Board of Revenue, or the local Agents acting under the authority of the said Board, shall transfer to such Committee all landed or other property which at the time of appointment, shall be under the superintendence, or in the possession, of the said Board or local Agents, and belonging to the said religious establishment, except as is hereinafter provided for, and thereupon the powers and responsibilities of the Board and the local Agents, in respect to such Mosque, Temple, or religious establishment, and to all land and other property so transferred, except as above, and except as regards

acts done and liabilities incurred by the said Board or Agents previous to such transfer, shall cease and determine. All the powers which might be exercised by any Board or local Agent for the recovery of the rent of land or other property transferred under this Section, may from the date of such transfer be exercised by such Committee to whom such transfer is made.

XIII. It shall be the duty of every Trustee, Manager, Accounts of receipts and disbursements. and Superintendent of a Mosque, Temple, or religious establishment, to which the provisions of this Act shall apply, to keep regular accounts of his receipts and disbursements, in respect of the endowments and expenses of such Mosque, Temple, or other religious establishment; and it shall be the duty of every Committee of Management, appointed or acting under the authority of this Act, to require from every Trustee, Manager, and Superintendent of such Mosque, Temple, or other religious establishment, the production of such regular accounts of such receipts and disbursements at least once in every year, and every such Committee of Management shall themselves keep such accounts thereof.

XIV. Any person or persons interested in any Mosque, Temple, or religious establishment, or in Any person interested may sue in case of breach of trust, &c. the performance of the worship or of the service thereof, or the Trusts relating thereto, may, without joining as plaintiff any of the other persons interested therein, sue before the Civil Court the Trustee, Manager, or Superintendent of such Mosque, Temple, or religious establishment, or the Member of any Committee appointed under this Act, for any misfeasance, breach of trust, or neglect of duty, committed by such Trustee, Manager, Superintendent, or Member of such Committee, in respect of the Trusts vested in, or confided to, them respectively, and the Civil Court may direct the specific performance of any act by such Trustee, Manager, Superintendent, or Member of a Committee, and may decree damages and costs against such Trustee, Manager, Superintendent, or Mem-

ber of a Committee, and may also direct the removal of such Trustee, Manager, Superintendent, or Member of a Committee.

XV. The interest required in order to entitle a person to sue under the last preceding Section need not be a pecuniary, or a direct or immediate, interest, or such an interest as would entitle the person suing to take any part in the management or superintendence of the Trusts. Any person having a right of attendance, or having been in the habit of attending, at the performance of the worship or service of any Mosque, Temple, or religious establishment, or of partaking in the benefit of any distribution of alms, shall be deemed to be a person interested within the meaning of the last preceding Section.

XVI. In any suit or proceeding instituted under this Act, it shall be lawful for the Court before which such suit or proceeding is pending to order any matter in difference in such suit to be referred for decision to one or more arbitrators. Whenever any such order shall be made, the provisions of Chapter VI of the Code of Civil Procedure shall in all respects apply to such order and arbitration, in the same manner as if such order had been made on the application of the parties under Section 312 of the said Code.

XVII. Nothing in the last preceding Section shall prevent the parties from applying to the Court, or the Court from making the order of reference, under the said Section 312 of the said Code of Civil Procedure.

XVIII. No suit shall be entertained under this Act without a preliminary application being first made to the Court for leave to institute such suit. The application may be made upon unstamped paper. The Court, on the perusal of the application, shall determine whether there are sufficient *prima facie* grounds for the institution of a suit, and if in the judgment of the Court there are such grounds, leave shall be given for its institution. In calculating the costs at the termination of the suit, the

Nature of interest entitling a person to sue.

Reference to arbitrators

Reference under Section 312 of Civil Procedure Code

Preliminary application for leave to institute suit.

Costs

Stamp Duty on the preliminary application shall be estimated, and shall be added to the costs of the suit. If the Court shall be of opinion that the suit has been for the benefit of the Trust, and that no party to the suit is in fault, the Court may order costs, or such portion as it may consider just, to be paid out of the estate.

**XIX.** Before giving leave for institution of a suit, or after leave has been given, before any proceeding is taken, or at any time when the suit is pending, the Court may order the Trustee, Manager, or Superintendent, or any Member of a Committee, as the case may be, to file in Court the accounts of the Trust, or such part thereof as to the Court may seem necessary

Court may require accounts of Trust to be filed.

**XX.** No suit or proceeding before any Civil Court under the preceding Sections, shall in any way affect or interfere with any proceeding in a Criminal Court for Criminal Breach of Trust.

No Civil suit to bar proceedings for Criminal Breach of Trust

**XXI** In any case in which any land or other property has been granted for the support of an establishment, partly of a religious and partly of a secular character, or in which the endowment made for the support of an

Provision for cases in which the endowments are partly for religious and partly for secular purposes

establishment is appropriated partly to religious and partly to secular uses, the Board of Revenue, before transferring to any Trustee, Manager, or Superintendent or to any Committee of Management appointed under this Act, shall determine what portion, if any, of the said land or other property shall remain under the superintendence of the said Board for application to secular uses, and what portion shall be transferred to the superintendence of the Trustee, Manager, or Superintendent, or of the Committee, and also what annual amount, if any, shall be charged on the land or other property which may be so transferred to the superintendence of the said Trustee, Manager, or Superintendent, or of the Committee, and made payable to the said Board or to the local Agents, for secular uses as aforesaid. In every such case the provisions of this Act shall take effect only in respect to such land and other property as may be so transferred

**XXII** Except as provided in this Act, it shall not be lawful, after the passing of this Act, for any Government in India, or for any Officer of any Government in his official character, to undertake or resume the superintendence of any land or other property granted for the support of, or otherwise belonging to, any Mosque, Temple, or other religious establishment, or to take any part in the management or appropriation of any endowment made for the maintenance of any such Mosque, Temple, or other establishment, or to nominate or appoint any Trustee, Manager, or Superintendent thereof, or to be in any way concerned therewith.

**XXIII** Nothing in this Act shall be held to affect the provisions of the Regulations mentioned in this Act, except in so far as they relate to Mosques, Hindoo Temples, and other religious establishments, or to prevent the Government from taking such steps as it may deem necessary, under the provisions of the said Regulations, to prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value, or required for the convenience of the public.

**XXIV** The word "India" in this Act shall denote the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic, c 106, entitled "An Act for the better Government of India."

## RECORDER'S COURTS, SMALL CAUSE COURTS, BRITISH BURMAH.

### ACT No XXI OF 1863.

*(Received the assent of the G G on the 10th March 1863)*

Recites Resolution of G G in C, 31st January 1862, for establishment of a Recorder and of Small Cause Courts.

1—9 Authorises G G in C to establish a Recorder's Court for Akyab, Rangoon, and Moulmein, (2) Recorder to be a barrister of 5 years' standing; (3) who is to make solemn declaration on entering office, or (4) Recorder may be appointed for each town, and (5) while only one, he to make circuit; and (6 and 7) notify time

and place of holding courts ; and (8) may hold other courts than those notified , and (9) same if only one Recorder for two courts

10—11. Recorder to exercise jurisdiction within limits to be fixed by Chief Commissioner, &c ; and (11) have cognizance of suits respecting land situate within local limits, and causes of action arising, or if defendant resides, &c., within local limits.

12—13. Empowers Chief Commissioner to transfer to Recorder's Courts suit from any other Courts , and (13) ordinarily Recorder is to try a suit only in the Court in which it is instituted or to which transferred, &c., except by consent of parties.

14—15. Directs each of the Courts to have a seal, and how it shall be kept , and (15) empowers the Recorder to appoint clerks and ministerial officers.

16—18 Only licensed advocates to act, and how to be admitted, except advocates and vakeels of High Court, and saves right of parties to act for themselves ; and (17) Recorder may for sufficient reason withdraw license of advocate , and (18) fees of advocate, whether licensed or not, to be subject to taxation of Recorder

19—20 Empowers Recorder to make rules for service of process, &c , (20) save as otherwise provided by this Act Procedure of Recorder's Courts to be that of Act VIII 1859

21 The law of the Court to be that of the Calcutta High Court. except as to suits against Natives, relating to marriage, succession, and inheritance

22—26 Court may submit to High Court statement of question of law, &c , for its opinion , proceeding (23) in meantime with suit, but staying execution , and (24) case submitted to be decided by two or more Judges , and (25) be argued by counsel and judgment to be transmitted to Recorder , and (26) costs of case to be costs in the cause.

27—28 Gives an appeal from Recorder to High Court in cases of value between 3,000 and 10,000 Rupees , and (28) may grant new trial in suits relating to land within three months , and in other suits within thirty days , saving also power to review on terms of giving security at discretion of Recorder

29 Gives the Recorder exclusive jurisdiction in cases arising under Acts XIX 1841 ; XXXV. 1858 , XL 1858 , and IX 1861 , or Act XXVII 1860 , his order not to be subject to appeal, &c

30—36. Authorizes the Recorder to constitute one or more assessors of the Court ; and (31) the G G in C to appoint a Registrar , and (32) defines some of his duties ; and (33) gives him specified duties as to presentation of plaints , and (34) as to applications for execution , and (35) gives him in certain cases powers of Small Cause Court, subject to the control of the Recorder , and G G in C may constitute him full Small Cause Court , in such suits (36) Registrar is to proceed according to Act XLII 1860, &c ; but Recorder may transfer case to his own file.

37. No appeal to be from Registrar, but he may state case for opinion of Recorder.

38 Empowers Recorder to refer suits of value not exceeding 100 rupees, though not cognizable under Act XLII. 1860, and in such suits an appeal to be to Recorder, whose decision shall be final, or who may state case to High Court.

39 In all suits in which the matter in issue is of the value of 10,000 rupees or upwards, an appeal is to lie to H. M. in Council

40—42 Gives the Recorder the powers of a Court of Session as defined in Code of Criminal Procedure, but excepts British subjects in capital offences; but (41) in other cases British subjects may be committed for trial by Recorder; (42) proceedings in his Court to be according to Code of Criminal Procedure.

43 Directs that no sentence of death shall be carried out, without confirmation by Chief Commissioner, who may commute it

44—45 Directs that no appeal shall lie from Recorder in criminal case, but Recorder may reserve points for opinion of High Court, and (45) on reserved case High Court may review, if Advocate General certifies his opinion that there is an error, &c

46 Extends Stamp Duties to Recorder's Courts

47—48 Empowers the Commissioner of the Division to sit with the Recorder in cases arising within his Division, and, (48) in absence of Recorder, may, in such cases, exercise all the powers of Recorder

49 Directs the Recorder to keep register book, &c.

50 Interprets word "Barrister"

An Act to constitute Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns.

WHEREAS the Resolution of the Governor-General in

Council, dated the 31st January 1862,  
Preamble

declares that instead of a Judicial Commissioner for the whole Province of British Burmah, whose ordinary business can well be undertaken by the Chief Commissioner, and who, as Judge of a Special Court sitting at the Head Quarters of each Division, could not possibly dispose of the Causes arising at each place in a manner that would satisfy the suitors, or be consistent with the prompt and regular administration of Justice, there shall be established at Rangoon and Moulmein a Court to be presided over by a Barrister or Advocate of not less than five years' standing, with full powers of Civil and Criminal Jurisdiction, analogous to those now exercised by the Recorders of Prince of Wales' Island and Singapore, with the exception of the power to try cases in which European British Subjects are charged with capital offences: and whereas it is expedient to make provision for the establishment of such Court, and of a similar Court for the Town of Akyab; and also for the establishment of a Court of Small

Causes in each of the said Towns of Akyab, Rangoon, and Moulmein, and to prescribe the Procedure for the said Courts, respectively ; It is enacted as follows :—

I. It shall be lawful for the Governor-General in Council to establish Courts of Judicature for the Towns of Akyab, Rangoon, and Moulmein, in British Burmah, or for any of the said Towns, which Courts, when so established, shall be called respectively, the “Court of the Recorder of Akyab,” the “Court of the Recorder of Rangoon,” and the “Court of the Recorder of Moulmein” Such Courts shall be Courts of Record.

II The said Courts, respectively, shall be held before a Judge who shall be called “The Recorder” thereof, and who shall be appointed by the Governor-General in Council, and shall be a Barrister of not less than five years’ standing Every Recorder appointed under this Act shall hold his Office during the pleasure of the Governor-General in Council

III. Previously to entering upon the execution of the duties of his Office, every Recorder appointed under this Act shall make or subscribe the following declaration before such Authority or person as the Governor-General in Council may commission to receive the same :—

“I, A B., appointed Recorder of [ ] do solemnly declare that I will faithfully perform the duties of my Office to the best of my ability, knowledge, and judgment.”

IV. The Governor-General in Council may appoint only one Recorder to be the Recorder of the said three Courts, or he may from time to time appoint a separate Recorder for any one, or for any two, of the said Courts.

V. So long as there shall be only one Recorder of the said three Courts, such Recorder shall hold his Court at each of the said three Towns of Akyab, Rangoon, and Moulmein, at stated periods. He

shall hold his Court in Rangoon at such times as may be necessary; in Moulmein at least once in every three months; and in Akyab at least once in every four months.

VI. The Recorder shall, on or before the first day of January in each and every year, or at such other convenient times as the Chief Commissioner of British Burmah shall direct, notify in the Official Gazettes of the Towns in which the Court is to be held, the days on which he intends to hold his Court at the said Towns respectively, during the then next ensuing twelve months: and a copy of such Notification shall be stuck up in a conspicuous part of the Court Houses in the said Towns respectively.

Notification by Recorder, as to time and place of holding Court.

VII. If the Recorder shall be unable to hold his Court at the time and place fixed in any Notification issued under the last preceding Section, he shall fix another period for holding his Court at such place, and shall publish notice of the same in the same manner, so far as circumstances will permit, in which a Notification under the said Section is directed to be published

Procedure in case of Recorder being unable to hold Court as notified

VIII. Notwithstanding anything in Sections VI and VII of this Act contained, it shall be lawful for the Recorder to hold his Court at times other than those notified, as provided in the said Sections, when for any good and sufficient reason it shall appear to him necessary and proper to do so.

Recorder may hold Court at other than notified times

IX. Whenever there shall be one Recorder for any two only of the said three Courts, the provisions contained in Sections VI, VII and VIII of this Act shall be applied, so far as the same may be applicable, in respect of the sittings to be held by such Recorder within the Towns of the Courts of which he is Recorder

Sections VI to VIII how to be applied when there is one Recorder for two Courts

X. The Recorders appointed under this Act shall have and exercise Civil Jurisdiction within such local limits, in the said Towns of which

Civil Jurisdiction of Recorder

they are respectively the Recorders and in the neighbourhood thereof, as may from time to time be fixed by the Chief Commissioner of British Burmah, with the approval of the Governor-General in Council; and the limits so fixed shall be published in the Official Gazettes of the said Towns. Provided

*Proviso as to alteration of local limits.* that it shall be lawful for the said Chief Commissioner, with such approval as aforesaid,

as often as he shall think proper, to vary or alter the limits so fixed: and, save as in this Act provided, no Court other than the Recorder's Court shall have or exercise any Civil Jurisdiction whatever, within the limits for the time being fixed as aforesaid.

XI. The Recorders appointed under this Act shall receive, try, and determine suits of every description, if in the case of suits for land or other

immovable property, such land or property shall be situate, or if in all other cases the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the ordinary Jurisdiction of their respective Courts. Provided that the Recorders shall not take cognizance

*Proviso* of any suit, the cognizance of which, by the ordinary Civil Courts in British India not established by Royal Charter, is barred by any Act of Parliament, or by any Regulation or Act of the Governor-General of India\* in Council.

XII. It shall be lawful for the Chief Commissioner to direct the transfer to any Recorder's Court, of any case which shall have been instituted

*Transfer of cases from other Courts to Recorder's Court* in any Court in British Burmah other than a Recorder's Court. Every case so

*Such cases how to be dealt with.* transferred shall be tried and determined by the Recorder to whose Court it is transferred, in the same manner, and under the same rules as to procedure, and in all other respects as if the Recorder had originally had Jurisdiction in the case, and the case had originally been instituted before him.

**XIII. A Recorder, who is the Recorder of more Courts**

Rule as to trial of  
suits by Recorder having  
Jurisdiction in more  
than one Court.

than one, shall, while sitting in any one of the Courts of which he is Recorder, ordinarily try no suits except such as shall have been instituted in such Court, or shall have been transferred to it by the Chief Commissioner as hereinbefore provided: but such Recorder may, if he think proper, try any suit instituted in any other of the said Courts of which he is Recorder, if the parties thereto shall join in an application to him (which shall be in writing, signed by all the parties to the suit or their agents) so to try the same.

**XIV A separate seal shall be made under the direction**

Seal of Courts Use  
and custody of same

of the Governor-General in Council for each of the said Courts, and all summonses, orders, and other process issuing out of the said Courts, respectively, shall be sealed or stamped with the seal of the Court issuing the same. The said seal shall be delivered to and kept in the custody of the Recorder, but during any absence of the Recorder, or in case of the vacancy of the Office of Recorder, the same shall be delivered to and kept in the custody of the Registrar of the Court appointed as is hereinafter provided; and if there be no Registrar, then it shall be delivered to and kept in the custody of the Deputy Commissioner

**XV. It shall be lawful for the Recorder of any Court or Courts established under this Act, from**

Appointment and re-  
moval of Ministerial  
Officers.

time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General in Council, to appoint such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of Justice by the said Recorder, in such Court or Courts respectively, and the due execution of the powers and authorities given to him by this Act, and every Clerk and Officer appointed as aforesaid shall be liable to dismissal by order of the Recorder of the Court to which he is appointed: provided that no person shall be removed from any Office, the salary of which is one hundred Rupees per

mensum or upwards without the sanction of the Chief Commissioner.

**XVI.** No person shall be permitted to appear or act as the Advocate of any suitor in any Court held under this Act, in any action or suit, or touching any matter whatever, unless such person shall have been previously licensed by the Recorder of such Court, to act for the suitors of such Court generally, or specially for the particular occasion; and it shall be lawful for the Recorder of every Court held under this act, to make rules for the qualifications and admission of proper persons to act as Advocates in such Court Provided that

Licensing of Advocates, and rules regarding qualifications and admission.  
Saving of agent for Secretary of State, &c nothing in this Section contained shall be deemed to prevent any person from appearing or acting as the agent for the Secretary of State for India in Council, or to prevent any suitor from appearing, pleading, or acting, on his own behalf, or on behalf of a co-

And of Advocates, &c., of High Courts suitor. Provided also that any person, who for the time being is an Advocate, Vakeel, or Attorney-at law of any of the High Courts of Judicature in India, shall be entitled without any license to act as an Advocate for any suitor in any of the said Courts; and that any person for the time being licensed to act generally in any one of the said Courts, shall without further license be also entitled to act generally in any other of the said Courts.

**XVII.** The Recorder of any Court may, for any sufficient reason, withdraw or vacate any license which shall at any time be granted by such Recorder to any person, to act generally or specially as an Advocate under this Act.

**XVIII.** The fees to be received by any Advocate, whether general or special, licensed under this Act, or entitled to act as an Advocate for another person in any of the said Courts without a license, under Section XVI of this Act, shall at all times be subject to the control and taxation of the Recorder of the Court having Jurisdiction in the case in respect of which such fees are payable,

and no fees shall be recoverable by any Advocates except such fees as shall have been allowed by the Recorder on taxation.

**XIX.** It shall be lawful for the Recorder of any Court or Courts established under this Act, to make and issue rules to regulate the service and execution of the processes of the Court or

Rules for service and execution of process and table of fees for same,

Courts, within the territorial limits of his Jurisdiction, and also to settle a table of fees to be allowed to the persons employed in such service of execution, and from time to time to alter any such rule or table, and the rules so made and the tables so issued shall be used and observed in the said Court or Courts; provided that such rules and tables be not inconsistent with the provisions of any law in force, and shall, before they are issued, have received the sanction of the Chief Commissioner. All such rules and tables shall be published in the

Publication of same

Official Gazettes of the said Towns, and shall thenceforth have the force of law until repealed or over-ruled by any Act of the Legislature, or by any rule or table subsequently issued and published with the sanction and in the manner aforesaid.

**XX.** Save as in this Act otherwise provided, the proceedings in Civil suits how to be regulated between party and party brought in any Court established under this Act, shall be regulated by Act VIII of 1859 (*the Code of Civil Procedure*), as amended by Act XXIII of 1861, and by any other Act or Acts that may hereafter be passed for that purpose.

**XXI.** In all suits cognizable by any Court held under this Act, all questions as well of fact as of law or equity shall be dealt with and determined according to the law administered by the High Court of Judicature at

Law as administered in Calcutta High Court, in its Ordinary Original Civil Jurisdiction to obtain in all suits

Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction. Provided that this Section shall not apply to any case heard and determined by any Court held under this Act, in which a native of British India is a defendant, and in which

Saving of certain cases

any question relating to marriage, inheritance, or succession shall be involved; but every such case, in so far as such question is concerned, shall be determined by the law or usage which would have been applied thereto, if such question had arisen in any other Court in British Burmah than a Court held under this Act.

XXII. If in any suit, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Recorder shall entertain any doubt, the Recorder may, either of his own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement, with his own opinion, for the decision of the High Court of Judicature at Fort William in Bengal

XXIII. The Recorder may proceed in the case, notwithstanding a reference to the said High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the High Court, until the receipt of the order of that Court.

And decree may be passed contingent thereon; but pending receipt, execution not to issue

Full bench of High Court to deal with cases referred.

XXIV Cases referred for the opinion of the High Court shall be dealt with by a bench of two or more Judges of that Court.

XXV. The parties to the case may appear and be heard in the High Court in person, or by an Advocate or Pleader; and the High Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the proper Officer of the Court, to the Recorder, who shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

XXVI. Costs, if any, consequent on the reference of a case for the opinion of the High Court, shall be costs in the suit.

Costs of reference to High Court.

**XXVII.** In all suits heard and determined by a Recorder under this Act, in which the amount or value of the suit shall exceed Rupees three thousand, and be less than Rupees ten thousand, an appeal shall lie to the High Court of Judicature at Fort William in Bengal, subject to the rules contained in the said Code of Civil Procedure regarding regular appeals.

**XXVIII.** It shall be competent to the Recorder, if he shall think fit, to grant a new trial in any suit tried by him, if applied for within three months from the date of the decision, if the suit relate to any land or other immoveable property; and in all other cases if applied for within thirty days from the date of the decision. Provided that nothing hereinbefore contained shall interfere with the power of the Recorder to allow a review of judgment, under the Code of Civil Procedure, if such review be applied for within the period allowed by the said Code for making such applications. Provided also that, in any case in which the Recorder may think it necessary to do so, he may, before granting a new trial or a review, require the party applying for the same to give sufficient security for the due compliance with the terms of the decree or order which it is sought to set aside or review.

**XXIX.** All cases and proceedings arising under Act XIX of 1841 (for the protection of moveable and immoveable property against wrongful possession in cases of successions), Act XXXV of 1858 (to make better provision for the care of the Estates of Lunatics not subject to the Jurisdiction of the Supreme Courts of Judicature), Act XL of 1858 (for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal) as amended by Act IX of 1861 (to amend the law relating to Minors), or Act XXVII of 1860 (for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons), may be

received and disposed of by the Recorder of any Court established under this Act, subject always to all the rules and provisions as to Jurisdiction and otherwise in the said Acts contained respectively. Orders passed by the Re-

And his orders in such cases not open to appeal.

No other Court to deal therewith, within the jurisdiction of Recorder.

recorder in cases arising under the said Acts shall not be open to appeal, but the parties shall be at liberty to contest such orders in a regular suit. No Court other than the Recorder's Court shall, within the local limits of the Jurisdiction of such Recorder's Court, receive or deal with any case or proceeding arising under any of the Acts mentioned in this Section.

**XXX** For the trial of Civil suits under this Act, the Assessors in Civil suits. Recorder may constitute one or more persons, Assessor or Assessors of the Court. Such person or persons shall attend during the trial of the suit, and shall deliver his or their opinion, or opinions in writing, to be recorded on the proceedings. But the decision of the case shall rest with the Recorder. No Officer of the Recorder's Court shall be appointed an Assessor under this Section, but this prohibition shall not extend to any other public Officer.

**XXXI.** It shall be lawful for the Governor-General in Appointment of Registrar. Council to appoint, to each or any of the Recorder's Courts established under this Act, an Officer who shall be called the Registrar of the Court to which he shall be appointed

**XXXII.** The Registrar of the Recorder's Court shall be the Chief Ministerial Officer of the Court, and shall subject to the provisions in the next following Section contained, receive all plants presented to the Court; and in the absence of the Recorder, shall issue notice of suit to the defendants; receive any documents which the parties may wish to put in; and issue process for the attendance of their witnesses; he shall also keep lists of all causes coming on for trial and shall fix such days for





their being heard respectively, as may seem to him having regard to the period appointed for the Recorder's sittings.

**XXXIII.** If the Registrar shall be of opinion that any, <sup>in the case of</sup>   
Procedure in case of <sup>plaint being considered</sup> <sup>defective in certain par-</sup> <sup>ticulars,</sup>   
 plaint presented to the Court is defective in any of the particulars mentioned in Section 28, Section 29, Section 30, Section 31, or Section 32, of the Code of Civil

Procedure, he shall not reject the plaint, but shall point out to the plaintiff wherein the plaint is defective, and shall, with as little delay as possible, forward the plaint to the Recorder of the Court for his orders, together with any statement which the plaintiff may think proper to make, and such plaint shall be dealt with as the Recorder shall order.

*Provido*

Provided always that, if the defect in the plaint is capable of being cured under any of the said Sections, and the plaintiff shall be willing to amend it, it shall not be necessary for the Registrar to send the plaint to the Recorder, but such amendment may thereupon be made

**XXXIV.** The Registrar shall also receive applications for <sup>the execution of decrees</sup>   
Execution of decrees <sup>by Registrar.</sup>   
 the execution of decrees passed by the Recorder of the Court of which he is the Registrar, and, subject to any orders which he may receive from the Recorder, shall execute such decrees in the same manner as the Recorder may execute them. No appeal shall lie from any order passed by the Registrar under this Section, but the Recorder may, of his own motion, reverse or modify any such order whenever he shall think it necessary to do so

**XXXV.** The Registrar shall have the powers of a Small <sup>Registrar to have pow-</sup>   
ers of small Cause Court <sup>Judge in certain cases.</sup>   
 Cause Court Judge in suits of the nature of those described in Act XLII of 1860 *(for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter), arising within the limits of the Jurisdiction of the Court of which he is the Registrar, provided that the amount of value of the claim*

shall not exceed two hundred Rupees; but he shall exercise such powers subject to the general control of the Recorder. The

And may be invested by Governor-General with higher powers. Governor-General in Council may invest any Registrar, appointed under this Act, with Jurisdiction to hear and determine suits of the nature cognizable by him as a Small Cause Court Judge under this Section, in which the amount or value of the claim does not exceed five hundred Rupees.

XXXVI. The suits cognizable by the Registrar under the last preceding Section shall be set down for hearing before such Registrar, and he shall hear and determine such suits, and execute the decrees made therein, in such manner as is prescribed in the said Act XLII of 1860; and subject to such rules, as to procedure and otherwise, in all respects, as are in the said Act contained. Provided that the Recorder,

Suits cognizable by Registrar how to be heard, &c.  
Transfer from Registrar's to Recorder's File

whenever he thinks proper, may transfer to his own file any suits on the file of the Registrar, and may hear and determine the same, subject to the rules as to procedure and otherwise hereinbefore mentioned.

XXXVII. No appeal shall lie from any order or decision made or passed by the Registrar, in any case heard or disposed of by him under the last preceding Section, but in any case in which the Registrar shall entertain any doubt upon any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, he shall be at liberty to state a case for the opinion of the Recorder, in like manner as the Recorder may, under Section XXII of this Act, state a case for the opinion of the High Court of Judicature at Fort William in Bengal; and all the rules and provisions

No appeal from decision of Registrar under last Section, but in case of doubt, statement may be submitted for opinion of Recorder  
Rules applicable to such references.

hereinbefore contained, relative to the stating of a case by the Recorder shall apply *mutatis mutandis* to the stating of a case by the Registrar, so far as the same are applicable.

**XXXVIII.** It shall be lawful for the Recorder to

Recorder may refer certain suits to Registrar. Sales respecting trial of same.

the Registrar of his Court any, falling within the description of suits contained in Act XLAI of 1860, which shall be instituted in the Court of such Recorder,

and the amount or value of the property in dispute in which shall not exceed one hundred Rupees. Every suit so referred to the Registrar shall be heard and determined, and the decree made shall be executed by him, under the same rules so to procedure and otherwise as are applicable to suits tried by the Recorder. In such suits the Registrar shall have no power to state a case to the High Court, or to the Recorder; but an appeal shall lie on questions of law and of fact from the Registrar's decision to the Recorder, under the rules of regular appeals contained in the Code of Civil Procedure. The decision on the appeal shall be final, but the Recorder shall be at

Reference to High Court.

liberty to state a question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, for the opinion of the High Court, in the same manner as in cases originally tried by himself.

**XXXIX.** In all suits heard and determined by a Recorder

Appeal to Her Majesty in Council in certain cases

under this Act, in which the sum or matter at issue is Rupees ten thousand or upwards, or in which the judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question, to or respecting property of the value of Rupees ten thousand or upwards, an appeal shall lie to Her Majesty in Council, subject to the rules and orders for the time being in force regarding appeals to Her Majesty in Council, from decisions of the High Court of Judicature at Fort William in Bengal, in the exercise of its Ordinary Original Civil Jurisdiction.

**XL.** The Recorder shall exercise all the powers of a Court

Recorder to exercise power of Court of Session, and to hold Gael deliveries for trial of

of Session, as defined in the Code of Criminal Procedure, within the territorial limits of the Civil Jurisdiction of the Court or Courts of which he is Recorder: and

shall, at the place or places where such Court or Courts are held, hold Gaol deliveries at convenient periods, of which due notice shall be given in the manner prescribed in Sections VI and VII of this Act, for the trial of all persons charged with offences punishable under the Indian Penal Code, who may be committed to take their trial before his Court as a Court

*Proviso as to European British subjects charged with offences punishable with death.*

of Session. Provided that the Recorder shall not have power to try any European British subject charged with an offence punishable with death under the said Code. The commitment of any European British subject charged with any such offence shall be made to the High Court of Fort William in Bengal. In all other cases, the commitments made within the limits of the Jurisdiction of any Recorder's Court, for offences punishable under the Indian Penal Code, shall be made to that Court

**XLI.** If any European British subject shall be charged in British Burmah with any offence (other than an offence punishable with death under the Indian Penal Code) which a Justice of the Peace shall not be competent to punish, and there shall be sufficient grounds for committing him for trial, such European British subject shall be committed to take his trial before the Recorder, and shall be tried by the Recorder of the Court held within the Division of British Burmah in which either such European British subject shall have been arrested, or in which the offence with which he is charged shall have been committed; that is to say, before the Recorder at Rangoon if the arrest took place or the offence were committed in Pegu, before the Recorder at Akyab if the arrest took place or the offence were committed in Arracan; and before the Recorder at Moulmein if the arrest took place or the offence were committed in the Tenasserim Provinces.

**XLII.** The proceedings on trials held by the Recorder as a Court of Session under this Act shall be regulated by the Code of Criminal Procedure, and shall be subject to all the

*Proceedings of Recorder as Court of Session how to be regulated.*

provisions of this Act, in so far as the same may be found applicable.

**XLIII.** If on any trial, sentence of death shall be passed by the Recorder, such sentence shall not be carried into execution until it shall have been confirmed by the Chief Commissioner. It shall be lawful for the Chief Commissioner, in any case in which it shall seem proper to him so to do, to commute a sentence of death to a sentence of transportation for life, or for any shorter period not less than seven years.

**XLIV** No appeal shall lie from any order or sentence passed by the Recorder in any Criminal case. But it shall be at the discretion of the Recorder to reserve any point or points of law for the opinion of the said High Court.

**XLV** On such point or points of law being so reserved, as in the last preceding Section mentioned, or on its being certified by the Advocate General at Fort William that, in his judgment, there is an error in the decision of a point or points of law decided by the Recorder, or that a point or points of law which has or have been decided by the said Recorder should be further considered, the said High Court shall have full power and authority to review the case, or such part of it as may be necessary : and finally determine such point or points of law ; and thereupon to alter the sentence passed by the Recorder, and to pass such judgment and sentence as to the said High Court shall seem right

**XLVI** The Stamp Duties prescribed by Schedule B annexed to Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), for Instruments and Writings in the Sudder Court, shall be chargeable on Instruments and Writings in the Courts of the Recorders established under this Act, if the amount or value of the claim exceed one thousand Rupees, or if the case be an appeal. The foregoing limitation

as to amount shall not extend to petitions of plaint. For such petitions, whether the suit be tried by the Recorder or the Registrar of the Court, and for Certificates granted under Act XXVII of 1860, the Duty prescribed by the said Schedule B shall be chargeable. For copies of decrees in suits in which the amount or value of the claim does not exceed one thousand Rupees, as well as for copies of judgments and orders, the same Duty shall be chargeable as prescribed by the said Schedule B for copies of decrees, judgments, and orders passed or made by a Court below the Sudder Court. On Instruments and Writings in all other cases as well in the Recorders' Courts, as in the Courts of the Registrars in cases cognizable by those Officers, on which a Duty of eight annas is prescribed by the said Schedule B, the Duty chargeable shall be eight annas.

**XLVII.** The Commissioner of the Division within which the said Town of Akyab, Rangoon, or Moulmein, is situated, may sit with the Recorder in the trial and hearing of any Civil or Criminal case arising within the limits of his Division, and may record his opinion in any case in which he may so sit

**XLVIII** If there shall for the time being be no Recorder, or if the Recorder of any of the said Courts shall at any time, from sickness, or from being absent on leave, or other cause, be unable to attend to the duties of his Office, it shall be lawful for the Commissioner of the Town wherein such Court is situate to sit in such Court, and to exercise all the powers vested by this Act in the Recorder, but subject to all the rules, provisions and limitations, herein prescribed and declared. Provided that no Commissioner shall act as Recorder, or exercise any authority under this Section, without the sanction of the Chief Commissioner first obtained.

**XLIX.** The Recorder shall keep such Registers, and Books and accounts, and submit to the Chief Commissioner such statements and returns of the work done in his Court, on the Civil and Criminal sides, as may be pre-

Commissioner may  
sit with Recorder in any  
suit, and record opinion

And may, in the ab-  
sence of Recorder, sit in  
Court and exercise all  
powers.

Recorder to keep such  
Registers, &c., and to  
submit such returns, &c.,  
as Chief Commissioner  
shall prescribe

scribed by the said Chief Commissioner, with the approval of the Governor-General in Council. The Recorder shall also comply with such requisitions as may be made by the Governor-General in Council, or by the Chief Commissioner, for records.

L The word "Barrister" in this Act shall be deemed to include Barristers of England or Ireland; or members of the Faculty of Advocates in Scotland; or Advocates of any High Court, or Colonial Supreme Court, authorized by Royal Charter to admit Advocates.

Interpretation  
"Barrister"

## WORKS OF PUBLIC UTILITY,—COMPANIES ACT.

ACT No. XXII OF 1863.

*(Received the assent of the G G on the 10th March 1863)*

Recites expediency of enabling Government to take land for works of public utility for private companies

1. Interprets words of "number," "gender," "the work," "local Government," "collector," "promoter," "work under this Act," "owners," "companies," "lands," "conditions," "toll"

2. Defines what shall be works of public utility, and that works may be declared to be so, &c

3. Authorizes the G G in C to vest in certain officers the powers under this Act

### AS TO PRELIMINARY PROCEEDINGS

4—5 Directs how promoters of works under this Act shall proceed at first, and (5) that Government may reject the application or call for further information

6—8 Certificate may be granted for making preliminary survey, with terms specified, but (7) caution money to be previously deposited to meet claims of compensation for damage, and (8) certificate may be cancelled if powers under it are abused

9—10 Directs application under Act to be published in Gazette, and (10) in the district by the Collector

11—14 Provides for provisional registration of the work projected, and (12) if it be a branch railway, likely to form a junction with an existing railway, time shall be given for opposition to it, and (13) Government may appoint a commission of its own officers to inquire into the general object, &c, of the work, and (14) upon report of the committee shall decide if the work may be provisionally

15—18. Empowers the Government to impose conditions on promoters; and (16) to determine for what period, not less than six months, provisional registry shall be in force, and when promoters may claim definitive registry, previous to which (17) caution money shall be deposited, and (18) a formal agreement entered into, which shall be published in Gazette.

19. Works undertaken before this Act may be registered under Act.

20. Empowers Government to apply, land, &c., in its possession for public works, under this Act

21. Authorizes local Government to vary conditions agreed to under Section 15.

22—24. Empowers local Government, after definitive registration, to issue certificate for surveys, &c., and (23) to appoint Commissioners to examine plans and maps, who (24) shall proceed in manner prescribed, and in case of dispute with promoters, Government shall decide

25. Authorizes Government to extend time for giving notices, &c

#### AS TO THE TAKING TITLE AND PAYMENT FOR LANDS

26—27. Notification to be made after the boundary of the lands required is ascertained, to the effect that it will be taken, and (27) the works are then to proceed according to the declared powers, &c

28. Provides for extension of existing public works

29. Extends the Act to the taking of land for temporary purposes

30. Empowers Government to dispose of land taken under the Act in excess of what is required for public works

31. Directs when the promoters shall be put in possession

32—33. Expenses incurred by Government under the Act to be paid by promoters, by deduction out of caution money, and (33) promoters are to be liable for all damage done, amount to be ascertained by Collector

#### AS TO PUBLIC USE OF WORKS

34. Works to be available for use of the public, and Courts of Justice to take judicial notice of published conditions

35. Empowers the proprietors to carry out the conditions as to levy of tolls, &c.

#### AS TO CONSTRUCTION AND INSPECTION OF WORKS.

36—37. Authorizes Government to appoint inspectors over works; and (37) to suspend works on grounds specified, if apparent on report.

38—39. Empowers local Government, on report of Inspector, to require the construction of subsidiary works, &c.; not being (39) at variance with original special conditions

40. Obliges owners of railways of the gauge of 5 feet 6 inches under this Act to construct all works, &c., in conformity with that gauge.

41. Extends the provisions of Act XVIII, 1854, to railways under this Act, except as to Section 20, which may be modified, &c.

42. Reserves to local Government the right of deciding, in case of doubt, as to necessity of constructing, &c., works to ensure the public safety, &c.

43—44. Provides for the compulsory junction of old lines with new, and (44) empowers local Government to decide in case of difference between owners of lines joined or used in common.

AS TO MAKING BYE-LAWS.

45—47. Empowers owners of works under this Act to make bye-laws &c., subject to approval of local Government; such bye-laws &c., (46) to be notified in Gazette; and (47) in case of railways &c., to conform with Act XVIII, 1854

AS TO LIEN OF GOVERNMENT ON WORK

48. Gives the Government a lien on works under this Act, for claims, and provides against seizure of works for debt of owners without consent of Government.

49. Provides for termination of contracts and re-entering possession of lands.

AS TO MINES

50—51. Provision as to property in mines underlying public works, and (51) as to working such mines

AS TO OFFENCES AND PENALTIES

52. Applies Penal Code to certain offences under this Act.

53. Applies Act XVIII, 1854, to the recovery of penalties under Bye-Laws

An Act to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on land so taken.

WHEREAS it is expedient to enable the Government to take land for the construction of works of public utility by private persons or Companies, and whereas it is proper, at the same time, to protect the rights of all persons from whom land shall be so taken, or be proposed to be taken, and also to determine the manner in which such works may be undertaken, and shall be managed after their construction; as well as to secure to the public, under suitable regulations, the use of works constructed on land so taken, It is enacted as follows:—

Preamble

AS TO THE CONSTRUCTION OF THE ACT.

I. The following words and expressions shall have the several meanings hereby assigned to them, unless when a contrary intention appears from the context.

Interpretation.

- Words in the singular number shall include the plural, and**  
**Number.** words in the plural shall include the singular
- Gender** Words importing the masculine gender shall include females
- "The Work"** The words "the Work" shall signify the public work proposed to be undertaken
- The words "Local Government" shall mean the head of the Executive Administration of the Province in which the public work is proposed to be constructed
- "The Collector"** The words "the Collector" shall include any Officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated
- "The promoters"** The words "the Promoters" shall mean the person or persons who propose to construct the work, or are empowered to construct it, whether a single person or a Company
- "Work under this Act"** The words "Work under this Act" shall imply a work definitively registered as hereinafter provided by this Act.
- "The Owners"** The words "the Owners" or "the Company" shall signify the parties in charge of any public work under this Act, or referred to in this Act,
- "The Company"** whether as promoters, proprietors, lessees, agents, assignees, or otherwise, and whether a single person or a Company
- "Lands"** The word "Lands" shall include messuages, lands, tenements, and hereditaments, of any tenure.
- "Conditions"** The word "Conditions" shall signify the special conditions of agreement, between the promoters or owners of a work under this Act and the Government, referred to in Section XV of this Act.
- "Toll"** The word "Toll" shall include any rate, or charge, or other payment, to be made for any use of a work under this Act, or for any

service performed in connection with the use of any such work.

II A work of public utility within this Act shall be held to mean any bridge, road, railroad, tramroad, canal for irrigation or navigation, work for the improvement of a river or harbour, dock, quay, jetty, drainage work, or electric telegraph, also all works subsidiary to any such work. It shall be lawful for the Governor-General in Council, from time to time, by declaration to be made to that effect, and published in the Official Gazette, to order that any other class of works, or any particular work other than those named above, shall be included among works of public utility within this Act.

III It shall be lawful for the Governor-General of India in Council, to vest the principal Executive Officer of any territory under the immediate administration of the Governor-General in Council, with any or all of the powers vested by this Act in the local Government of such territory.

#### AS TO THE PRELIMINARY PROCEEDINGS TO BE TAKEN, AND THE REGISTRATION OF WORKS

IV. The promoters of any work of public utility, who shall desire to proceed under this Act, shall make a preliminary application in writing to the local Government, explaining the general object and nature of the work, and its intended locality. Every such application shall further be accompanied by a statement of the estimated cost of the construction of the said work, and the mode in which the promoters propose to provide the funds for constructing, maintaining, and working, the same.

V If the local Government shall not be satisfied with any such application or statement, it may reject it, or it may call on the promoters to supply any further information, or to amend such application or statement, on any point on which

such further information or amendment shall to the local Government seem requisite.

VI. If the promoters shall desire to undertake any preliminary survey on account of the proposed work, before preparing and submitting the statement aforesaid, they shall declare the same in their preliminary application; and it shall be lawful for the local Government, if satisfied of the expediency of permitting such survey, to issue a certificate authorizing the same. Such certificate shall declare the

Issue of certificate authorizing preliminary survey  
 Terms of certificate  
 names of the promoters entitled to use it, the time for which it shall be in force, and the District or Districts or locality for which it shall be valid, and shall contain such further regulations, for the guidance of the persons using the said certificate, as to the local Government shall seem fit

Authority conveyed thereby  
 The promoters named in such certificate and such other persons as the promoters shall name, in a list to be furnished to the Chief Officer charged with the Executive Administration of each District in which the proposed work is to be constructed, shall be authorized to enter upon any lands, in the manner and for the time declared in such certificate, to undertake any survey or other investigation necessary for the proper prosecution of the proposed work, and while acting under the authority given in the said certificate, such promoters and other persons aforesaid shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code

Proviso limiting authority,  
 Provided that such promoters and other persons shall not be authorized to enter any house, or building, or the curtilage of any house, or enclosed garden, without the assent of the occupier, or to cut down any tree, or otherwise injure or destroy any property Provided

Liability for offences.  
 also that such promoters and other persons aforesaid shall, while acting under the authority of such certificate, be liable as public servants, for any offence described in Chapter IX of the said Indian Penal Code to the penalty provided in the said Chapter for such offence

VII. It shall be lawful for the local Government, before issuing a certificate as aforesaid, to call on the promoters to deposit, as caution money, such sum and in such manner, as the local Government shall in each case determine, to be applied by the local Government to make good any damage done in the course of such survey by the promoters or other persons using the said certificate. The promoters shall be entitled, on their demand, to receive back, after the expiry of such certificate, and after the payment of any claim for damage which shall have been proved to the satisfaction of the local Government, any surplus remaining in the hands of such Government.

VIII. It shall be lawful for the local Government, at any time prior to the provisional registration of a public work under this Act as herein-after provided, to cancel a certificate granted under Section VI of this Act, if it shall appear to such local Government that the powers granted by such certificate have been abused, or for any other sufficient reason.

IX. The promoters shall, at the time when they submit their preliminary application to the local Government, publish the same, and if they so desire, the statement that accompanies it, in the Official Gazette, and also, if possible, in at least two Newspapers (one of which shall be in English) in the Province in which the work is proposed to be executed; and shall repeat such publication, at least six times, within a period of two months from the date of submission of such application to the local Government. The promoters shall further cause to be delivered, with all reasonable despatch, and within a period not exceeding two months, to the Collector of every District in which any part of such work is proposed to be constructed, or such other Officer as the local Government shall from time to time direct, six copies of such application, with a faithful translation of the same into the

vernacular languages of the District, and shall in like manner publish from time to time and deliver as aforesaid, copies and translations of any amended applications submitted to the local Government.

**X.** The Collector or other Officer as aforesaid shall, on receipt of the preliminary application, publish the same in English, and in the vernacular language of the District, in the localities where the work is proposed to be constructed, in such manner as to him seems best.

**XI** At any time not sooner than four months after the receipt of the said application, or if the application be amended, then within four months after the receipt of such amended application, the local Government, on being satisfied by the promoters that the above conditions have been complied with, shall be authorized to consider finally such application, and any objections that shall have been raised against the construction of the proposed work; and to declare whether the said work may be provisionally registered under this Act or not.

**XII** Before declaring that any work may be provisionally registered under this Act, being a Railway, and before deciding, in case of continuation or branch Railway, or tramway, to allow time for opposition, &c. or tramway, in continuation of or forming a branch of any existing line, or being a line that might reasonably be expected to be united with any existing Railway, either as a continuation, or a branch; and at the same time being at some one point within fifty miles distance of such existing Railway, the local Government shall afford, to the owners of such existing line, reasonable time and opportunity to declare whether they offer any opposition to the registration of the proposed line, and on a full consideration of such opposition, and of the application of the promoters, and of any objections aforesaid, and of the relative public advantages of all proposals made in the matter, the local Government shall be authorized to declare its decision on the said application.

**XIII.** Previously to deciding that the said work shall be provisionally registered under this Act, it shall be lawful for the local Government, if it shall think fit, to appoint a Commission of one or more persons, who may be Government Officers, to enquire into the general object and nature of the said work, its intended locality, and probable utility, its estimated cost, the grounds of any opposition to the said work, and any other matter connected with the said work, on which such local Government shall desire to be satisfied. For the purposes of such enquiry, such Commission shall have power to take evidence, and for obtaining the attendance, and for the examination of witnesses, may exercise the powers of a Civil Court under the Code of Civil Procedure.

*Powers of Commission*

*On report of Commission, local Government to decide as to registry*

**XIV.** On the receipt of the Report of the Commission appointed under the last preceding Section, the local Government shall decide if the said work shall be provisionally registered.

**XV** Before declaring its decision as aforesaid, the local Government shall, subject to such general or special instructions as the Governor-General of India in Council shall, from time to time, lay down, prescribe the conditions which such local Government shall consider it necessary to impose on the promoters, having regard to the special circumstances of each case, in respect to the provision and payment of the price of the land for the proposed work, the construction, maintenance, or working of the same, the regulation of the use of the work, as regards the security and convenience of the public, and such other matters as to the local Government may from time to time seem right, and the local Government shall inform the promoter, of such conditions.

*And to prescribe conditions to be imposed on promoters, before declaring decision*

**XVI.** The local Government, on causing a work to be provisionally registered under this Act, shall determine for what period, being not less than six months, such registry

*Duration of provisional registry, and right to have it made definitive*

shall be in force. And at any time within such period, the promoters may claim to have the registry made definitive as hereinafter provided.

**XVII.** Unless for any cause the local Government shall otherwise determine, the promoters, before they are entitled to claim the definitive registry of the proposed work shall deposit with the Government, in such manner as shall be approved by the local Government, a sum to be fixed in each case by the local Government, but not exceeding ten per cent. on the whole estimated cost of the said work, as caution money, to be disposed of in the manner agreed in the said conditions unless it be otherwise dealt with as hereinafter provided. And any sum remaining in the hands of the local Government, from any caution money lodged under Section VII of this Act, shall be held to be a payment in part of the caution money required under this Section.

**XVIII.** The promoters, before such claim for definitive registry shall be admitted, shall further complete an agreement with the Secretary of State for India in Council, through the Government, under the conditions aforesaid, or under such other conditions as may be agreed between the said promoters and the local Government. And thereupon the local Government shall cause such agreement, with the conditions thereof, to be published in the Official Gazette, and shall declare that the work is definitively registered as a public work under this Act.

**XIX.** It shall be lawful for the local Government, on the application of the promoters of any public work under this Act, to cause to be definitively registered under this Act, any public work undertaken by such promoters, under an agreement entered into previously to the passing of this Act with the Secretary of State, or the Government of India, or any local Government, as though such work had been pro-

posed to be undertaken under the provisions of this Act  
 hereinafter contained. **Provided that at**  
**Proviso.** the time of so registering any work, the  
 local Government shall cause the said contract to be published in the Official Gazette, with all the conditions attaching thereto, and declare that the said work has been so registered definitively

**XX.** It shall be lawful for the local Government to apply  
 any land in its lawful possession, also any  
 Local Government may apply land, &c., for purposes of public work under Act public road or place, for the purposes of  
 any public work under this Act, to be  
 constructed at the expense and risk of the promoters of such work. **Provided that every such work shall be definitively**  
**Proviso** registered accordingly, and that the conditions under which such work is undertaken shall be published in the Official Gazette, also that the prosecution and construction of every such work shall be subject to the provisions of Section XII of this Act

**XXI.** The local Government may from time to time, with the assent of the owners of any work under this Act, vary the conditions to be agreed to under Section XV of this Act. **Provided that such variations shall forthwith be**  
 published in the Official Gazette, and  
**Proviso** that after such publication, the amended conditions shall be in force in supersession of those first made.

**XXII.** After the definitive registry of any work under this Act, it shall be lawful for the local Government, from time to time, in such  
 After definitive registry, local Government may issue certificate, authorizing surveys, &c. wise as to it shall appear fit, to issue certificates to authorize the promoters, their servants, and agents, to enter upon any lands, and to undertake such surveys or levels, or other examinations as may be necessary for the proper prosecution of the said work, also to dig and bore into the sub-soil, and to indicate the intended boundaries of the land to be taken, and the positions of the proposed works by

**suitable land-marks**, and to perform all other necessary preliminary acts of the like nature and such

**Terms of certificate.**

certificates shall declare the names of the persons entitled to use them, the time for which they shall be in force, and the Districts or locality, for which they shall be valid ; and shall contain such further regulations, for the guidance of the persons using them, as to the local Government shall seem fit And while acting under the authority given in the said certificate, such persons shall be deemed to be public servants, whose duty it is to make a survey under Clause 10 of Section 21 of the Indian Penal Code Provided, however, that such persons shall not enter any house or building, or the curtilage

**Proviso limiting authority**

of any house, or enclosed garden, without giving twenty-four hour's notice, or without the assent of the occupier thereof, nor shall they cut down any tree, or otherwise injure or destroy any property, unless the same be essentially necessary. Pro-

**Liability for offences.**

vided also, that such persons, while acting under the authority of such certificate, shall be liable as public servants, for any offences described in Chapter IX of the said Indian Penal Code, to the penalty provided in the said Chapter for such offence

**XXIII** The promoters shall, on the completion of the

**On completion of surveys, &c., promoters to submit drawings, &c**

necessary surveys and the like, submit to the local Government such drawings, maps, and plans, of the proposed work, as well as of the land required for it, as the local Government shall in each case require. And thereupon the local Government

**Appointment of Commissioners to examine same, and settle details**

shall appoint one or more Commissioners, who may be Government Officers, to examine the said drawings, maps, and plans ; and to determine finally, in concert with the promoters or their agents, all matters of detail in respect of the exact position of the work, or of the parts thereof, as well as the boundaries of the land to be taken for the said work ; and shall notify such appointment in the Official Gazette, and shall cause such notification to be published in the District where the work is pro-

posed to be undertaken, in such manner as shall seem best to the local Government.

XXIV. The Commissioners appointed under the last preceding Section shall proceed at any time, but not sooner than thirty days after such Notification, to settle, in concert with the promoters or their agents, the exact position of the work, or of the parts thereof, and thereafter, with all practicable despatch, to examine the boundaries of the land proposed to be taken for the work

and the said Commissioners may call upon the promoters to make any variation in their project, and in the position of the works, or any part of them, and in the boundaries of the land proposed to be taken, that may to the said Commissioners seem necessary, to secure the safety or convenience of the public, or to prevent any undue interference with private property, or for any other reasonable cause and any such variation, if agreed to by the promoters shall thereon be considered to be finally adopted

but if the promoters shall not agree, the question in dispute shall be submitted to the local Government, and the decision of the local Government shall be final, provided that the promoters shall not be bound to carry out the proposed work, if any variations be insisted upon by the local Government, to which the promoters will not assent

XXV The local Government shall be authorised to extend the periods allowed for giving any notices, or for performing any acts, required under the foregoing Sections, as from time to time may seem to it proper

AS TO THE TAKING LANDS, THE TITLE THEREIN, AND THE PAYMENT THEREFOR.

XXVI When the boundaries of the land required for the work shall have been settled as aforesaid, and the promoters shall have caused the said land to be measured, and suitable land-plans to be prepared of the same, the

On settlement of boundaries, &c., local Government to issue declaration as to land being required

local Government shall cause a declaration to be made, under the signature of a Secretary to such Government, or some Officer duly authorised to certify the orders of the local Government, that the land aforesaid is required for the said work, and such declaration shall be conclusive that the land may be

And may thereafter taken under this Act After making proceed to take the same such declaration, the local Government may proceed to take any such land, as though it had been required to be taken at the public expense, and for a public purpose, and as though a declaration had been made as required under Act VI of 1857 *for the acquisition of land for public purposes.*

XXVII The boundaries, as determined by the Commissioners, and the plans and measurements aforesaid, of the said land, when verified and found to be correct, or when duly corrected by the Collector, or other Officer, appointed to proceed under the said Act VI of 1857, shall be held to be the boundaries, plans, and measurements, required under Section IV of the said Act, so far as the said lands are concerned

XXVIII If at any time land shall be required for any necessary or reasonable extension of, or addition to, any work under this Act, it shall be lawful for the local Government to make all requisite declarations for the purpose of obtaining such land under this Act, after such and only such of the preliminary proceedings and enquiries, hereinbefore required, as to the local Government shall in each case seem sufficient for the protection of the rights of the public, and of individuals concerned. Provided that nothing shall be done contrary to the provisions of Section XII of this Act, and that all proceedings for the actual taking possession of the land shall be conducted in accordance with the provisions of the said Act VI of 1857.

XXIX. Land may be taken under this Act for a temporary purpose, in like manner as under the said Act VI of 1857

**XXX** All land taken under this Act shall vest absolutely in the local Government, as though it had been taken for a public purpose under the said Act VI of 1857, and it shall be lawful for the local Government to dispose of any land taken under this Act, the whole or any part of which shall not be required for the purpose for which it was taken in any manner that it may think fit. The local Government alone shall be responsible for the payment of all claims on account of such land, to all persons whatever, and the promoters shall in no wise be responsible for any such payment, otherwise than to the local Government, and then only as is herein declared and provided, and as shall be specially agreed in the conditions aforesaid.

**XXXI** When all the conditions as aforesaid, applicable to the transfer of the land to the promoters, shall have been fully complied with, and not till then, the Government shall cause the promoters to be placed in possession of such land, in accordance with such conditions. The title of the local Government, or of the promoters, to such land, shall not be liable to be questioned on account of any informality in any proceeding taken under this Act.

**XXXII** All expenses attending the proceedings of the Commissioners to be appointed under Section XXIII of this Act, and all expenses incurred by the local Government in taking up the land required for the promoters under the said Act VI of 1857, shall be paid by the said promoters, unless otherwise specially agreed. The local Government shall determine the sum due on account of such expenses, and shall be authorized to deduct

such amount from any sum lodged as caution money as aforesaid, if it be not otherwise paid by the promoters, and any sum remaining unpaid, both as aforesaid, and on account of land or compensation, for which the promoters are liable under the said conditions, may, on the order of the local Government

to that effect, be levied by distress and sale on the said promoters, in the manner provided for distress and sale under Civil process.

**XXXIII** The promoters shall further be liable for all damage done in any of their preliminary operations, and shall duly satisfy and pay all claims of this description; and if, at the time of taking possession of the land required for the promoters, it shall appear that any such claim remains unsatisfied, the Collector, or other Officer, acting under the said Act VI of 1857 in respect of such land, shall be authorized to determine all such claims summarily, as though they had been claims arising under the said Act, and all payments on account of such claims shall be made good by the promoters as under the last preceding Section

Liability of promoters for damage done in preliminary operations

Provision for satisfaction of claims on account of damage

#### AS TO THE PUBLIC USE OF WORKS

**XXXIV** Every work under this Act shall be available for the use of the public in accordance with, and to the extent provided by, the conditions aforesaid, or any Act at the time being in force, but not otherwise, and after the publication of the condition relating to any such works, in the Official Gazette, all Courts may take judicial notice of the same, and it shall be lawful for any person whatsoever to sue the owners of such work, for any damage he may incur by reason of any neglect of the said conditions, by the said owners, in respect of any such public use of such work as though such person had been a party to the said conditions.

Works under Act how far available for public use

Courts may take cognizance of conditions relating to same, and owners may be sued for damage resulting from neglect

**XXXV.** The owners of any work under this Act shall be authorized to levy such tolls, in such manner, as shall be fixed in accordance with the conditions aforesaid, also to refuse the use of such work, and to refuse to perform any service in connec-

Powers of owners as to tolls for use of their works

tion therewith, unless such tolls shall be paid in the manner fixed aforesaid; as well as to detain any thing or animal on which such tolls shall be due, and to sell the same, if the said tolls shall remain unpaid after a reasonable time has been allowed to elapse for the payment of the same.

Proviso

Provided that no such tolls shall be demanded or taken at any place, unless proper tables and lists of such tolls be exhibited at such place, in the manner fixed as aforesaid.

AS TO THE CONSTRUCTION OF THE WORKS, AND THE INSPECTION OF THE SAME.

XXXVI The local Government may appoint Inspectors, to inspect any work under this Act, also all things appertaining thereto, and to the working of the same, but not books or documents, otherwise than as shall be provided in the conditions aforesaid. The owners of such work, and all persons authorized by them to use the same in connection with any public use of the said work, and their servants and agents, shall be bound to afford to such Inspectors all reasonable facility for their inspection, and all such information as may be reasonably required by them.

XXXVII If it appear to the local Government, upon the report of any Inspector, that the use of any work under this Act cannot be continued without danger to the public, or to the persons employed thereon, or that rules, adequate to the protection of the public under the provisions of this Act, have not been framed and put in force, or that the conditions agreed upon under Section XV of this Act have not been carried out, the local Government may order that all defects shall be made good within a reasonable specified time; and in default of the owners of such work complying with such order, within such time, or such further time as the local Government shall appoint, the local Government shall be empowered to direct that the use of such work shall be suspended, until

If report of Inspector show cause, local Government may order use of work to be suspended until defects are remedied

the defects aforesaid shall be remedied to the satisfaction of the local Government.

XXXVIII. The local Government may, at any time, on the report of an Inspector during the construction of any work under this Act, direct the promoters to construct, in connection therewith, such culverts, bridges, tunnels, drains, or other works, as may be considered by the local Government to be necessary, to continue to the public any roads, or rights of way, or easements, or the use of any water theretofore available, and to make due provision for the irrigation and drainage of the country, so as to prevent the same from being impeded, or unnecessarily altered, by the construction of the said

work. If default be made in complying with any directions given under the provisions of this Section, the local Government may order the prosecution of the work to be stopped, until such directions shall be complied with to the satisfaction of the local Government.

XXXIX. Nothing in the last preceding Section shall be construed to render the promoters liable to construct any work, or to undertake any thing, at variance with the special conditions of agreement under Section XV of this Act.

XL The owners of every Railway under this Act, being of the gauge of five feet six inches, shall be bound, unless specially exempted by the Governor-General of India in Council, to erect all the fixed structures, and to construct all the rolling stock in conformity with the standard dimensions determined in that behalf from time to time by the Governor-General of India in Council, and it shall be lawful for the local Government to order the said owners to make good all defects in such structures, or rolling stock, and to suspend their use until such defects shall be made good to the satisfaction of the local Government.

**XL I.** The provisions of Act XVIII of 1854 (*relating to Railways in India*), shall apply, to all Railways under this Act, provided that, in respect of such Railways, the local Government shall be authorized to determine, from time to time, the extent to which fences shall be constructed under Section XX of the said Act XVIII of 1854, and that the owners of such Railways shall not be liable to maintain fences, under the said Section, otherwise than as shall be so determined.\*

**XL II** In case any doubt shall at any time arise, as to the necessity for constructing or altering any work, to ensure the safety of the public, or to provide for established public rights of way, or other public rights of any sort, in connection with any work under this Act, the decision of the local Government on such subject shall be final, and shall not be liable to be called in question in any Court of Justice.

**XL III** If the owners of a Railway under this Act shall desire to form a connection with any existing Railway of the same gauge, the owners of the new line shall be authorized to call on the owners of the old line to effect the junction, and if the owners of the old line shall not proceed to effect the junction within a reasonable time, the local Government, on being satisfied that the junction may be made with safety to the public, and without injury to the existing Railway, or detriment to the traffic thereon, may authorize the owners of the proposed line to form the junction, and to do all necessary acts in that behalf, and to lay down such additional lines of rails, points, and crossings, as may be necessary for the purpose, at such time and in such manner as the local Government shall direct. Provided that, if the junction be effected by the owners of the previously existing Railway,

the expense of forming the junction, of supplying all necessary works, and of keeping in repair and

renewing the same, shall be paid by the owners of the new line.

**XLIV.** If any difference shall arise as to the terms on which the traffic of a branch or junction line of Railway under this Act shall pass over or upon any other line with which it shall be connected, or as to the manner and times of conducting the traffic or of regulating the same, over the two lines, or either of them, or as to any matter touching any line under this Act, used in common by two or more Companies, the local Government shall be authorized, on the application of either or any one of the said Companies, to hear and determine all such differences, and any order given by the local Government in such a case shall be final and binding on all parties. Provided that no order shall be so given at variance with any condition of any agreement between the Government and any of the said Companies, that shall be applicable to the said lines of Railway.

Local Government to determine differences between owners of lines joined, connected, or used in common.

Proviso.

#### AS TO THE MAKING OF BYE-LAWS.

**XLV** It shall be lawful for the owners of any work under this Act, to make Bye-Laws and Regulations for the guidance of their servants and agents, and of persons employed by them, and for the maintenance of order in the use of such work; and to provide for the safety and convenience of the public or of the persons employed on such work and all such Bye-Laws and Regulations shall be subject to the approval of the local Government; and when so approved all Courts and Magistrates shall take judicial notice of the same, and the local Government shall be authorized to cause any alterations to be made in the Bye-Laws and Regulations, so made and approved, as to the local Government shall from time to time seem proper. Provided that such Bye-Laws and Regulations be not repugnant to any

Power of owners to make Bye-Laws and Regulations

Subject to approval and alteration.

Proviso

Law in force in the British Territories in India; and that no penalty shall be attached to the infringement of any such Bye-Law or Regulation, exceeding a fine of fifty Rupees.

XLVI. Such Bye-Laws and Regulations affecting the public shall be published, and the substance of them shall be notified, in such places on the said work, and in such manner, as the local Government shall from time to time approve or direct; and no penalty shall be recoverable under such Bye-Laws or Regulations, unless the same shall have been published and kept published as aforesaid.

Publication of Bye-Laws and notification of substance of same

XLVII In the case of a Railway under this Act, being of the gauge of five feet and six inches it is further provided that the Bye-Laws and Regulations shall, unless the Governor-General of India in Council shall otherwise permit, conform in every respect to the Regulations for Railway Companies under the said Act XVIII of 1854

Provision as to Bye-Laws in the case of a Railway under Act, of 5½ feet gauge

#### AS TO THE LIEN OF THE GOVERNMENT ON ANY WORK

XLVIII. No lands taken or supplied by Government for any work under this Act, no tree, building, or structure standing on such lands, no machinery nor permanent way fixed to the soil on such lands, nor anything whatsoever on which the local Government shall be entitled to re-enter, or of which it shall be entitled to take possession, without payment, on the determination from any cause of the agreement between the local Government and the promoters, under the conditions aforesaid, shall, without the consent of the local Government, be liable to be seized or applied in satisfaction of any debts or liabilities of any sort of the promoters, nor, without such consent, shall the promoters alienate the same, or any part thereof, in any way not provided for, or consonant with, such agreement or conditions.

Lands for work under Act, and fixtures thereon, not liable to seizure for debt, nor alienable by promoters, without consent of local Government.

**XLIX.** If the promoters of a work under this Act shall voluntarily determine to wind up their affairs; or

**Right of Local Government to terminate contracts with promoters in certain cases.**

shall be so directed by any order of Court; or shall abandon or determine to abandon

such work, or shall commit an act of Bankruptcy or Insolvency; it shall be lawful for the local Government thereupon to terminate all contracts then existing between it and the promoters, in respect of such work, and to re-enter upon, and take possession of, all things whatsoever to which the

**And to re-enter and take possession of lands, &c**

local Government shall be so entitled, under the conditions of such contracts,

also of all lands taken at the public expense, or supplied to the said promoters free of cost, together with all trees, buildings, and structures, standing on such lands as well as all machinery and permanent way fixed to the soil on such lands. Provided that nothing shall be so taken which shall be expressly excluded from such liability under the conditions aforesaid. But the local Government shall be bound to surrender, to a lawful

**Saving of moveable property in certain cases.**

claimant, all moveable property of which it shall at any time obtain possession from the promoters otherwise than by purchase, which shall not have been fully paid for by the promoters, or in lieu of such surrender, if the local Government shall so determine, to satisfy all just outstanding claims on account of such property, provided that no such surrender shall be ob-

**PROVISO**

ligatory, and no such claim shall be entertained, in respect of any thing that shall have been delivered to the said promoters more than twelve months before the date of such surrender being required, or of such claim being made known to the local Government.

**AS TO MINES NEAR ANY WORK.**

**L.** Whenever land shall be taken under this Act for the

**Provision as to mines lying under land taken under Act.**

construction of any work, the taking thereof shall not be held to convey, or include, the right to any mine of coal, or other minerals, lying under such land, except only such part thereof as shall be necessary to be dug or carried away or used in the

construction of the works, unless compensation for the same shall have been expressly allowed in the award made in favor of the persons interested in the land

LI. If the owner, lessee, or occupier, of any mine of coal, or of any other mineral lying immediately under any work under this Act, or within forty yards therefrom, shall work

And to working of mines under or near work under Act.

the same, it shall be competent to the local Government, on the application of the promoters of such work, to require such person to abandon such working, or so to work the same as not to endamage the said work, and to construct the works necessary to make it safe. Provided that compensation shall

be awarded to such owner, lessee, or occupier, in the manner provided for in this said Act VI of 1857, for any loss sustained by him from being compelled to abandon or alter his mode of working the mine, and also for any necessary works constructed by him (when so required as aforesaid) in order to prevent damage to the said work, but all damage or loss to the promoters, arising from any improper working of such mines, shall be at the risk of the owners, lessees, or occupiers, of the said mines, and shall be made good by them.

#### AS TO OFFENCES AND THE RECOVERY OF PENALTIES.

LII Whoever shall obstruct, or commit any contempt of the lawful authority of, any public servant in the discharge of any function, or in the performance of any thing undertaken, under this Act, or shall commit mischief by destroying, defacing, or removing, any land-mark fixed by the authority of any such public servant, shall be punishable under the provisions of the Indian Penal Code

Certain offences punishable under Penal Code.

LIII. All penalties for offences under the Bye-Laws and Regulations aforesaid, shall be recoverable in the manner provided for offences punishable by fine only, in the said Act

Recovery of penalties for offences under Bye-Laws.

XVIII of 1854.

## WASTE LANDS.

## ACT No. XXIII OF 1863.

(Enacted the assent of the G. G. on the 10th March 1863.)

Recites expediency of making special provision for adjudication of claims to waste lands.

1—6. Gives Collector, &c., power to enquire into grounds of claim to waste lands; and (2) prescribes a procedure for him; and (3) pending enquiry sale shall be suspended; and (4) be stopped if found just; and (5) after order to stop sale shall serve claimant with copy of order, and report, &c., and Board shall decide on report.

7—8. Provides for special court for trying claims to waste lands, and (8) gives to such courts exclusive cognizance.

9—13. Directs where such courts shall be held, and (10) who shall be plaintiff and who defendant; and (11) that proceedings shall be regulated by Civil Code; and (12) directs day to be fixed for hearing; and (13) mode of proceeding on hearing.

14—17. Directs that there shall be neither appeal nor revision, but (15) case may be raised for opinion of High Court, and (16) in case of reference to High Court, court of claims may proceed, and how; which court (17) shall keep the record of cases disposed of by it.

18—23. Limits time for bringing claims, &c., to 3 years; and (19) entitles claimant, if he establishes claim, not to the land, but to compensation, from Government, &c.; (20) or value according to Act VI, 1857, and (21) such compensation or value to operate as full satisfaction; but (22) Government may award compensation notwithstanding limitation of time, and (23) may in specified case give full value to claimant.

24. Interprets words of number and gender.

An Act to provide for the adjudication of claims to waste lands.

WHEREAS it is expedient to make special provision for the speedy adjudication of claims which may

Preamble.

be preferred to waste lands proposed to be sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows:—

I. When any claim shall be preferred to any waste land proposed to be sold, or otherwise dealt with, on account of Government, or when any objections shall be taken to the sale or other disposition of such land, the

Provision for inquiry into claims to land, or objections to sale of same.

letter of the District in which such land is situated, or other Officer performing the duties of a Collector of Land Revenue in such District, by whatever name his Office is designated, shall, if the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months, proceed to make an enquiry into the claim or objection.

II. The Collector or other Officer as aforesaid shall call upon the claimant or objector to produce any evidence, or documents upon which he may rely in proof of his claim or objection, and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection; and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold, subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

III. Pending an enquiry into any claim or objection under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land; and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land; but such sale or other disposition of the land may afterwards be proceeded with if, on an order issued by the local Government, to try the claim or objection, as provided in Section VI of this Act, the claimant or objector shall fail to establish the same.

## WASTE LANDS.

## ACT No. XXIII OF 1863.

*(Received the assent of the G. G. on the 10th March 1863)*

Recites expediency of making special provision for adjudication of claims to waste lands

1—6 Gives Collector, &c, power to enquire into grounds of claim to waste lands; and (2) prescribes a procedure for him, and (3) pending enquiry sale shall be suspended, and (4) be stopped if found just, and (5) after order to stop sale shall serve claimant with copy of order, and report, &c, and Board shall decide on report.

7—8 Provides for special court for trying claims to waste lands, and (8) gives to such courts exclusive cognizance

9—13 Directs where such courts shall be held, and (10) who shall be plaintiff and who defendant, and (11) that proceedings shall be regulated by Civil Code, and (12) directs day to be fixed for hearing, and (13) mode of proceeding on hearing

14—17 Directs that there shall be neither appeal nor revision, but (15) case may be raised for opinion of High Court, and (16) in case of reference to High Court, court of claims may proceed, and how, which court (17) shall keep the record of cases disposed of by it.

18—23 Limits time for bringing claims, &c, to 3 years, and (19) entitles claimant, if he establishes claim, not to the land, but to compensation, from Government, &c, (20) or value according to Act VI, 1857, and (21) such compensation or value to operate as full satisfaction, but (22) Government may award compensation notwithstanding limitation of time, and (23) may in specified case give full value to claimant.

24 Interprets words of number and gender

An Act to provide for the adjudication of claims to waste lands.

WHEREAS it is expedient to make special provision for the

Preamble. speedy adjudication of claims which may be preferred to waste lands proposed to be

sold, or otherwise dealt with, on account of Government, and of objections taken to the sale or other disposition of such lands; It is enacted as follows —

I When any claim shall be preferred to any waste land pro-

Provision for inquiry into claims to land, or objections to sale of same.

posed to be sold, or otherwise dealt with, on account of Government, or when any objection shall be taken to the sale or other disposition of such land, the Col-

lector of the District in which such land is situate, or other Officer performing the duties of a Collector of Land Revenue such District, by whatever name his Office is designated, shall, the claim or objection be preferred within the period mentioned in the advertisement to be issued for the sale or other disposition of such land, which period shall not be less than three months proceed to make an enquiry into the claim or objection.

II. The Collector or other Officer as aforesaid shall cause Procedure in such upon the claimant or objector to produce any evidence, or documents upon which he may rely in proof of his claim or objection, and after considering the same, and making any further enquiry that may appear proper, shall dispose of the case by an order for the admission or rejection of the claim or objection, and if the land is proposed to be sold, for the sale of the same; subject to any condition or reservation which, to such Collector or other Officer as aforesaid, shall appear to be proper. If the land is ordered to be sold, subject to any condition or reservation, such condition or reservation shall be notified to intending purchasers at the time of sale.

III Pending an enquiry, under the last preceding Section, the Collector or other Officer as aforesaid shall postpone the sale or other disposition of the land, and if he shall order that such claim or objection be rejected, he shall further postpone the sale or other disposition of the land, to allow the claimant or objector to contest the order of rejection in the manner hereinafter provided.

IV. If the Collector or other Officer as aforesaid shall consider the claim or objection to be established, and that the sale or other disposition of the land should not take place, he shall stop the sale or other disposition of the land.

Sale to be stopped if claim appears to be established, but may afterwards be proceeded with but such sale or other disposition of the land may afterwards be proceeded with if, on an order issued by the local Government to try the claim or objection, as provided in Section VI of this Act, the claimant or objector shall fail to establish the same.

V. If the Collector or other Officer aforesaid shall order that the claim or objection be rejected, or that the land be sold subject to any condition or reservation, or that it be otherwise dealt with, he shall cause a copy of such order to be delivered to the claimant or objector; and if such claimant or objector shall not, within one week from the delivery of such copy, or within such further time as the Collector or other Officer as aforesaid, for any special reason to be recorded, shall see fit to grant, give notice in writing to such Collector or other Officer as aforesaid that he intends to contest such order, the order shall be final. If the claimant or objector shall, within the time allowed, give such notice, the Collector or other Officer as aforesaid shall immediately make a report to the Board of Revenue, or other superior Revenue Authority, and shall forward with such Report a copy of his order, stating fully all the circumstances of the case, and the evidence adduced in support, or otherwise, of the claim or objection, and such Board, or other Authority, on the receipt of such report, and after calling for any further information which it may consider necessary, may confirm, modify, or reverse, the order of the Collector or other Officer as aforesaid. If the Board or other Authority as aforesaid confirm the order of the Collector or other Officer as aforesaid, or modify such order in such manner as to leave any part of such order in force, adverse to the claimant or objector, the Collector or other Officer as aforesaid shall certify such order to the Court constituted as hereinafter provided, and such Court shall forthwith give notice to the claimant or objector, and if such claimant or objector shall not, within thirty days from the delivery of such notice from the Court, institute a suit in such Court to establish his claim or objection, the order of the Board or other Authority aforesaid shall be final.

VI. The local Government may, within twelve months after the date on which the claim or any claimant of waste land, or the objection of any objector, as aforesaid, shall have

Local Government may, within twelve months, order suit to be brought to try claim admitted by Collector.

been admitted under this Act by the Collector or other Officer as aforesaid, direct a suit to be brought to try the claim or objection of the claimant or objector, in a Court constituted as hereinafter provided .

VII For the investigation and trial of claims under this Act, the local Government shall constitute, in every District in which there may be any waste lands capable of being sold, or otherwise dealt with, on account of Government, a Court consisting of an uneven number of persons, not less than three, of whom the Judge of the District, or the Officer presiding in the principal Civil Court of original jurisdiction in the District by whatever name his office may be designated, shall be one. Any one or more of the Members of which such Court shall consist, shall have power to make all such orders in the case as may be necessary prior to the hearing of the suit. Provided that, whenever the Collector, or other Officer, by whom the original enquiry was held, is the Officer presiding in the principal Civil Court of original jurisdiction in the District, such Officer shall not be a member of such Court.

VIII Whenever any Court is constituted under this Act, notice thereof shall be given by a written proclamation, copies of which shall be affixed in the several Courts, and in the offices of the several Collectors and Magistrates, of the District and from the date of the issue of such proclamation, no other Court shall be competent to entertain any claim or objection, belonging to the class of claims or objections for the trial and determination of which such Court is constituted.

IX The Courts constituted under this Act shall be held at such place, or places, within the limits of their respective jurisdictions, as shall be considered most convenient.

X. In every suit instituted under Section V of this Act, the claimant of the waste land, or objector to the sale or other disposition of such land, shall appear as plaintiff, and the Collector or other

Officer aforesaid shall appear as defendant on the part of Government. Either party may appear by pleader or by agent. Provided that, if such other Officer as aforesaid be

Proviso

the presiding Officer of the principal Civil Court of original jurisdiction in the District, the local Government shall appoint some other Officer to appear as defendant in the case on its behalf. In any suit

Plaintiff and defendant in suits under Section VI

ordered to be instituted by the local Government under Section VI of this Act, the Government, by any Officer to be appointed for the purpose shall appear as plaintiff, and the claimant or objector as aforesaid shall appear as defendant.

XI. In suits instituted under this Act, except as hereinafter provided, the proceedings shall be regulated, so far as they can be, by the Code of Civil Procedure

Proceedings regulated by Civil Procedure Code

XII. The Court shall fix a day for the appearance of the parties, and for the hearing of the suit, of which due notice shall be given to the parties or their agents, and on the day so fixed the parties or their agents shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a Subpoena requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the claimant of the waste land, or objector, as aforesaid, on the day fixed for the hearing, or at any subsequent stage of the suit.

XIII. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the claimant of the waste land, or the objector, or his agent (when his personal attendance is not required), and the witnesses of the parties; and upon such examination, and after inspecting the documents

Procedure on hearing

of the parties, and making any further enquiry that may appear necessary, shall proceed to pass such order in the case as it may consider just and proper

XIV No appeal shall lie from any decision or order passed under this Act, nor shall any such decision or order be open to revision.

XV If, on the trial of any suit under this Act, any question of law, or of usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion, or on the application of any of the parties to the suit, draw up a statement of the case, and submit it, with its own opinion, for the opinion of the High Court of Judicature, or of the highest Civil Court of appeal and revision in the territory in which the land is

Reference of question of law, &c., to High Court, &c. situate. Provided that it shall be the duty of every Court held under this Act, to make such reference to such High Court, or Court of appeal, if in any suit under this Act, any question shall arise involving any principle of general importance, or the rights of a class

XVI The Court may proceed in the case notwithstanding a reference to the High Court, or other highest Civil Court of appeal as aforesaid, and may pass an order contingent upon the opinion of the High Court, or other Court as aforesaid, on the point referred, but no final order for the sale or other disposition of the land in question in the suit, or for the admission or rejection of any claim or objection which shall be before the Court in such suit, shall be passed, until the receipt of the order of the said High Court, or highest Civil Court of appeal.

XVII The record of cases disposed of by Courts constituted under this Act, shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the District in which the property in dispute is situate.

**XVIII. No claim** to any land, or to compensation or

**Limitation as to claims**  
to land sold or dealt  
with.

damages in respect of any land, sold or otherwise dealt with on account of Government as waste land, shall be received after the expiration of three years from the date on which such land shall have been delivered by the Government to the purchaser, or otherwise dealt with. If within three years

**Provision for such**  
claims if preferred with-  
in time

after any lands have been delivered by the Government to the purchaser, or otherwise dealt with, any claimant or objector shall prefer a claim to the land so delivered, or otherwise dealt with, or an objection to such sale, or to compensation or damages in respect thereof, in the Court constituted under this Act for the District in which the land is situate, and shall show good and sufficient reason for not having preferred his claim or objection to the Collector or other Officer as aforesaid, within the period limited under Section I of this Act, such Court shall file the claim or objection, making the claimant or objector plaintiff, and the Collector of the District or other Officer as aforesaid (with the like provision as aforesaid if such other Officer be the presiding Officer of the principal Civil Court of original jurisdiction in the District), the defendant in the suit, and the foregoing provisions of this Act shall be applicable to the trial and determination of the suit. The report of the Officer employed to give delivery, or to take possession, on the part of Government, of the land sold or otherwise dealt with, shall be conclusive evidence as to the date on which such delivery was made, or possession was taken.

**XIX In any case** in which the land has been sold, if the

**If claim established,**  
possession not to be  
given, but compensa-  
tion

Court shall be of opinion that the claim of the claimant is established, the Court shall not award the claimant possession of the land in dispute, but shall order him to receive from the Government Treasury, by way of compensation, a sum equal to the price at which the land was sold, in addition to the costs of suit.

XX If the land shall have been sold subject to any condition or reservation, or shall not have been absolutely sold, or has been otherwise dealt with. been sold, but shall have been otherwise dealt with on account of the Government, and the Court shall be of opinion that the claim to such land, or the objection of an objector, is established, the Court shall award the claimant or objector to receive such sum, in respect of his interest in such land, as shall be awarded in that behalf under the provisions of Act VI of 1857 (*for the acquisition of lands for public purposes*), and thereupon the local Government shall proceed under the said Act to obtain an award of the value of such interest

XXI An award under any of the provisions of the two last preceding Sections, shall be in full satisfaction of the claim of the claimant or objector, and shall bar any future claim on his part, in respect to the land in suit, resting on the same cause of action, or on a cause of action which existed prior to the date of the sale or other disposition of the land on account of Government

XXII Nothing in this Act shall be held to prevent the local Government from awarding to any claimant of waste land sold on account of Government, on proof to the satisfaction of the local Government of the claim of such claimant (notwithstanding that he may not have preferred his claim either to the Collector or other Officer as aforesaid or to the proper Court constituted under this Act, within the period prescribed by this Act), such amount of compensation for the said land, within the limit as to amount mentioned in Section XIX of this Act, if the land have been sold not subject to any condition or reservation, as to such local Government may seem proper

XXIII If the land have been sold subject to any condition or reservation, or have been otherwise disposed of, on account of Government, and any claim to such land or objection Compensation for land sold subject to condition, if claim proved, though not preferred in time

to the sale or other disposition of the land, shall be proved to the satisfaction of the local Government, although not preferred to the Collector or other Officer as aforesaid, or to the Court constituted under this Act, within the period prescribed by this Act, the local Government may award to such claimant or objector, such amount as to such local Government may appear to be the value of the interest of such claimant or objector in such land

XXIV Unless the contrary appears from the context,

Interpretation	words importing the singular number
Number.	shall include the plural number, and
Gender	words importing the plural number shall
	include the singular number, and words

importing the masculine gender shall include females.

### CIVIL PROCEDURE.—BURMAH.

#### ACT No XXIV of 1863.

*(Received the assent of the G. G. on the 16th May 1863)*

Recites expediency of amending Act I 1863

1—2 Empowers G. G. in C to vest courts 2nd, 3rd and 4th grades, &c., with cognizance of suits which belong to courts of lower grade, and (2) gives same appeal in such suits as in others

3 Constitutes Court of Deputy Judicial Commissioner at Rangoon a Deputy Commissioner under this Act.

4—5 Repeals the Code called "the Civil Code of the Province of Pegu" from 1st May 1863, saving (5) proceedings had under that Code after that date

An Act to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory).

WHEREAS it is expedient to amend Act I of 1863 (to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory; It is enacted as follows —

I. It shall be lawful for the Governor-General of India in Council to invest any Court in British Burmah, of the second, third, and fourth grades of Courts mentioned in Section II of the said Act I of 1863, with power to receive suits, and to take cognizance of other matters, arising within the jurisdiction of the Court so invested which from their amount as well as in other respects may be cognizable under the provisions of the said Act by a Court of a lower grade, and to try and determine the same, subject to all the provisions of the said Act.

Governor-General may invest certain Courts in British Burmah with power to try suits, &c., now cognizable by Courts of lower grade

II. Appeals from orders and decisions passed by any Court invested as aforesaid, in suits of other matters of the nature described in the last preceding Section, shall lie to the Court to which appeals from orders and decisions passed by the said Court in the exercise of its ordinary jurisdiction lie under the said Act I of 1863, and shall be subject to all the rules contained in the said Act in relation to such appeals

Provision for appeals from orders and decisions in suits, &c., dealt with under preceding Section

III The Court of the Deputy Judicial Commissioner at Rangoon shall, for the purposes of Act I of 1863, be a Court of a Deputy Commissioner as constituted by the said Act, and the said Deputy Judicial Commissioner shall exercise the same jurisdiction in respect to receiving, trying, and determining suits and other matters arising within his jurisdiction as Deputy Judicial Commissioner, as a Deputy Commissioner is competent to exercise under the said Act.

Jurisdiction of Deputy Judicial Commissioner at Rangoon, and his Court.

IV The Code called the "Civil Code of the Province of Pegu," with exception to Chapter III of the said Code as to the limitation of suits, and Chapter XXVII relating to Stamps, shall be held to have been repealed from the twentieth day of May 1862, and on and after the said date, until the first day of May 1863, Act VIII of 1859 for simplifying the procedure of the Courts of Civil Judicature

Civil Code of Pegu repealed, and Act VIII of 1859 substituted during certain period.

not established by Royal Charter), as extended by the Chief Commissioner of British Burmah to the Province of Pegu, shall be held to have been in force in that Province.

V. No order or decision passed, and no proceeding held by any Court in the Province of Pegu, or by any Appellate Court in relation to any such order or decision or proceeding, on or after the said twentieth day of May 1862, and before the said first day of May 1863, shall be held to be invalid merely by reason of such order or decision having been passed, or of such proceeding having been held under the said Act VIII of 1859, as extended to the said Province by the Chief Commissioner of British Burmah, instead of under the Code called the Civil Code of the Province of Pegu, or *vice versa*

### IMPRISONMENT OF CONVICTS IN CALCUTTA JAIL.

#### ACT No XXV OF 1863

(Received the assent of the G G on the 16th May 1863)

Recites want of sufficient accommodation in House of Correction, &c

1 Repeals Sections 47 to 52 of Act XVIII 1862, except as to persons sentenced before passing of this Act

2—6 Empowers Judges to sentence to rigorous imprisonment, &c, either in the House of Correction or the Great Jail, and (3) in same manner as places of intermediate custody, in case of transportation or penal servitude, and (4) directs warrant to be made out accordingly, and Sheriff to carry it out, and (5) all Constables to assist, &c, and (6) absolves Sheriff from all responsibilities, &c

7. Empowers Calcutta Justices of the Peace to pass sentences of imprisonment in same manner

8—9 Empowers Lieut-Governor of Bengal to order transfer of prisoners from one Jail to another under specified circumstances, and in what manner, and (9) legalizes retrospectively such transfers made before the Act.

An Act to empower Judges of the High Court and other Authorities at Fort William in Bengal, to direct convicts to be imprisoned either in the House of Correction, or the Great Jail of Calcutta, and to authorize the transfer of prisoners, in certain cases, from the House of Correction to

the Great Jail, and from the Great Jail to the House of Correction.

WHEREAS great inconvenience is occasioned in the administration of Criminal Justice, by reason of

Preamble

the House of Correction in Calcutta not having sufficient accommodation to contain all the prisoners from time to time sentenced to be there confined for divers offences, and it is desirable that the Judges of Her Majesty's High Court of Judicature at Fort William in Bengal, and the Justices of the Peace and Magistrates of Police for the Town of Calcutta, should be empowered to send prisoners to the Great Jail of Calcutta, as well as to the House of Correction, and whereas also it is desirable that the Government of Bengal should have power, in cases of over-crowding, sickness, or the like, to order the transfer of prisoners from the Great Jail to the House of Correction and *vice versa*, It is enacted as follows —

I. Sections XLVII, XLVIII, XLIX, L, LI, and LII,

Certain Sections of Act XVIII of 1862 repealed in part.

of Act XVIII of 1862 (to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature), are hereby repealed so far as they are applicable to, or have effect in, the Presidency of Fort William in Bengal, except as to any persons sentenced before the passing of this Act to rigorous imprisonment, or to imprisonment with hard labour, or to solitary confinement.

II. Whenever any person shall be sentenced by Her Majesty's High Court of Judicature at

Persons sentenced by High Court to rigorous imprisonment, &c. may be imprisoned in the House of Correction, or Great Jail

Fort William in Bengal to rigorous imprisonment, or to imprisonment with hard labour, or to solitary confinement, it shall be lawful for the Judges or Judge of the said Court to direct such person to be imprisoned either in the House of Correction, whether such House of Correction be

under the control of the Sheriff or not, or in the Great Jail, as to them or him shall seem fit.

III. Whenever any person shall be sentenced by the said High Court to transportation, or penal servitude, such person may, at the discretion of the Judges or Judge of the said Court, be kept in the House of Correction, whether such House of Correction be under the control of the Sheriff or not, or in the Great Jail, as the place of intermediate custody

Persons sentenced by the said Court to transportation, &c, may be kept in House of Correction, or Great Jail

IV The Sheriff shall cause any person directed under either of the last two preceding Sections to be imprisoned or kept in the House of Correction, to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction, together with a warrant to be signed by a Judge of the said High Court authorizing the detention of such person. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for the safe custody of such person

V All Constables and Police Officers are hereby empowered to aid and assist the Sheriff in carrying to the House of Correction any person sentenced as aforesaid.

VI The Sheriff shall be absolved from all responsibility, in respect of the custody of any person sentenced as aforesaid to be imprisoned or kept in the House of Correction, from the time such person shall be delivered to the custody of the Officer in whom the control of the House of Correction is vested, or to the Keeper of such House of Correction

VII. Whenever any person shall be sentenced by a Justice of the Peace or Magistrate of Police for the Town of Calcutta, to rigorous imprisonment, or imprisonment with hard labor, for any offence committed within the local limits of the ordinary original

Person sentenced by Justice of the Peace, or Police Magistrate, to rigorous imprisonment, &c, may be committed either to House of Correction or Great Jail.

Civil jurisdiction of the said High Court, the person so sentenced may be committed by such Justice of the Peace or Police Magistrate either to the custody of the Officer in whom the control of the House of Correction is vested, or of the Keeper of the said House of Correction, whether such House of Correction be under the control of the Sheriff or not, or to the custody of the Sheriff, as to such Justice of the Peace or Police Magistrate shall seem fit. If the person so sentenced is committed to the custody of the Officer in whom the control of the House of Correction is vested, or the Keeper of the House of Correction, such Officer and Keeper shall be responsible for the safe custody of such person if the person so sentenced is committed to the custody of the Sheriff, the Sheriff shall be responsible for his safe custody

VIII If it shall at any time appear to the Lieutenant-Governor of Bengal that, by reason of sickness, over-crowding, or any other cause, it is necessary or desirable that any prisoner under sentence of imprisonment in the House of Correction should be transferred to the Great Jail, or that any prisoner under sentence of imprisonment in the Great Jail should be transferred to the House of Correction, it shall be lawful for the said Lieutenant-Governor to order the transfer of such prisoner, and the prisoner shall thereupon be transferred in the manner hereinafter provided for carrying out the transfer. If the order be for the transfer of a prisoner from the Great Jail to the House of Correction, the Sheriff shall cause the prisoner to be delivered to the Officer in whom the control of the House of Correction is vested, or to the Keeper of the House of Correction, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. Such Officer or Keeper shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody. If the order be for the transfer of a prisoner

Lieutenant-Governor of Bengal may order transfer of prisoners from House of Correction to Great Jail, and vice versa

Transfer how made

from the House of Correction to the Great Jail, the Officer in whom the control of the House of Correction is vested, or the Keeper thereof, shall cause the prisoner to be delivered to the Sheriff, together with the original warrant authorizing the detention of such prisoner, and the order of the Lieutenant-Governor of Bengal signed by a Secretary to the Government of Bengal ordering his transfer. The Sheriff shall be bound to receive the person so delivered over to his custody, and shall be responsible for his safe custody.

IX And whereas certain persons under sentence of imprisonment in the House of Correction, have recently been on divers occasions transferred from the House of Correction to the Great Jail, and from the Great Jail to the House of Correction. it is hereby declared, that such transfers respectively shall be held to be, and at all times to have been, legal in all respects, and that the said persons now are, and always have been, and shall continue to be until the expiration of the period of their sentences respectively, in lawful custody, whether for the time being in the custody of the Sheriff in the Great Jail, or of the Keeper or Officer having the control of the House of Correction, in the House of Correction. Provided that nothing in this Section contained shall be held to render lawful the detention or custody of any prisoner whose detention or custody would have been unlawful in respect of such transfer.

### CUSTOMS DUTIES.

#### ACT No XXVI of 1863

*(Received the assent of the G G on the 16th May 1863)*

Recites expediency of amending Customs Duties

1—2 Alters duties on iron, wines, and liquors, porter, ale, beer, cider and similar fermented liquors, from (2) 1st May 1863

An Act to amend Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the duties of Customs on Goods imported or exported by Sea.)

WHEREAS it is expedient further to amend the law relating to Customs' Duties, It is enacted as follows —  
Preamble.

I. In lieu of the Customs Duties authorized in Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859, to alter the Duties of Customs on Goods imported or exported by Sea), to be charged on Iron, on Wines and Liqueurs, and on Porter, Ale, Beer, Cider, and other similar fermented Liquors when imported by Sea, there shall be levied and collected on the aforesaid articles, when imported by Sea, the following Duties of Customs, that is to say, —

On Iron (which shall not be taken to include ironmongery, cutlery or hardware)	One per cent ad valorem
On Wines and Liqueurs	One Rupee the Imperial gallon,
And on Porter, Ale, Beer, Cider and other similar fermented liquors	One Anna the Imperial gallon

II This Act shall be deemed to have had and to have effect as if it had actually passed and received the assent of the Governor-General on the first day of May 1863.

# INCOME TAX

## ACT No XXVII of 1863

(Received the assent of the G G on the 16th May 1863)

Recites expediency of reducing the Income Tax

1—2 Reduces the Income Tax from 3 per cent to 2 per cent

An Act to further amend Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and to amend Act XXXIX of 1860 (to amend Act XXXII of 1860), and Act XVI of 1862 (to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1860, and otherwise to modify the said Acts)

WHEREAS it is expedient to diminish the amount of Duties chargeable under Act XXXII of 1860 (for imposing Duties on profits arising from Property, Professions, Trades, and Offices), and under Act XXXIX of 1860 (to amend Act XXXII of 1860), and for that

Preamble

purpose to amend those Acts and also to amend Act XVI of 1862 *(to limit in certain cases the amount of assessment to the Duties chargeable after the thirty-first day of July 1862, under Act XXXII of 1860, and Act XXXIX of 1863, and otherwise to modify the said Acts)* , It is enacted as follows —

I From and after the thirty first day of July 1863, the Acts XXXII of 1860, XXXIX of 1860, and XVI of 1862 to be read with this Section said Act XXXII of 1860, and the said Act XXXIX of 1860, and the said Act XVI of 1862, shall be read and construed as if, in the first Section of the said Act XXXII of 1860, the words “the yearly Duty of two Rupees for every hundred Rupees of the annual value thereof” appeared instead of the words “the yearly Duty of three Rupees for every hundred Rupees of the annual value thereof,” except as to any Duties which shall have become chargeable under the said Acts previously to the said thirty-first day of July 1863

II Section XV of Act XVI of 1862, shall, from and after the said thirty-first day of July 1863, be Section XV of Act XVI of 1862 to be read with this Section read and construed as if the words “not less than twenty per cent of the gross sum collected on account of the Duties of two and one per cent,” appeared therein in lieu of the words “not less than twenty per cent. of the gross sum collected on account of the Duties of three and one per cent”

### STAMP DUTIES.—STRAITS' SETTLEMENT.

#### ACT No XXVIII OF 1863

*(Received the assent of the G. G on the 16th May 1863)*

Recites various notifications of G G in C respecting Stamp Duties in Straits' Settlements

1—2 Act X, 1862, to be deemed not to have come into operation in Straits' Settlements before 1st January 1863, but (2) shall, except Schedule B, be deemed to come into operation on that date

3—4 Empowers the Governor to fix and notify the rates of exchange into Straits Currency at which the Indian Stamp Duties shall be paid, and (4) legalizes Duties already paid under previous notification; and Sections 3 and 4 of this Act to be read as part of Act X, 1862

An Act to remove doubts as to the operation of Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) in the Settlement of Prince of Wales' Island, Singapore, and Malacca, between the first day of November 1862, and the first day of January 1863, and respecting the rate of exchange for payment of Stamp Duties, in the currency of India, in the said Settlement.

WHEREAS by a Notification of the Governor-General of India in Council, dated the thirtieth day of May 1862, it was directed that all

Preamble

Deeds, Instruments, or Writings, executed in the Straits' Settlement, should be exempt from the Duties prescribed in Act X of 1862 (*to consolidate and amend the law relating to Stamp Duties*), and whereas by another notification of the Governor-General of India in Council, dated the first day of November 1862, it was ordered that the temporary suspension of the operation of the said Act X of 1862 in the Straits' Settlement, under the said Notification dated the thirtieth of May 1862, should cease and determine from the said first day of November 1862 and whereas by a further Notification of the Governor-General of India in Council, dated the sixth of November 1862, His Excellency in Council was pleased to exempt, until further orders, all Deeds, Instruments, and Writings, enumerated in Schedule B of the said Act X of 1862, from the Duties prescribed in that Schedule, and whereas, afterwards, the Governor of the Straits' Settlement suspended the operation of the said Act X of 1862 in the said Settlement, until the first day of January 1863, and whereas, in consequence of such suspension of the operation of the said Act many penalties have been incurred and many Deeds, Instruments, and Writings, have been rendered invalid, or inadmissible in evidence, and it is expedient that such effects should be removed, and whereas it is also expedient to remove all doubt as to the rate of exchange for the payment of Stamp Duties, in the Currency of India, in the said Settlement, It is enacted as follows —

Act X of 1862 not in operation in 'Settlement' before 1st January 1863

I. The said Act X of 1862 shall be held not to have come into operation in the said Settlement before the first day of January 1863.

II. The said Act X of 1862, except Schedule B, shall be held to have come into operation in the said Settlement on the said first day of January 1863. The said Schedule B shall come into operation in the said Settlement from such time as the Governor-General of India in Council shall, under the authority vested in him by Section XXXIII of the said Act X of 1862, by an order to be published in the Calcutta Gazette, appoint

III For the purpose of fixing the rate at which Stamp Duties, payable in the Currency of India, under the said Act X of 1862, on Deeds, Instruments, and Writings, which are liable to Stamp Duty in the said Settlement, shall be calculated and paid, when the Deeds, Instruments, or Writings, in respect of which such Duties are payable, are Deeds, Instruments, or Writings, in which the amount or value on which the Stamp Duties is payable is not expressed or estimated in such Currency, it shall be lawful for the Governor of the said Settlement, from time to time by a Notification to be published in the Official Gazette, to fix the rate at which Stamp Duties under the said Act X of 1862 will be taken by Government on such Deeds, Instruments, and Writings, as aforesaid, and every such Deed, Instrument, and Writing, which shall be stamped with the full and proper stamp or stamps required by the said Act X of 1862, calculated according to the rate of exchange which shall have been fixed by the said Governor, by a Notification as aforesaid (which Notification shall be in force, and not rescinded by any other such Notification as aforesaid, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to be duly stamped under the said Act X of 1862.

IV Every Deed, Instrument, or Writing, liable to Stamp Duty in the said Settlement, which before the time when the last preceding Section and this Section, of this Act shall come into operation, shall have been stamped with the full and proper stamp or stamps required by the said Act X of 1862, calculated according to the rate fixed by a Notification of the said Governor before the time when the said Sections shall come into operation, (which Notification shall be in force, and shall not have been rescinded by any other such Notification, at the time when such Deed, Instrument, or Writing, became liable to Stamp Duty), shall be held to have been duly stamped under the said Act X of 1862

V Section III and Section IV of this Act shall be read Commencement of and taken as part of the said Act X of Sections III & IV 1862, and shall come into operation on the first day of June 1863

## PRESIDENCY BANKS AND SUB-TREASURERS

### ACT No XXIX OF 1863.

*(Received the assent of the G G on the 7th December 1863)*

Recites agreement under which the Banks transact the Treasury business

1 Makes receipt of the Secretary to the Bank equivalent to receipt of Sub Treasurer, and (2) in all Acts and Regulations, the words Secretary of Bank, &c to be read in place of Sub-Treasurer, &c

An Act to declare receipts of the Banks of Bengal, Madras, and Bombay to be sufficient in lieu of the receipts of the Sub-Treasurers of Fort William, Fort St George, and Bombay respectively

WHEREAS under the provisions of Act XXIV of 1861  
 Preamble (to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes and certain business hitherto transacted by the Government Treasuries), the Bank of Bengal has, through the Governor-General of India in Council,

entered into an agreement with the Secretary of State for India in Council that so much of the business hitherto generally transacted at the General Treasury of the Government at the Presidency of Fort William as consists of receiving and paying money on behalf of the Supreme Government and the Government of Bengal shall be carried on and transacted by the said Bank and whereas the Bank of Madras and the Bank of Bombay have entered into similar agreements through the Governor in Council of Madras and the Governor in Council of Bombay with relation to the business hitherto generally transacted at the Treasuries at Madras and Bombay respectively and whereas the office of Sub-Treasurer at Fort William and the office of Sub-Treasurer at Fort St George and the office of Sub-Treasurer at Bombay have been abolished, and the business generally transacted at these offices has for some time past been and is now under the said agreements carried on and transacted by the said Bank of Bengal, Bank of Madras, and Bank of Bombay respectively and whereas doubts have been entertained whether in certain cases, in which during the existence of the office of Sub-Treasurer the receipt of the Sub-Treasurer was required, the receipt of the Secretary of the Bank of Bengal, or of the Secretary of the Bank of Madras, or of the Secretary of the Bank of Bombay, as the case may be, is a good and sufficient receipt and discharge to the person to whom the same is given and whereas it is desirable that these doubts should be removed, It is enacted as follows —

I The receipt of the Secretary of the Bank of Bengal, of the Secretary of the Bank of Madras, and of the Secretary of the Bank of Bombay (as the case may be), granted under the circumstances aforesaid, shall be deemed to be, and always to have been, as good and sufficient a receipt and discharge to the person to whom the same is granted, as the receipt of the Sub-Treasurer of Fort William, or of the Sub-Treasurer of Fort St George, or of the Sub-Treasurer of Bombay would have been if the office of the said Sub-Treasurer had not been abolished.

Receipts of Secretaries  
of the Banks to be good  
in lieu of those of the  
Sub-Treasurers at the  
Presidencies.

II In every Act and Regulation in which the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, or Sub-Treasurer of Bombay occur in connection with the payment of money required to be paid to, or of any act required to be performed by, any one of the said Sub-Treasurers, such Act or Regulation shall hereafter be read as if the words Secretary of the Bank of Bengal, Secretary of the Bank of Madras, and Secretary of the Bank of Bombay occurred therein, instead of the words Sub-Treasurer of Fort William, Sub-Treasurer of Fort St. George, and Sub-Treasurer of Bombay respectively

All Acts in which the Sub-Treasurers at the Presidencies are named to be read as if the Banks' Secretaries were named instead

### OUDH COMMISSIONERS OF ENQUIRY.

ACT No XXX OF 1863

*(Received the assent of the G. G. on the 16th December 1863)*

Recites demands made on Government in respect of claims on late Government of Oudh

1—3 Authorizes the G. G. in C to issue commission of enquiry, or (2) to appoint a sole Commissioner, and (3) continues commission notwithstanding death or resignation of individual Commissioner, and authorizes Government to fill up vacancies

4—10 Place of sitting of Commissioners to be fixed by G. G. in C, and (5) Commissioners to proceed as nearly as possible as in an ordinary suit under Civil Code, and (6) empowers Commissioners to summon witnesses, &c., and (7) to administer oath to them, and (8) gives them the same Powers for punishing witnesses, as might be exercised by the Court of Civil Jurisdiction of the District where the witness resides, (9) expenses of witness to be paid and how, and (10) persons giving false evidence to be punishable under Section 193 of Indian Penal Code

An Act to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh.

WHEREAS certain persons have made demands against the Government of India in respect of claims

Preamble

preferred by them, either in their own right or as the representatives of persons now deceased, against the late Native Government of Oudh, and whereas it is desirable that Commissioners should be appointed for the

purpose of investigating the said claims ; It is enacted as follows :—

I. It shall be lawful for the Governor-General of India in Council to issue a Commission to such persons as he shall think fit, for the purpose of enquiring into and reporting on such claims preferred against the late Native Government of Oudh, as shall be in the said Commission named and described. The said Commissioners shall fully enquire into the said claims respectively, and shall as soon as they conveniently can report to the Governor-General of India in Council the result of their enquiries, and shall in their report or reports make such suggestions, if any, as shall to them seem fit.

II It shall be lawful for the Governor-General of India in Council to issue such Commission to one person only, if he shall so think proper, and if a Commission is issued to one person only, all the powers by this Act given to Commissioners shall and may be exercised by the sole Commissioner so appointed, and all the provisions of this Act as to appointing new Commissioners in the room of any of the Commissioners dying or resigning, or becoming unable or refusing to act, and as to the powers to be exercised by the new Commissioners so appointed, shall apply equally (so far as the same may be applicable) to the case of a sole Commissioner dying or resigning, or becoming unable or refusing to Act, and of any new Commissioner appointed in his room.

III. In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone. It shall be lawful for the Governor-General of India in Council, from time to time, without issuing a new Commission, to appoint some other person or persons to act as a Commissioner or Com-

missioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly-appointed Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner.

IV The said Commissioners shall enter in public upon the enquiry into the said claims respectively, Claimants may appear to support their claims at time and place fixed by Governor-General at such time and place as shall have been fixed by the Governor-General of India in Council, by notification published in the Calcutta Gazette at any time whether before or after the passing of this Act. It shall be lawful for any of the claimants preferring the claims in the said Commission mentioned, to appear at the time and place so appointed in support of their claims respectively, either in person or by Agent duly constituted. The Secretary of State for India in Council may also in like manner appear at such time and place in opposition to the said claims. No claimant who shall not appear at the time and place appointed shall be entitled to appear subsequently or to take any part in the proceedings unless the Commissioners shall in their discretion specially permit him so to do. It shall be lawful for the Governor-General of India in Council, by notification in the Calcutta Gazette, to vary or cancel any notification previously given as aforesaid.

V The public enquiry into the several claims aforesaid shall be conducted by the said Commissioners so far as regards adjournments, the examination of claimants and witnesses, the reception of documents and the rules of evidence, in like manner (so far as the same may in the opinion of the Commissioners be possible) as an ordinary Civil suit under the Code of Civil Procedure. The persons appearing in support of any claim shall be deemed for the purpose of the enquiry to be the plaintiffs in the cause, and the Secretary of State for India in Council shall be deemed to be the defendant, and may oppose the claimants in like manner as a defendant in a Civil suit may ordinarily oppose the plaintiff therein.

Mode in which public enquiry is to be conducted.

VI It shall be lawful for the Commissioners aforesaid, by  
Attendance of wit-  
nesses a summons under the hand of any one of  
 them, to require the attendance before  
 them at a time and place to be mentioned in such summons, of  
 any person or persons whomsoever, residing or being within  
 British India, whose evidence shall, in the judgment of the  
 Commissioners aforesaid, be material to any of the matters of  
 the enquiry aforesaid, and to require the person or persons  
 so summoned to bring and produce before them all such books,  
 papers, deeds, and writings as to them the said Commissioners  
 shall appear necessary for arriving at the truth of the matters  
 directed to be enquired into by the said Commissioners, all  
 which persons shall accordingly attend before the said Com-  
 missioners, and shall produce such books, papers, deeds, and  
 writings as shall be required of them and shall be in their cus-  
 tody and control, or in the custody and control of any one of  
 them, according to the tenor of the summons

VII It shall be lawful for the Commissioners aforesaid, or  
Examination of wit-  
nesses on oath or affirm-  
ation one of them, to administer an oath or an  
 affirmation in such form as to the said  
 Commissioners shall seem fit, to all per-  
 sons who shall be examined before them touching the matters  
 to be enquired into Provided that nothing herein contained  
 shall render it necessary for the said Com-  
Proviso missioners to take evidence upon oath or  
 affirmation unless they shall think it fit or expedient so to do

VIII If any person upon whom any such summons shall  
Witnesses neglecting  
to attend, &c be served, by the delivery thereof to him  
 or by the leaving thereof at his usual  
 place of abode, shall without reasonable cause (to be allowed  
 by the Commissioners aforesaid) fail to appear before them at  
 the time and place mentioned in the summons, or shall refuse  
 to be sworn or to make affirmation, (as the case may be), or  
 shall not make answer to such questions as shall be put to him  
 touching the matters directed, or which may hereafter be di-  
 rected to be enquired into by the Commissioners aforesaid, or  
 shall refuse or fail without reasonable cause (to be allowed by

the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear, or refusing to be sworn, or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed or writing as aforesaid, as the Principal Court of Original Civil Jurisdiction within the limits of which the said person shall be residing may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court

IX Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector or Commissioner of the District or Division, such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the Principal Court of Original Civil Jurisdiction in the District or Division

X. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid or any of them, shall wilfully give false evidence, shall be liable to the punishment provided in Section 193 of the Indian Penal Code for the offence of giving false evidence.

## GAZETTE OF INDIA, PUBLICATION OF ORDERS

ACT No. XXXI OF 1863.

*(Received the assent of the G. G. on the 16th December 1863)*

Recites the establishment of a new Gazette—the Gazette of India.

1 Declares that official publication in the Gazette of India shall avail as if publication in Presidency Gazette

**An Act to give effect to the publication of certain orders and other matters in the Gazette of India.**

**Preamble** WHEREAS the Governor-General of India in Council has resolved to publish an Official Gazette to be called the Gazette of India containing such orders, notifications, and other matters as the Governor-General of India in Council shall direct to be inserted therein, It is enacted as follows —

I When in any Regulation or Act now in operation, or in any rule having the force of law, it is directed that any order, notification or other matter shall be published in the Official Gazette of any Presidency or place, such order, notification or other matter shall be deemed to be duly published in accordance with the requirements of the law, if it be published either in the Gazette in which it would have appeared but for the passing of this Act, or in the Gazette of India under the directions of the Governor-General of India in Council

Publication in the Gazette of India to have the effect of publication in any other Gazette in which publication is prescribed by any law now in force

### ----- HIGH COURT FEES.

#### ACT No XXXII OF 1863

*(Received the assent of the G. G. on the 16th December 1863)*

Continues Act XX 1862, until notification of its expiry made by G G in C

**An Act to continue in force Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court)**

**Preamble** WHEREAS it is expedient that Act XX of 1862 (to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and suspend the operation of certain Sections of Act VIII of 1859 in the said High Court), should continue in force for a further period from the first day of January 1864, It is enacted as follows —

Act XX of 1862 shall continue in force until such time

as the Governor-General of India in Council shall by notification published in the Gazette of India appoint for its expiry.

Act XX of 1862 continued till such date as the Governor-General in Council shall appoint.



