

ACT XI, 1879.]

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ACT No. XII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th July, 1879).

An Act to amend the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.

WHEREAS it is expedient to amend the Code of Civil Procedure; It is hereby enacted as follows:—

Preamble.

1. The following portions of the said Code shall be repealed (namely):—

Repeal of certain portions of Act X of 1877.

In section 4, the words and figures "The Panjáb Courts Act, 1865", and "The Panjáb Appeals Act, 1873:"

In section 5, the third sentence:

In section 51, the words "with the permission of the Court,":

In section 52, from and including the words "and when he makes it out of Court" to the end:

In section 61, the words "bill of exchange or other":

In section 64, the words "or as soon thereafter as may be practicable":

In section 80, the words "or to receive the copy of the summons":

In section 97, the words "a duly authorized":

In sections 113 and 177, the word "other":

In section 115, the second paragraph:

In section 131, the words "in whose plaint, written statement or affidavits reference is made to any document,"

[Price nine annas and three pice.]

Civil Procedure Code Amendment. [ACT XII

ment," and the words "in the presence of such officer as the Court appoints in this behalf," :

In section 199, the words from and including "and in" to the end :

In section 221, the second paragraph :

In section 224, the word "therewith" :

In section 230, paragraphs three and four, the words "unless the Court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the decree; and the order of the Court granting any such subsequent application shall be conclusive evidence that due diligence was used to procure such satisfaction. And no such subsequent application shall be granted" :

In section 246, clause (e) and the letters and parentheses (f) and (g) :

In section 259, the words "and keeping the same under attachment until the further order of the Court" :

In section 339, paragraph three, the words "to the proper officer of the Court" :

In section 353, the words "within three months from its publication," and "within three months from the publication of the schedule" :

In section 355, paragraph two, the words "from arrest or imprisonment, as the case may be" :

In sections 407 and 408, the words "upon such examination" :

In section 638, the figures "261" :

In the second schedule, the words and figures "section 648 (so far as relates to arrests)" :

In the fourth schedule, No. 152, the words "ON SECURITIES BEING GIVEN", and "on security to the amount of Rs. decreed to the in the above suit, being given to your satisfaction".

Amendment
of section 2.

2. In section 2, for the definitions of "judgment" and "decree," the following shall be substituted (namely) :-

"decree"

1879.] *Civil Procedure Code Amendment.*

“‘decree’ means the formal expression of an adjudication upon any right claimed, or defence set up, in a Civil Court when such adjudication, so far as regards the Court expressing it, decides the suit or appeal. An order rejecting a plaint, or directing accounts to be taken, or determining any question mentioned or referred to in section 244 but not specified in section 588, is within this definition: an order specified in section 588 is not within this definition.”

“‘order’ means the formal expression of any decision of a Civil Court which is not a decree as above defined.”

“‘judgment’ means the statement given by the Judge of the grounds of a decree or order.”

In the same section, to the definition of “signed”, the following words shall be added (namely): “it also includes stamped with the name of the person referred to”.

3. In section 3, for the last paragraph, the following shall be substituted (namely):— Amendment of section 3.

“Save as provided by section 99 A, nothing herein contained shall affect any proceedings prior to decree in any suit instituted or appeal presented before the first day of October, 1877, or any proceedings after decree that may have been commenced and were still pending at that date.”

4. In section 4, for the words “local law” in each of the places where they occur, the words “law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor or a Lieutenant-Governor in Council” shall be substituted; and for the words “landlord and tenant,” the words “landholders and their tenants or agents” shall be substituted. Amendment of section 4.

Act No. XVIII of 1878 (*to amend the Code of Civil Procedure, section 4*) is hereby repealed.

5. In section 5, to the first sentence, the following shall be added (namely): “and to all other Courts (other than the Courts of Small Causes in the towns of Amendment of section 5.

Civil Procedure Code Amendment. [ACT XII

of Calcutta, Madras and Bombay) exercising the jurisdiction of a Court of Small Causes."

Amendment
of section 13.

6. In section 13, for the first paragraph, the following shall be substituted (namely) :—

"13. No Court shall try any suit or issue in which the matter directly and substantially in issue, having been directly and substantially in issue in a former suit in a Court of competent jurisdiction, between the same parties, or between parties under whom they or any of them claim, litigating under the same title, has been heard and finally decided by such Court";

and in the same section, *Explanation I*, for the word "confessed," the word "admitted" shall be substituted.

Amendment
of section 43.

7. In section 43, paragraph one, for the words "arising out of", the words "which the plaintiff is entitled to make in respect of" shall be substituted: in the same section, paragraph two, for the word "for" (in each of the places where it occurs), the words "in respect of" shall be substituted; and in the same section, paragraph three, for the word "claim," the words "cause of action" shall be substituted;

and to the same section the following paragraph shall be added:

"For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action."

Amendment
of section 44.

8. To section 44 the following words shall be added (namely): "or are such as he was entitled to, or liable for, jointly with the deceased person whom he represents."

Amendment
of section 45.

9. In section 45, for paragraph one, the following shall be substituted (namely): "Subject to the rules contained in chapter II and in section 44, the plaintiff may unite in the same suit several causes of action against the same defendant or the same defendants jointly; and any plaintiffs having causes of action in which they are jointly interested against the same defendant or the same defendants jointly may unite such causes of action in the same suit";

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in the same section, paragraph two, for the words
"the defendant," the words "any defendant, or at
any subsequent stage of the suit, if the parties agree"
shall be substituted.

10. In section 50, for the word "abode" in each
of the places where it occurs, the word "residence"
shall be substituted. Amendment
of section 50.

11. To section 51 the following proviso shall be
added (namely):— Amendment
of section 51.

"Provided that, if the plaintiff, by reason of
absence or for other good cause, is unable to sign the
plaint, it may be signed by any person duly authorized
by him in this behalf".

12. In sections 51, 53, 115, 346, 393 and 403, for
the word "subscribed" (wherever it occurs), the word
"signed" shall be substituted: in sections 115 and
346, for the word "subscribing", the word "signing"
shall be substituted; and in section 403, for the word
"subscription", the word "signing" shall be substi-
tuted. Amendment
of sundry
sections.

13. In section 58, for the word "filed", the word
"produced" shall be substituted. Amendment
of section 58.

14. In section 68, for the word "cognizable", the
word "heard" shall be substituted. Amendment
of section 68.

15. In section 93, after the word "levied", and
in section 95, after the word "paid", and in section
397, after the word "be", the words "within a time
to be fixed by the Court" shall be inserted. Amendment
of sections
93, 95 and
397.

16. After section 99, the following shall be in-
serted (namely):— Addition to
section 99.

"99 A. If, after a summons has, whether before
or after the first day of October, 1877, been issued to
the defendant, or to one of several defendants, and
returned unserved, the plaintiff fails for a period of
one year from such return to apply for the issue of a
fresh summons and to satisfy the Court that he has
used his best endeavours to discover the residence of
the defendant who has not been served, or that such
defendant is avoiding service of process, the Court
may dismiss the suit as against such defendant. Dismissal of
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Civil Procedure Code Amendment. [ACT XII

"In such case the plaintiff may (subject to the law of limitation) bring a fresh suit".

Amendment
of section
108.

17. In section 108, paragraph one, the words and figures "under section 100" shall be omitted; and in the same section, paragraph two, for the words "it be proved to the satisfaction of the Court that the defendant", the words "he satisfies the Court that the summons was not duly served, or that he" shall be substituted.

Amendment
of section
131.

18. In section 131, paragraph one, for the word "Every", the word "Any" shall be substituted, and for the words "such document", the words "any specified document" shall be substituted.

Amendment
of section
136.

19. In section 136, after the word "discovery" (in each of the places in which it occurs), the word "production" shall be inserted.

Amendment
of section
139.

20. In section 139, for the words and figures "the production of which has been called for under section 138 and which has not been produced," the words and figures "which should have been, but has not been, produced in accordance with the requirements of section 138" shall be substituted.

Amendment
of section
207.

21. In section 207, for the words "or numbers" to the end, the following words shall be substituted (namely): "or by numbers in a record of settlement or survey, the decree shall specify such boundaries or numbers."

Amendment
of sections
211 and 212.

22. In section 211, for the words "land or other", the words "the recovery of possession of immoveable" shall be substituted: to the same section the words "together with interest on such profits" shall be added; and in section 212, before the word "immoveable," the words "the recovery of possession of" shall be inserted.

Addition to
section 215.

23. After section 215, the following section shall be inserted (namely):—

Suit for
account be-
tween princi-
pal and
agent.

"215A. When a suit is for an account of pecuniary transactions between a principal and agent, and in all other suits not heretofore provided for, where it is necessary, in order to ascertain the amount of

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1879.] *Civil Procedure Code Amendment.*

money due to or from any party, that an account should be taken, the Court shall, before making its decree, pass an order directing such accounts to be taken as it thinks fit."

24. To section 220 the following words shall be added (namely): "Every order relating to costs made under this Code and not forming part of a decree may be executed as if it were a decree for money." Amendment of section 220.

25. In section 223, clause (c), for the words "district within which", the words "local limits of the jurisdiction of" shall be substituted; and in the penultimate paragraph of the same section, for the words "local Court of Small Causes", the words "Court of Small Causes in Calcutta, Madras, Bombay or Rangoon, as the case may be," shall be substituted. Amendment of section 223.

26. In section 229, for the words "Native Prince or State in India," the words "Foreign Prince or State," shall be substituted. Amendment of section 229.

27. In section 230, clause (b), for the words "the payment of money or the delivery of property by instalments,—the date of the default in paying or delivering the instalment", the following words shall be substituted (namely): "any payment of money, or the delivery of any property, to be made at a certain date—the date of the default in making the payment or delivering the property". Amendment of section 230.

28. In the second proviso to section 232, after the word "decree", the words "for money" shall be inserted. Amendment of section 232.

29. In section 235, for the words "in manner hereinbefore provided for the verification of plaints," the following words shall be substituted (namely): "by the applicant or by some other person proved to the satisfaction of the Court to be acquainted with the facts of the case". Amendment of section 235.

30. In sections 236 and 237, for the words "If the application be", the words "Whenever an application is made" shall be substituted. Amendment of sections 236 and 237.

31. In section 244, clause (c), after the word "execution", the words "discharge or satisfaction" shall be inserted. Amendment of section 244.

Civil Procedure Code Amendment. [ACT XII]

Amendment
of section
245.

32. In section 245, for the first sentence, the following shall be substituted (namely): "The Court, on receiving an application for the execution of a decree, shall ascertain whether such of the requirements of sections 235, 236, 237 and 238 as may be applicable to the case have been complied with; and if they have not been complied with, the Court may reject the application, or may allow it to be amended then and there, or within a time fixed by the Court. If the application be not so amended, it shall be rejected."

Amendment
of section
246.

33. In section 246, for *Explanation I*, the following shall be substituted (namely):—

"*Explanation I.*—The decrees contemplated by this section are decrees capable of execution at the same time and by the same Court."

In *Explanation II*, after the words "assignor as", the words "in respect of judgment-debts due" shall be inserted.

Amendment
of section
252.

34. In section 252, for the words "If no such property can be found, and the judgment-debtor", the words "If no such property remains in the possession of the judgment-debtor, and he" shall be substituted.

Addition to
section 257.

35. After section 257, the following shall be inserted:—

Agreement to
give time to
judgment-
debtor.

"257A. Every agreement to give time for the satisfaction of a judgment-debt shall be void unless it is made for consideration and with the sanction of the Court which passed the decree, and such Court deems the consideration to be under the circumstances reasonable.

Agreement
for satisfac-
tion of judg-
ment-debt.

"Every agreement for the satisfaction of a judgment-debt, which provides for the payment, directly or indirectly, of any sum in excess of the sum due or to accrue due under the decree, shall be void unless it is made with the like sanction.

"Any sum paid in contravention of the provisions of this section shall be applied to the satisfaction of the judgment-debt; and the surplus, if any, shall be recoverable by the judgment-debtor."

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1879.] *Civil Procedure Code Amendment.*

36. For section 258, the following shall be substituted:—

"258. If any money payable under a decree is paid out of court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, or if any payment is made in pursuance of an agreement of the nature mentioned in section 257A, the decree-holder shall certify such payment or adjustment to the Court whose duty it is to execute the decree.

"The judgment-debtor also may inform the Court of such payment or adjustment, and apply to the Court to issue a notice to the decree-holder to show cause, on a day to be fixed by the Court, why such payment or adjustment should not be recorded as certified; and if, after due service of such notice, the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the Court shall record the same accordingly.

"No such payment or adjustment shall be recognized by any Court unless it has been certified as aforesaid."

37. For the second paragraph of section 259, the following shall be substituted:—

"When any attachment under this section has remained in force for six months, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, such property may be sold, and out of the proceeds the Court may award to the decree-holder, in cases where any amount has been fixed under section 208, such amount, and, in other cases, such compensation, as it thinks fit, and shall pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of six months from the date of the attachment, no application to have the property sold has been made, or, if made, has been refused, the attachment shall cease to exist."

Amendment
of section
258.
Payment to
decree-holder.

Amendment
of section
259.

Civil Procedure Code Amendment. [ACT XII

Amendment
of section
260.

38. In section 260, in the first paragraph, after the words "the performance of", the words "or abstention from" shall be inserted; and for the second paragraph, the following paragraphs shall be substituted (namely):—

"When any attachment under this section has remained in force for one year, if the judgment-debtor has not obeyed the decree and the decree-holder has applied to have the attached property sold, the property may be sold; and out of the proceeds the Court may award to the decree-holder such compensation as it thinks fit, and may pay the balance, if any, to the judgment-debtor on his application.

"If the judgment-debtor has obeyed the decree and paid all costs of executing the same which he is bound to pay, or if, at the end of one year from the date of the attachment, no application to have the property sold has been made and granted, the attachment shall cease to exist."

Amendment
of section
264.

39. In section 264, after the words "the same," the words "and not bound by the decree to relinquish such occupancy" shall be inserted.

Amendment
of section
265.

40. To section 265 the following words shall be added (namely): "and according to the law, if any, for the time being in force for the partition, or the separate possession of shares, of such estates".

Amendment
of section
268.

41. For the last paragraph of section 268, the following shall be substituted (namely):—

"In the case of the salary of a public officer or the servant of a Railway Company, the attachment shall be made by a written order requiring the officer whose duty it is to disburse the salary to withhold every month such portion as the Court may direct, until the further orders of the Court.

"A copy of every such order shall be fixed up in a conspicuous part of the court-house and shall be served on the officer so required.

"Every such officer may from time to time pay into court any portion so withheld, and such payment shall discharge the Government or the Railway Company.

1879.] *Civil Procedure Code Amendment.*

pany, as the case may be, as effectually as payment to the judgment-debtor."

42. For the first paragraph of section 271, the following shall be substituted:—

Amendment of section 271.

"271. No person executing any process under this Code directing or authorizing seizure of moveable property shall enter any dwelling-house after sunset and before sunrise, or shall break open any outer door of a dwelling-house. But when any such person has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe any such property to be."

Seizure of property in building.

43. To section 289, paragraph one, the following words shall be added (namely): "and a copy thereof shall be fixed up in the court-house and, in the case of land paying revenue to Government, also in the Collector's office"; and in section 290, for the words "notification has been affixed", the words "copy of the proclamation has been fixed up" shall be substituted.

Amendment of sections 289 and 290.

44. In section 291, for the first eight words, the following shall be substituted (namely): "The Court may in its discretion adjourn any sale under this chapter (other than a sale by the Collector) to a specified day and hour, and the officer conducting any such sale"; and in the same section, after the proviso, the following sentence shall be inserted (namely): "Whenever a sale is adjourned under this section for a longer period than seven days, a fresh proclamation under section 289 shall be made, unless the judgment-debtor consents to waive it."

Amendment of section 291.

45. To section 294 the following paragraph shall be added (namely):—

Amendment of section 294.

"When a decree-holder purchases, by himself or through another person, without such permission, the Court may, if it thinks fit, on the application of the judgment-debtor or any other person interested in the sale, by order set aside the sale; and the costs of such application and order, and any deficiency of price which may happen on the re-sale, and all expenses attending it, shall be paid by the decree-holder."

46. In

Civil Procedure Code Amendment. [ACT XII

Amendment
of section
295.

46. In section 295, first proviso, after the words "shall not", the words "as such" shall be inserted;

and after the second proviso, the following shall be inserted:—

Third proviso
to section 295.

"Provided also that, when immoveable property is sold in execution of a decree ordering its sale for the discharge of an incumbrance thereon, the proceeds of sale shall be applied—

first, in defraying the expenses of the sale;

secondly, in discharging the interest and principal-money due on the incumbrance;

thirdly, in discharging the interest and principal-moneys due on subsequent incumbrances (if any); and

fourthly, rateably among the holders of decrees for money against the judgment-debtor, who have, prior to the sale of the said property, applied to the Court which made the decree ordering such sale for execution of such decrees and have not obtained satisfaction thereof."

Amendment
of section
305.

47. In section 305, paragraph two, after the word "therein," the words and figures "and notwithstanding anything contained in section 276" shall be inserted; and for the last paragraph, the following shall be substituted (namely):—

"Provided also that no mortgage, lease or sale under this section shall become absolute until it has been confirmed by the Court."

Amendment
of section
314.

48. In section 314, after the word "property", the words "in execution of a decree" shall be inserted.

Amendment
of section
316.

49. For section 316, the following shall be substituted (namely):—

Certificate to
purchaser of
immoveable
property.

"316. When a sale of immoveable property has become absolute in manner aforesaid, the Court shall grant a certificate stating the property sold and the name of the person who at the time of sale is declared to be the purchaser. Such certificate shall bear the date of the confirmation of the sale; and, so far as regards the parties to the suit and persons claiming through or under them, the title to the property sold shall

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Amendment. [ACT XII

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1879.] Civil Procedure Code Amendment.

vest in the purchaser from the date of such certificate
and not before: provided that the decree under which
the sale took place was still subsisting at that date."

50. In section 320, paragraph two, after the word
"also", the words "notwithstanding anything here-
inbefore contained," shall be inserted; and for sections
321 to 325, both inclusive, the following shall be sub-
stituted (namely):—

Amendment
of sections
320 to 325.

"321. When the execution of a decree has been so
transferred, the Collector may—

Power of
Collector
when execu-
tion of de-
cree is so
transferred.

(a) proceed as the Court would proceed under sec-
tion 305; or

(b) raise the amount of the decree by letting in
perpetuity, or for a term, on payment of a premium,
or by mortgaging, the whole or any part of the pro-
perty ordered to be sold; or

(c) sell the property ordered to be sold or so much
thereof as may be necessary."

"322. When the execution of a decree, not being
a decree ordering the sale of immoveable property in
pursuance of a contract specifically affecting the same,
but being a decree for money in satisfaction of which
the Court has ordered the sale of immoveable pro-
perty, has been so transferred, the Collector, if, after
such enquiry as he thinks necessary, he has reason to
believe that all the liabilities of the judgment-debtor
can be discharged without a sale of the whole of his
available immoveable property, may proceed as here-
inafter provided."

Procedure of
Collector
when execu-
tion of decree
so transfer-
red.

"322A. In the case mentioned in section 322, the
Collector shall publish a notice calling upon—

Notice to be
given to
decree-
holders and
to persons
having
claims on the
property.

(a) every person holding a decree for money against
the judgment-debtor capable of execution by sale of
his immoveable property, and which such decree-
holder desires to have so executed, and every holder
of a decree for money in execution of which proceed-
ings for the sale of such property are pending, to pro-
duce before the Collector a copy of the decree, and a
certificate from the Court which passed or is execut-
ing the same, declaring the amount recoverable there-
under;

(b) every

(b) every person having any claim on the said property, to submit to the Collector a statement of such claim, and to produce the documents, if any, by which it is evidenced.

"Such notice shall be in the language of the district, and shall allow a period of sixty days from the date of its publication for compliance therewith. It shall be published by being posted in the court-house of the Court which made the original order under section 304, and at such other places (if any) as the Collector thinks fit. Where the address of any such decree-holder or claimant is known, a copy of the notice shall be sent to him by post or otherwise."

Amount of money-decrees to be ascertained, and immoveable property available for their satisfaction.

"322B. Upon the expiration of the said period the Collector shall appoint a day for hearing any representations which the judgment-debtor and the decree-holders or claimants (if any) may desire to make, and for holding such enquiry as he may deem necessary for informing himself as to the nature and extent of such decrees and claims and of the judgment-debtor's immoveable property, and may from time to time adjourn such hearing and enquiry.

"If there be no dispute as to the fact or extent of the liability of the judgment-debtor to any of the decrees or claims of which the Collector is informed, or as to the relative priorities of such decrees or claims, or as to the liability of any such property for the satisfaction of such decrees or claims, the Collector shall draw up a statement, specifying the amount to be recovered for the discharge of such decrees, the order in which such decrees and claims are to be satisfied, and the immoveable property available for that purpose.

"If any such dispute arises, the Collector shall refer the same, with a statement thereof and his own opinion thereon, to the Court which made the original order under section 304, and shall, pending the reference, stay proceedings relating to the subject thereof. The Court shall dispose of the dispute if the matter thereof be within its jurisdiction, or transmit the case to a competent Court for disposal, and the

Amendment. [ACT XII

claim on the said pro-
a statement of such
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sixty days from the
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may deem necessary
nature and extent of
judgment-debtor's
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Collector shall
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1879.] *Civil Procedure Code Amendment.*

final decision shall be communicated to the Collector.
The Collector shall then draw up a statement as
above provided in accordance with such decision."

"322C. The Collector may, instead of himself
issuing the notices and holding the enquiry required
by sections 322A and 322B, draw up a statement
specifying the circumstances of the judgment-debtor
and of his immoveable property so far as they are
known to the Collector or appear in the records of
his office, and forward such statement to the District
Court; and such Court shall thereupon issue the
notices, hold the inquiry and draw up the statement
required by sections 322A and 322B, and transmit
such statement to the Collector."

When
District
Court may
issue notices
and hold
inquiry.

"322D. The decision by the Court of any dispute
arising under section 322B or section 322C shall, as
between the parties thereto, have the force of, and be
appealable as, a decree."

Effect of deci-
sion of Court
as to dispute
arising under
section 322B
or 322C.

"323. Whenever the amount to be recovered and
the property available have been determined as pro-
vided in section 322B or 322C, the Collector may—

Scheme for
liquidation
of money-
decrees.

(1) if it appears that the amount cannot be re-
covered without the sale of the whole of the property
available, proceed to sell such property; or if it
appears that the amount with interest (if any) in
accordance with the decree, and when not decreed,
with interest (if any) at such rate as he thinks reason-
able, may be recovered without such sale,

(2) raise such amount and interest (notwithstand-
ing any order under section 304),

(a) by letting in perpetuity or for a term, on pay-
ment of a premium, the whole or any part of the
said property; or

(b) by mortgaging the whole or any part of such
property; or

(c) by selling part of such property; or

(d) by letting on farm, or managing by himself
or another, the whole or any part of such property
for any term not exceeding twenty years from the
date of the order of sale; or

(e) partly

(e) partly by one of such modes, and partly by another or others of such modes.

“(3) For the purpose of managing under this section the whole or any part of such property, the Collector may exercise all the powers of its owner.

“(4) For the purpose of improving the saleable value of the property available or any part thereof, or rendering it more suitable for letting or managing, or for preserving the property from sale in satisfaction of an incumbrance, the Collector may discharge the claim of any incumbrancer which has become payable, or compound the claim of any incumbrancer whether it has become payable or not, and, for the purpose of providing funds to effect such discharge or composition, may mortgage, let or sell any portion of the property which he deems sufficient. If any dispute arises as to the amount due on any incumbrance with which the Collector proposes to deal under this paragraph, he may institute a suit in the proper Court, either in his own name or the name of the judgment-debtor, to have an account taken, or he may agree to refer such dispute to the decision of two arbitrators, one to be chosen by each party, or of an umpire to be named by such arbitrators.

“In proceeding under paragraphs (2), (3) and (4) of this section, the Collector shall be subject to such rules consistent with this Act as may from time to time be made in this behalf by the Chief Controlling Revenue-Authority.”

Recovery of
balance, if
any, after
letting or
management.

“324. If, on the expiration of the letting or management under section 323, the amount to be recovered has not been realized, the Collector shall notify the fact in writing to the judgment-debtor or his representative in interest, stating at the same time that, if the balance necessary to make up the said amount is not paid to the Collector within six weeks of the date of such notice, he will proceed to sell the whole or a sufficient part of the said property; and if on the expiration of the said six weeks the said balance is not so paid, the Collector shall sell such property or part accordingly.”

“324A. The

amendment. [ACT XII

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proving the saleable
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letting or managing,
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324A. The

1879.] Civil Procedure Code Amendment.

"324A. The Collector shall from time to time render to the Court which made the original order under section 304 an account of all monies which come to his hands and of all charges incurred by him in the exercise and performance of the powers and duties conferred and imposed on him under the provisions of this chapter, and shall hold the balance at the disposal of the Court.

Collector to
render ac-
counts to the
Civil Court.

"Such charges shall include all debts and liabilities from time to time due to the Government in respect of the property or any part thereof, the rent (if any) from time to time due to a superior holder in respect of such property or part, and (if the Collector so directs) the expenses of witnesses summoned by him.

"Such balance shall be applied by the Court as follows :—

Application
of balance.

firstly, in providing for the maintenance of such members of the judgment-debtor's family (if any) as are entitled to be maintained out of the income of the property, to such amount in the case of each member as the Court thinks fit; and

secondly, where the Collector has proceeded under section 321, in satisfaction of the original decree in execution of which the Court ordered the sale of immoveable property or otherwise as the Court may under section 295 direct; or

thirdly, where the Collector has proceeded under section 322, in keeping down the interest on incumbrances on the property, and (when the judgment-debtor has no other sufficient means of subsistence) in providing for his subsistence to such amount as the Court thinks fit; and in discharging rateably the claims of the original decree-holder and any other decree-holders who have complied with the said notice, and whose claims were included in the amount ordered to be recovered;

and no other holder of a decree for money shall be entitled to be paid out of such property or balance until the decree-holders who have obtained such order have been satisfied;

and

Civil Procedure Code Amendment. [ACT XII]

and the residue, if any, shall be paid to the judgment-debtor or such other person, if any, as the Court directs."

Sales how to
be conducted.

"325. When the Collector sells any property under this chapter, he shall put it up to public auction, in one or more lots as he thinks fit, and may—

(a) fix a reasonable reserved price for each lot;

(b) adjourn the sale for a reasonable time, whenever he deems the adjournment necessary for the purpose of obtaining a fair price for the property, recording his reasons for such adjournment;

(c) buy-in the property offered for sale, and resell the same by public auction or private contract, as he thinks fit."

Restrictions
as to aliena-
tion by
judgment-
debtor or his
representa-
tive, and
prosecution
of remedies
by decree-
holders.

"325A. So long as the Collector can exercise or perform in respect of the judgment-debtor's immoveable property, or any part thereof, any of the powers or duties conferred or imposed on him by sections 322 to 325 (both inclusive), the judgment-debtor or his representative in interest shall be incompetent to mortgage, charge, lease or alienate such property or part except with the written permission of the Collector, nor shall any Civil Court issue any process against such property or part in execution of a decree for money.

"During the same period no Civil Court shall issue any process of execution either against the judgment-debtor or his property in respect of any decree for the satisfaction whereof provision has been made by the Collector under section 323.

"The same period shall be excluded in calculating the period of limitation applicable to the execution of any decree affected by the provisions of this section in respect of any remedy of which the decree-holder has thereby been temporarily deprived."

Provision
where pro-
perty is in
several
districts.

"325B. When the property of which the sale has been ordered is situate in more districts than one, the powers and duties conferred and imposed on the Collector by sections 321 to 325 (both inclusive) shall

from

Amendment. [ACT XII

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1879.] *Civil Procedure Code Amendment.*

from time to time be exercised and performed by such
one of the Collectors of the said districts as the Local
Government may by general rule or special order
direct."

"325C. In exercising the powers conferred on
him by sections 322 to 325 (both inclusive), the Col-
lector shall have the powers of a Civil Court to compel
the attendance of parties and witnesses and the pro-
duction of documents."

Powers of
Collector to
compel
attendance of
parties and
witnesses and
production of
documents.
Amendment
of section 326.

51. In section 326, for the last sentence, the
following shall be substituted (namely) :—

"In such case the provisions of sections 320, para-
graph two, to 325C (both inclusive) shall apply, as
far as they are applicable."

52. In section 331, paragraph two, for the words
and figures "the Specific Relief Act, 1877, section
9," the word and figure "chapter V" shall be substi-
tuted; and to the same section the following para-
graph shall be added (namely) :

Amendment
of section
331.

"Every such order shall have the same force as a
decree, and shall be subject to the same conditions as
to appeal or otherwise."

53. In section 332, first paragraph, for the word
"defendant", the word "judgment-debtor" shall be
substituted; and for the other paragraphs the following
shall be substituted (namely) :

Amendment
of section
332.

"If after examining the applicant it appears to
the Court that there is probable cause for making the
application, the Court shall proceed to investigate the
matter in dispute; and if it finds that the ground
mentioned in the first paragraph of this section exists,
it shall make an order that the applicant recover
possession of the property, and if it does not find as
aforesaid, it shall dismiss the application.

"In hearing applications under this section, the
Court shall confine itself to the grounds of dispute
above specified.

"The party against whom an order is passed
under this section may institute a suit to establish the
right which he claims to the present possession of the
property ;

property ; but, subject to the result of such suit, if any, the order shall be final."

Amendment
of section
333.

Transfer of
property by
judgment-
debtor after
institution of
suit.

Amendment
of section
335.

Obstruction
by claimant
other than
judgment-
debtor.

54. For section 333, the following shall be substituted (namely) :—

"333. Nothing in section 331 or 332 applies to a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree is made."

55. In section 335, for the first paragraph, the following shall be substituted (namely) :—

"335. If the purchaser of any such property is resisted or obstructed by any person, other than the judgment-debtor claiming in good faith a right to the present possession thereof, or if, in delivering possession thereof, any such person is dispossessed, the Court, on the complaint of the purchaser or the person so dispossessed, shall inquire into the matter of the resistance, obstruction or dispossession, as the case may be, and pass such order thereon as it thinks fit";

and in the second paragraph of the same section, for the word "conclusive", the word "final" shall be substituted.

Amendment
of section
336.

56. In section 336, for the first proviso, the following shall be substituted :—

"Provided that, for the purpose of making an arrest under this section, no dwelling-house shall be entered after sunset or before sunrise, and no outer door of a dwelling-house shall be broken open :

"But when the officer authorized to make the arrest has duly gained access to any dwelling-house, he may unfasten and open the door of any room in which he has reason to believe the judgment-debtor is to be found : provided that, if the room be in the actual occupancy of a woman who is not the judgment-debtor, and who according to the customs of the country does not appear in public, the officer shall give notice to her that she is at liberty to withdraw ; and, after allowing a reasonable time for her to withdraw and giving her every reasonable facility for withdrawing, he may enter such room for the purpose of making the arrest."

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1879.] *Civil Procedure Code Amendment.*

57. In section 339, paragraph four, after the word “made”, the words “to the proper officer of the Court” shall be inserted ; and to the same paragraph the following words shall be added (namely) : “and the subsequent payments (if any) shall be made to the officer in charge of the jail.”

Amendment
of section
339.

58. In section 341, for clauses (a), (b), (c), (d) and (e) and the proviso, the following shall be substituted (namely) :—

Amendment
of section
341.

“(a) on the amount mentioned in the warrant of committal being paid to the officer in charge of the jail ; or

“(b) on the decree being otherwise fully satisfied ; or

“(c) at the request of the person on whose applica-
tion he has been imprisoned ; or

“(d) on such person omitting to pay the allowance
as hereinbefore directed ; or

“(e) if the judgment-debtor be declared an insol-
vent, as hereinafter provided ; or

“(f) when the term of his imprisonment, as
limited by section 342, is fulfilled :

“Provided that, in the second, third and fifth cases
mentioned in this section, the judgment-debtor shall
not be discharged without the order of the Court.”

59. For section 344, the following shall be sub-
stituted :—

Amendment
of sections
344, 345, 347,
349, 350, 351,
356, 357, 358,
359 and 360.
Power to
apply for
declaration
of insol-
vency.

“344. Any judgment-debtor arrested or imprison-
ed in execution of a decree for money, or against
whose property an order of attachment has been made
in execution of such a decree, may apply in writing to
be declared an insolvent.

“Any holder of a decree for money may apply in
writing that the judgment-debtor may be declared an
insolvent.

“Every such application shall be made to the
District Court within the local limits of whose juris-
diction the judgment-debtor resides or is in custody.”

Civil Procedure Code Amendment. [ACT XII

In section 345, for the first line and clause (a), the following shall be substituted namely:—

Contents of
application.

“345. The application, when made by the judgment-debtor, shall set forth—

“(a) the fact of his arrest or imprisonment, or that an order for the attachment of his property has been made, the Court by whose order he was arrested or imprisoned, or by which the order of attachment was made, and, where he has been arrested or imprisoned, the place in which he is in custody.”

And to the same section the following paragraph shall be added:—

“The application, when made by the holder of a decree for money, shall set forth the date of the decree, the Court by which it was passed, the amount remaining due thereunder, and the place where the judgment-debtor resides or is in custody.”

In section 347, for the first paragraph, the following shall be inserted (namely):—

Service of
copy of
application
and notice.

“347. The Court shall fix a day for hearing the application, and shall cause a copy thereof, with a notice in writing of the time and place at which it will be heard, to be stuck up in court and served at the applicant's expense—

“where the applicant is the judgment-debtor—on the holder of the decree in execution of which he was arrested or imprisoned or the order of attachment was made, or on the pleader of such decree-holder, and on the other creditors (if any) mentioned in the application:

“where the applicant is the decree-holder—on the judgment-debtor or his pleader.”

To section 349 the following words shall be added (namely): “or release him on his furnishing sufficient security that he will appear when called upon.”

In sections 349, 350 and 351, for the word “applicant” wherever it occurs, the word “judgment-debtor” shall be substituted.

In section 351, clause (b), after the word “imprisoned”,

1879.] *Civil Procedure Code Amendment.*

prisoned", the words "or the order of attachment was made," shall be inserted.

In section 356, for clause (d), the following clauses shall be substituted :—

"(d) to discharge according to their respective priorities all debts secured by mortgage of the insolvent's property :

"(e) to distribute the balance among the scheduled creditors rateably according to the amounts of their respective debts and without any preference."

And to the same section the following shall be added (namely) :—

"Provided that, in any local area in which a declaration has been made under section 320 and is in force, no sale of immoveable property paying revenue to Government or held or let for agricultural purposes shall be made by the Receiver; but after he has sold the other property of the insolvent, the Court shall ascertain (a) the amount required to satisfy the claims of the scheduled creditors after deducting the monies already received, (b) the immoveable property of the insolvent remaining unsold, and (c) the incumbrances, if any, existing thereon, and shall forward a statement to the Collector containing the particulars aforesaid; and thereupon the Collector shall proceed to raise the amount so required by the exercise of such of the powers conferred on him by sections 322 to 325 both inclusive, as he thinks fit, and subject to the provisions of those sections so far as they may be applicable; and shall hold at the disposal of the Court all sums that may come to his hands by such exercise."

In section 357, for the figures "355", the figures and word "351 or 355" shall be substituted;

and for the words "decrees against him held by the scheduled creditors are fully satisfied or become capable of being executed", the following shall be substituted (namely) : "debts due to the scheduled creditors are satisfied to the extent of one-third, or until the expiry of twelve years from the date of the order of discharge under section 351 or 355."

Civil Procedure Code Amendment. [ACT XII

For section 358 the following shall be substituted :—

Declaration
that insol-
vent is dis-
charged
from liabili-
ty.

“358. If the aggregate amount of the scheduled debts is two hundred rupees or a less sum, the Court may, and in any case after the scheduled debts have been satisfied to the extent of one-third, or after the expiry of twelve years from the order of discharge, the Court shall, declare the insolvent discharged as aforesaid absolved from further liability in respect of such debts.”

In section 359, after the words “sentence him”, the words “by order in writing” shall be inserted.

To section 360 the following paragraph shall be added (namely) :—

“Nothing in this chapter shall apply to any Court having jurisdiction in the towns of Rangoon, Maulmain, Akyab and Bassein where the property of the judgment-debtor exceeds in value two thousand five hundred rupees, or the amount of the pecuniary claims against him exceeds five thousand rupees, or such property or any part thereof is situate outside British Burma.”

Amendment
of sections
361, 362,
363, 365 and
368.

60. In sections 361, 362, 363, 365 and 368, for the words “cause of action” wherever they occur, the words “right to sue” shall be substituted ; and to section 368 the following clause shall be added (namely) :

“When the plaintiff fails to make such application within the period prescribed therefor, the suit shall abate.”

Amendment
of sections
364 and 366.

61. In section 364, paragraph one, and section 366, paragraph one, after the word “If”, the words “within the time limited by law” shall be inserted ; and in the latter section, paragraph one, before the word “award”, the words “shall, on the application of the defendant,” shall be inserted.

Amendment
of section
371.

62. In section 371, paragraph two, after the word “deceased”, the word “or” shall be inserted.

Amendment
of section
373.

63. In section 373, paragraph one, for the words “for the part”, the words “in respect of the part” shall be substituted ; and to paragraph two, the words “or in respect of the same part” shall be added.

Amendment

64. In section 375, after the word “adjusted”, the words

be substituted:—
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words "wholly or in part" shall be inserted: after the words "respect to", the words "the whole or any part of" shall be inserted; and to the same section shall be added the words "so far as relates to so much of the subject-matter of the suit as is dealt with by the agreement, compromise or satisfaction."

of section
375.

65. In section 377, for the first seven words, the following shall be substituted (namely): "Notice in writing of the deposit shall be given through the Court".

Amendment
of section
377.

66. In sections 384, 477 and 483, after the word "affidavit", the words "or otherwise" shall be inserted.

Amendment
of sections
384, 477 and
483.

67. In section 386, for the second paragraph and the two provisoes, the following shall be substituted (namely):

Amendment
of section
386.

"Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint."

68. In section 406, for the word "shall", the words "may, if he thinks fit," shall be substituted.

Amendment
of section
406.

69. In section 412, after the word "dispaupered," the words and figures "or if the suit is dismissed under section 97 or 98," shall be inserted.

Amendment
of section
412.

70. In section 413, for the word "Refusal", the words and figures "An order of refusal made under section 409" shall be substituted.

Amendment
of section
413.

71. In section 424, after the words "against a public officer", the words "in respect of an act purporting to be done by him in his official capacity" shall be inserted; and in sections 428 and 429, after the words "public officer", the words "in respect of such act as aforesaid" shall be inserted.

Amendment
of sections
424, 428 and
429.

72. In section 437, for the first sentence, the following shall be substituted (namely):

Amendment
of section
437.

"In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator

Civil Procedure Code Amendment. [ACT XII

administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit."

Amendment
of section
456.

73. In section 456, for the words "in the name of the minor", the words "in the name and on behalf of the minor or by the plaintiff" shall be substituted; and to the same section the following paragraph shall be added (namely):

"Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian: provided that he has no interest adverse to that of the minor."

Amendment
of section
469.

74. In section 469, after the word "arrest" and after the word "warrant" (in each of the places where it occurs), the words "or other process" shall be inserted; and in the second paragraph, after the words "signature, and", the words "in the case of a warrant of arrest" shall be inserted.

Amendment
of section
473.
Amendment
of section
478.

75. To section 473 the words "and shall adjudicate on such claim" shall be added.

76. In the last paragraph of section 478, for the words "an order for bringing the defendant", the words "a warrant to arrest the defendant and bring him" shall be substituted.

Amendment
of section
481.

77. To section 481 the following words shall be added (namely): "provided that no person shall be detained in prison under this section after he has complied with such order."

Amendment
of section
483.

78. In section 483, after the words "portion of his property", the words "within the jurisdiction of the Court" shall be inserted.

Amendment
of section
484.

79. In section 484, after the word "suit," the words "or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him" shall be inserted.

Amendment
of section
497.

80. In section 497, clause one, for the words "the injunction", the words "an injunction which it has granted" shall be substituted.

Amendment
of section
523.

81. In section 523, paragraph three, for the words "any of", the word "all" shall be substituted.

82. In

1879.] *Civil Procedure Code Amendment.*

82. In the last clause of section 539, for the words "(where there is no Advocate General) be exercised by the Government Advocate or (where there is no Government Advocate)", the following words shall be substituted (namely): "outside the Presidency-towns be exercised also by the Collector or".

Amendment
of section
539.

83. In section 544, for the words "decree, and", the words "decree, and thereupon" shall be substituted.

Amendment
of section
544.

84. For section 555, the following shall be substituted (namely):—

Amendment
of section
555.

"555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply."

Right to
begin.

85. In section 560, for the words "it be proved that the respondent", the words "he satisfies the Court that the notice was not duly served, or that he" shall be substituted.

Amendment
of section
560.

86. In section 561, for the words "given to the appellant or his pleader seven days' notice of such objection", the words "filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal" shall be substituted.

Amendment
of section
561.

87. In section 566, paragraph two, for the word "issue," the word "issues," shall be substituted.

Amendment
of section
566.

88. For the first paragraph of section 582, the following shall be substituted (namely):—

Amendment
of section
582.

"582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under chapter V; and in sections 363 and 365, the word 'plaintiff' shall be held to include an appellant."

Appellate
Courts to
have same
powers as
Courts of ori-
ginal juris-
diction.

89. In section 584, clause (c), after the word "may", the word "possibly" shall be inserted.

Amendment
of section
584.

90. In

27

Amendment
of section
588.

90. In section 588, for clauses (a) to (w), the following shall be substituted (namely):—

“(1) orders under section 20, staying proceedings in a suit;

“(2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant;

“(3) orders under section 36 or section 66, directing that a party shall appear in person;

“(4) orders under section 44, adding a cause of action;

“(5) orders under section 47, excluding a cause of action;

“(6) orders returning plaints for amendment or to be presented to the proper Court;

“(7) orders under section 111, setting-off, or refusing to set-off, one debt against another;

“(8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit;

“(9) orders rejecting applications under section 108 for an order to set aside a decree *ex parte*;

“(10) orders under sections 113, 120 and 177;

“(11) orders under section 116 or section 245 rejecting, or returning for amendment, written statements or applications for execution of decrees;

“(12) orders under sections 143 and 145, directing anything to be impounded;

“(13) orders under section 162 for the attachment and sale of moveable property;

“(14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property;

“(15) orders under section 261, as to objections to draft-conveyances or draft-endorsements;

“(16) orders under section 294, the first paragraph of section 312, or section 313, for confirming, or setting aside, or refusing to set aside, a sale of immoveable property;

“(17) orders

Amendment. [ACT XII

changes (a) to (w), the
namely):—

staying proceedings

striking out or adding
in or defendant;

section 66, direct-
person;

adding a cause of

including a cause of

amendment or to

striking off, or refus-

under section
order to set aside

under section
per parte;

120 and 177;

section 245 re-

written state-

decrees;

145, directing

the attachment

attachment of
for the sale

objections to

paragraph

firming, or
sale of im-

) orders

1879.] *Civil Procedure Code Amendment.*

“(17) orders in insolvency-matters, under section 351, 352, 353 or 357;

“(18) orders under section 366, paragraph two, section 367 or 368;

“(19) orders rejecting applications under section 370 for dismissal of a suit;

“(20) orders under section 371 refusing to set aside the abatement or dismissal of a suit;

“(21) orders disallowing objections, under section 372;

“(22) orders under section 454, 455 or 458, directing a next friend or guardian for the suit to pay costs;

“(23) orders in interpleader-suits under section 473, clause (a), (b) or (d), section 475 or section 476;

“(24) orders under section 479, 480, 485, 492, 493, 496, 497, 502 or 503;

“(25) orders under section 514, superseding an arbitration;

“(26) orders under section 518, modifying an award;

“(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

“(28) orders under section 562, remanding a case;

“(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.”

91. For the first paragraph of section 589, the following shall be substituted:—

Amendment of section 589.

“589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court.”

What Courts to hear appeals.

92. In section 622, after the words “so vested,” the words “or to have acted in the exercise of its jurisdiction illegally or with material irregularity” shall be inserted.

Amendment of section 622.

93. In section 638, for the figures and word “16 and 17,” the figures and word “16, 17 and 19,” shall

Amendment of section 638.

be

Civil Procedure Code Amendment. [ACT XII

be substituted; and in the last paragraph, after the word "any", the words "Judge of a" shall be inserted, and the word "its" shall be omitted.

Amendment
of section
642.

94. In section 642, for the second paragraph, the following shall be substituted (namely) :—

"And, except as provided in sections 256 and 643, where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtárs, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under this Code while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal."

Amendment
of section
648.

Procedure
when person
to be arrested
or property
to be attached
is outside
the district.

95. For section 648, the following shall be substituted (namely) :—

"648. Where any Court desires that any person shall be arrested or any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

"The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

"and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under chapter XXXIV) for satisfying any decree that may be passed

against

paragraph, after the
shall be inserted,

and paragraph, the
(namely) :—

sections 256 and 643,
a tribunal having
good faith that it
hereto, their plead-
recognized agents,
once to a summons,
this Code while
for the purpose
from such tri-

shall be substi-

that any person
shall be attached
relating to the
resides or pro-
of its jurisdic-
issue a warrant
and send to
limits of whose
resides or is
together with
of the arrest or at-

cept of such copy
attachment to be
Court subordinate
which issued
the arrest or at-

est under this
to the Court
nel, unless he
ance before
under chapter
be passed
against

1879.] *Civil Procedure Code Amendment.*

against him by such Court, in either of which cases
the Court making the arrest shall release him."

96. To section 649 the following paragraph shall
be added (namely) :—

Amendment
of section
649.

"In the same chapter, the expression 'Court
which passed a decree,' or words to that effect, shall,
unless there be something repugnant in the context,
be deemed to include, where the decree to be executed
is passed in appeal, the Court which passed the decree
against which the appeal was preferred, and, where
the Court which passed the decree to be executed has
ceased to exist or to have jurisdiction to execute it,
the Court which, if the suit wherein the decree
was passed were instituted at the time of making ap-
plication for execution of the decree, would have
jurisdiction to try such suit."

97. After section 650, the following shall be in-
serted (namely) :—

Addition to
section 650.

"650A. Summonses issued by any Court situate
beyond the limits of British India may be sent to the
Courts in British India and served as if they had been
issued by such Courts: provided that the Courts issu-
ing such summonses have been established by the
authority of the Governor General in Council, or
that the Governor General in Council has, by notifica-
tion in the *Gazette of India*, declared the provisions
of this section to apply to such Courts."

Service of
foreign sum-
monses.

98. In section 652, after the words "connected
with", the words "its own procedure or" shall be
inserted.

Amendment
of section
652.

99. In the first schedule, column third, opposite
"XI of 1865," for the figures and word "11, para-
graph 2," the figures and words "11, the last nine-
teen words of section 13, section 19" shall be substitu-
ted; and opposite "V of 1866", after the word "in-
clusive)" the words "and the schedule" shall be
inserted.

Amendment
of schedule
I.

100. In the second schedule—

for the figures "230", the figures "228" shall be
substituted:

Amendment
of schedule
II.

Civil Procedure Code Amendment. [ACT XII

before the word and figures "Chapter XXI", the words and figures "Chapter XX, section 360—Power to invest certain Courts with insolvency-jurisdiction" shall be inserted :

after the words and figures "Chapter XXXIV.—Of arrest and attachment before judgment", the words and figures "except as regards immoveable property.

"Chapter XXXVI—Appointment of receivers" shall be inserted : and

for the figures "522", the figures "526" shall be substituted.

Amendment
of schedule
IV.

101. In the fourth schedule, to the note to form No. 145 the following words shall be added (namely) : "and as fairly and accurately as possible the other particulars required by section 287 to be specified" ; in form No. 149, for the word "thirty", the word "sixty" shall be substituted ; and in form No. 172, for the word "seven" in each of the places where it occurs, the word "ten" shall be substituted.

Pending ap-
peals.

102. Every appeal now pending which would have lain if this Act had been in force on the date of its institution shall be heard and determined as if the Act had been in force on such date ; and every order heretofore passed purporting to transfer a case to a Collector under section 320, and every notification heretofore published purporting to be issued under section 360, shall be deemed to have been respectively passed and issued in accordance with law.

Orders and
notifications
under sec-
tions 320 and
360.

Interpreta-
tion-clause.

103. In the preceding sections of this Act, the words "section" and "schedule" respectively mean section of, and schedule annexed to, the said Code.

AND whereas it is also expedient to amend the Indian Registration Act, 1877, in manner hereinafter appearing ; It is hereby further enacted as follows :—

Amendment
of Act III. of
1877, section
35.

104. In section 35 of the same Act, after the words "person appears", the words "to the registering officer" shall be inserted ; and after the words "refuse to register the document", the words "as to the

Amendment. [ACT XII

"Chapter XXI", the
section 360—Power
solveny-jurisdiction "

Chapter XXXIV.—Of
"Assignment", the words
"immoveable property."

ment of receivers "

"526" shall be

the note to form
added (namely):
possible the other
specified"; in
the word "sixty"
No. 172, for the
where it occurs,

which would
on the date of
determined as if
and every order
after a case to a
every notification
issued under
on respectively

this Act, the
respectively mean
said Code.

amend the
hereinafter
follows:—
after the
register-
words
to
the

1879.] Civil Procedure Code Amendment.

the person so denying, appearing or dead" shall be inserted.

105. In section 51 of the same Act, for the figures "87", the figures "89" shall be substituted. Amendment of section 51.

106. In section 83 of the same Act, for the words "Subordinate Magistrate of the first", the words "Magistrate of the second" shall be substituted. Amendment of section 83.

107. In section 89 of the same Act, for the words "the certificate", the words "the copy" shall be substituted; and to the same section the following paragraph shall be added (namely):— Amendment of section 89.

"Every Court granting a certificate under section 316 of the Code of Civil Procedure shall send a copy of such certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the immoveable property comprised in such certificate is situate, and such officer shall file the copy in his Book No. 1."

AND whereas it is also expedient to amend the Indian Limitation Act, 1877, in manner hereinafter appearing; It is hereby further enacted as follows:—

108. In the second schedule to the said Indian Limitation Act 1877— Amendment of Act XV of 1877, schedule II.

for No. 161, the following shall be substituted (namely):—

"161.—For the issue of a notice under section 258 of the same Code to show cause why the payment or adjustment therein mentioned should not be recorded as certified.	Twenty days.	When the payment or adjustment is made."
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to No. 166, column one, the following words shall be added (namely): "or on the ground that the decree-holder has purchased without the permission of the Court";

to No. 171, column one, the words "or appellant" shall be added; and in column three, after the word "plaintiffs," the words "or appellants" shall be inserted;

Civil Procedure Code Amendment. [ACT XII, 1879.]

after No. 171, the following shall be inserted
(namely) :—

"171A.—Under section 366 of the same Code, by the defendant.	Sixty days ...	The date of the plaintiff's death.
"171B.—Under section 368 of the same Code, to have the representative of a deceased defendant made a defendant.	Ditto ...	The date of the defendant's death.
"171C.—Under section 371 of the same Code, for an order to set aside an order for abatement or dismissal.	Ditto ...	The date of the order for abatement or dismissal."

and in No. 179, column three, paragraph 6, for the words "specified date) the date so specified," the words "certain date) such date" shall be substituted.