

ACT No. VIII. OF 1855.

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PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 17th February 1855.)

An Act to amend the law relating to the office and duties of Administrator General.

WHEREAS it is expedient to amend the law relating to the office and duties of Administrator General, It is enacted as follows:—

Preamble.

I. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Designation of the Administrators General in the three Presidencies.

II. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say,

Appointment, suspension and removal of Administrators General.

The Administrator General of Bengal, by the Governor General of India in Council.

The Administrator General of Madras, and the Administrator General of Bombay, by the Governments of those Presidencies respectively.

III. Any person now holding the office of Administrator General at any of the said Presidencies, shall continue to hold the same, subject to the provisions of this Act.

Continuance of existing incumbents.

IV. The Administrator General shall not be deemed in that capacity to be an officer of the Supreme Court.

Administrator General not to be deemed an officer of the Supreme Court.

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V. All letters of administration, which, since the passing of Act No. II. of 1850, have been granted by the Supreme Court of Judicature at Fort St. George to the Ecclesiastical Registrar of that Court in virtue of his office, and all estates, effects and interests, books, papers and documents, now vested in, or belonging to the said Ecclesiastical Registrar, or under his control, by virtue of any such letters of administration, are by this Act transferred to and vested in him as Administrator General of that Presidency, and such letters of administration shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act as if they had been granted to him as Administrator General.

Letters of administration granted to the Ecclesiastical Registrar of the Madras Supreme Court since Act II. of 1850, and Estates, &c. transferred to Administrator General.

The present Administrator General of Madras may hold the office of Ecclesiastical Registrar.

Otherwise no Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

Proviso.

VI. The two offices of Ecclesiastical Registrar of the Supreme Court and Administrator General may be held by the present Administrator General at the Presidency of Fort St. George. With that exception, no person now holding the office of Administrator General, or hereafter to be appointed to such office, in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor, without the express sanction of Government, any other office, together with that of Administrator General. Provided that nothing in this Act shall prevent the present Administrator General of Bengal from holding the office of Receiver of the Supreme Court of Judicature now held by him.

VII. Unless the Governor General of India in Council or the Government with the sanction of the Governor General of India in Council shall otherwise order, every Administrator General hereafter to be appointed shall give security to the East India Company for the due execution of his office, for one lakh of Rupees by his own bond and for another lakh of Rupees, or for separate sums amounting together to one lakh of Rupees, by the deposit of Government Securities or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds; provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another

Security to be given by Administrator General.

Substitution of Security or Sureties.

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another previously given for such last mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound so far as the security shall relate to the due execution of his office for the time then to come.

VIII. No Administrator General shall be required by the Supreme Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

No Security to be required by Supreme Court on grant of letters to Administrator General.

IX. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the Supreme Court of Judicature at any of the said Presidencies, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased; and it is hereby declared that the Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor or friend of the deceased.

Administrator General entitled to letters of administration, unless granted to next of kin of deceased.

Administrator General entitled in preference to creditor or friend.

X. The words "next of kin" shall be deemed throughout this Act to include a widower or widow of the deceased, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor of the deceased. Provided that no Ecclesiastical Registrar or other Officer of any of the said Courts, shall, by reason of his office, be deemed entitled to any letters of administration or *ad colligenda bona*, or have any grant thereof made to him.

Construction of words "next of kin."

Ecclesiastical Registrar not to be entitled to administration by reason of his office.

XI. If any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have left assets exceeding the value of five hundred Rupees within any of the said Presidencies, or any of the Provinces or places subject thereto,

When administration of estates of persons other than Mahomedans or Hindoos is to be by Administrator General.

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thereto, or shall, if not a British subject, have left personal assets exceeding five hundred Rupees within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and no person shall, within one month after his death, have applied for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the Supreme Court of Judicature at such Presidency letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Provided that assets, which any person may be entitled to collect, receive, or dispose of, by virtue of a certificate granted under Act XX. of 1841, shall not be deemed assets within the meaning of this Section.

Proviso as to assets under Act XX. of 1841.

XII. Whenever any person, whether a Mahomedan or Hindoo or not, shall die leaving assets within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at any of the said Presidencies, it shall be lawful for the Court, upon the application of any person interested in such assets or in the due administration thereof, either as a creditor, next of kin, or otherwise, or upon the application of a friend of any infant who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation of such assets, unless letters of administration of the effects of such person are granted, to make an order directing the Administrator General to apply for letters of administration of the effects of such person.

Upon death of any person leaving assets within local limits, the Court may, if assets are in danger, direct Administrator General to apply for administration.

XIII. Section XX. Act No. XIX. of 1841 is hereby repealed, except as to acts done and except as to any case in which an order shall have been made before the commencement of this Act.

Repeal of Section 20 Act XIX. of 1841.

XIV. Whenever

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XIV. Whenever any person, whether a Mahomedan or Hindoo or not,

Upon death of any person leaving property within local limits, Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

shall have died leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, and such Court shall be satisfied that danger is to be apprehended of the misappropriation or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator

General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property ; and the Administrator

Rate of Commission payable in such case.

General shall be entitled to a commission of one per cent. upon the amount of all personal assets collected or received by him in pursuance of such order ; and in case letters of administration of any such effects shall be afterwards granted to the Administrator General, the said commission of one per cent. shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section shall entitle the Administrator General to collect and to take possession of such property, and if necessary, to maintain an action for the recovery thereof.

Administrator General may be Official Trustee under Act XVII. of 1843.

XV. The Administrator General of the Presidency may be appointed an official Trustee under Act No. XVII. of 1843.

XVI. If in the course of proceedings to obtain letters of administration under the provisions of Sec. XI. or Sec. XII. of this Act,

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

any executor appointed by a will of the deceased shall appear according to the practice of the court and prove the will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next of kin of the deceased, and shall give such security as shall be required of him by law or by the practice of

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the Court, the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary expenses thereof.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

XVII. If no person shall appear according to the practice of the Court, and entitle himself to probate of a will, or to a grant of letters of administration, as next of kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law, or according to the practice of

If no executor or next of kin appear or give necessary security, letters of administration to be granted to Administrator General.

the Court, the Court shall grant letters of Administration to the Administrator General. Provided that, in the case of an application being made under Section XII. of this Act for letters of administration to the effects of a deceased Mahomedan or Hindoo, the Court may refuse to grant letters of administration to any person if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

Administration to effects of deceased Mahomedans or Hindoos not to be granted under Section XII. unless required to protect the assets.

Costs of unnecessary application.

Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

XVIII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

XIX. If any letters of administration, which shall be granted to the Administrator General under the provisions of this Act, shall be revoked, or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void. Provided that no notice of a will or of any other fact which would render any such letters of administration void, shall affect the Administrator

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Proviso.

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General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

XX. If any letters of administration which shall be granted under this Act, shall be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid, notwithstanding such revocation.

What payments made or acts done by Administrator General prior to revocation of Administration upon production of a will, shall be deemed valid.

XXI. If an executor or next of kin of the deceased, who shall not have been personally served with a citation, or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid.

In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next of kin.

Unless a will is proved, application to revoke such administration must be made within one year and without needless delay.

Provided that no letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased shall be proved, unless the application for that purpose shall be made within one year after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

XXII. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the costs of obtaining such letters of administration and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

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trator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate.

XXIII. Any payment or delivery of assets to any legatee, or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery. Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable, and provided also that no notice of any debt or claim shall affect the Administrator General unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice and be prosecuted without unreasonable delay.

After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

Person receiving payments liable to refund.

What to be notice of debt or claim.

XXIV. All letters of administration, which shall be granted to any Administrator General in virtue of his office, shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate ; and all estates, effects and interests, which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration shall, upon such resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto ; and all books, papers and documents kept by such Administrator General by virtue of his office, shall be transferred to, and vested in his successor in office.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letters.

On death, &c. of Administrator General, estate, &c., to vest in successor.

And office books to be transferred.

XXV. All

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XXV. All actions, suits or other proceedings, which shall be commenced by or against any Administrator General in his representative character, may be brought by or against him by his name of office, and no suit, action or other proceedings already commenced, or which shall be commenced against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him.

Administrator General to sue or be sued in his representative capacity by his name of office.
Suit not to abate by death, &c.
Proviso.

XXVI. The Administrator General of each of the said Presidencies under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office, and the Administrator General of Madras under any letters of administration which are vested in him by Section V. of this Act, shall be entitled to receive a commission, at the following rates respectively; viz.:

Commission to be received by Administrators General.

The Administrator General of Bengal at the rate of 3 per cent., and the Administrators General of Madras and Bombay respectively at the rate of 5 per cent., upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

XXVII. The Commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General.

What expenses, &c., commission is to cover.
How payable.

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General who shall distribute any assets in the due course of administration and may be retained by him upon such distribution. The amount of the commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act.

Commission retained to be deemed a distribution.

XXVIII. The Governments of the said Presidencies of Fort St. George and Bombay respectively, may, with the sanction of the Governor General of India in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of those Presidencies respectively to be reduced and again to be raised. Provided that the commission so to be received shall not at any time exceed five per cent. of the assets collected, and that no person now holding the office of Administrator General of either of the said Presidencies of Fort St. George or Bombay shall, by any such order, be deprived of the right to receive and retain for his own use, a commission at the rate of three per cent. in respect of all assets collected and actually administered by him.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso.

XXIX. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Administrator General to defray expenses of establishment and all other charges not expressly provided for.

XXX. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, or by either of the said other Supreme Courts of Judicature since the passing of Act No. II. of 1850, or which shall hereafter be granted by either of the said Courts; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

Specific bequest in favor of executors not affected.

XXXI. The

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XXXI. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

Administrator General to keep a separate account-book for each estate, to be open to inspection, &c. on payment of fee, &c.

XXXII. The Government shall have power, from time to time, to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the East India Company at their House in England of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited, pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies so far as the same are not inconsistent with this Act, shall

Government may make and alter rules and orders consistent with this Act.

For custody of assets.

For remittance of money.

For guidance of Administrator General.

Proviso as to rules now in force.

shall

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shall be of the same force and effect as if the same had been made and published under this Act.

XXXIII. Such orders shall be published in the official *Gazettes* of the
Publication of or several Presidencies, and it shall be the duty of the
ders, &c. several Administrators General to obey and fulfil the
same, and the same shall be a full authority and indemnity for all persons
acting in pursuance thereof.

XXXIV. The Administrator General of each of the said Presidencies
Administrator Ge- shall, twice in every year—that is to say, on the first
neral to furnish half- day of March, and on the tenth day of August, or on the
yearly Schedules, &c. first day on which the Supreme Court of Judicature at
the Presidency shall be sitting after those days, or on such other days as the
Government shall, by any rules or orders to be published as aforesaid,
direct—exhibit and deliver, in open Court, a true Schedule showing the
gross amount of all sums of money received or paid by him on account of
each estate in his charge, and the balances during the period of six months,
ending severally on the thirty-first day of December and thirtieth day of
June next before the day of delivering such Schedule, and a true list of all
bonds or other securities received on account of each of the said estates during
the same period ; and also a true Schedule of all administrations, whereof
the final balances shall have been paid over to the persons entitled to the
same, during the same period, specifying the amount of such balances, and
the persons to whom paid, which Schedules shall be filed of record in such
Schedules to be filed Supreme Court of Judicature, and shall, within fourteen
and published. days afterwards, be published in the official *Gazette* of the
Presidency by the said Administrator General ; and copies thereof in
triplicate shall be delivered by such Administrator General to the Secretary
of the said Presidency, and shall be sent by the Governor thereof to the
Court of Directors of the East India Company, in order that the said Court
of Directors may, if they think fit so to do, order the same to be deposited
at the East India House, London, for public inspection, and may cause
notices to be published in the *London Gazette* and other leading newspapers,
that such Schedules are open to inspection there, or may make such other
orders respecting the same as they may think fit.

XXXV. The

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XXXV. The Government shall, from time to time, appoint an auditor or auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

Government to appoint Auditors.

XXXVI. The auditor or auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which, by this Act, are, or which, by any such general rules and orders as aforesaid, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine Schedule, and report to Government.

XXXVII. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference; and if the Administrator General or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at the Presidency; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

Auditors to have power to summon witnesses and to call for books, &c.

Penalty for non-attendance.

XXXVIII. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed

Costs of preparing Schedule, &c. how to be paid.

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buted by each of the said estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

XXXIX. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Government.

Auditors to report specially to Government, if accounts appear not correct.

XL. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the Supreme Court of Judicature in the Presidency, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, or other person or persons, defendants, who shall be bound to answer the same as fully as if the same had been contained in a bill filed for the like purpose; and the Court shall have power upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Proceedings upon such report.

XLI. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power

Costs of reference, &c. how to be defrayed.

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power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the Court to have same effect and to be executed in same manner as decretal orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal orders.

XLIII. Whenever any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not and whether before or after the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit, at any time before administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred rupees.

In what case Administrator General may grant certificate.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take) or by such other evidence as he shall require.

Certificate with receipt annexed to be a sufficient discharge.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall pre-

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L. And whereas it appears from the books and accounts of the Administrator General of Bombay, that, on the thirtieth day of June 1851, there were in his charge Government Securities and cash, arising from accumulations of interest on estates heretofore administered by, or in the charge of the Ecclesiastical Registrar of the Supreme Court of Judicature at that Presidency, over and above the amount of interest heretofore allowed on the administration of such estates, it is further enacted as follows :—The Administrator General of Bombay shall forthwith transfer and pay the said Government Securities, and cash balance, and any other Government Securities and cash which, at the time of the passing of this Act, shall or may be in his charge, or under his control in respect of such accumulations of interest, or any additions thereto, to the Accountant General and Sub-Treasurer of Bombay, to be carried to the account and credit of the East India Company, for the general purposes of Government ; and the receipt of the Accountant and of the Sub-Treasurer of Bombay for any monies or securities so paid or transferred to them under the provisions of this Act, shall be a full indemnity and discharge to the Ecclesiastical Registrar and Administrator General for any such payment or transfer.

LI. The net proceeds of all estates in the official charge of the Administrator General of either of the Presidencies of Fort St. George or Bombay, and which now appear, or shall hereafter appear, from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of either of those Presidencies, or from the official books and accounts of either of those officers, to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed, shall be transferred and paid to the Sub-Treasurer of the East India Company at Fort St. George and Bombay respectively, and be carried to the account and credit of the East India Company, for the general purposes of Government ; and the receipt of the said Sub-Treasurer and Accountant General shall be a full indemnity and discharge to the said Administrator General for any such payment or transfer. Provided that this Act shall not authorize any transfer or payment of any such proceeds as aforesaid, pending any suit already instituted, or which shall be hereafter instituted, in respect thereof.

Accumulation of interest in the hands of the Administrator General at Bombay to be transferred to the E. I. Company.

In the Madras & Bombay Presidencies, the proceeds of Estates unclaimed for 15 years to be transferred to the E. I. Company.

Provide.

ACT No. VIII. OF 1855.

LIII. If any claim shall be hereafter made to any part of the securities, monies, or proceeds which shall be carried to the account or credit of the East India Company under the provisions of this Act, and if such claim shall be established to the satisfaction of the Administrator General and Accountant General to the Government of Fort St. George and Bombay, for the time being, respectively, the said Accountant General shall direct the Sub-Treasurer of the Presidency to pay, and the said Sub-Treasurer shall thereupon pay, out of the monies of the East India Company in his custody, to the claimant, the amount of the principal so carried to the credit and account of the said East India Company, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the Supreme Court at the Presidency against the East India Company and Administrator General of the Presidency for the time being, and after taking evidence, either orally or on affidavit, in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, which order shall be binding on all parties to the suit.

Mode of proceeding by claimant to recover principal money so transferred.

LIIII. Section VI. Regulation XV. of 1806 of the Bengal Code and Section V. Regulation IV. of 1809 of the Madras Code are hereby repealed.

Regulations repealed.

LIV. Whenever any British subject shall die leaving personal assets within the limits of the jurisdiction of a Zillah Judge and no will shall be found among the effects of the deceased, it shall be the duty of the Zillah Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge until letters of Administration shall have been obtained by the Administrator General or by some other person from the Supreme Court of Judicature, when the property shall be delivered over to the person obtaining such letters of Administration, or, in the event of a will being discovered, to the person who may obtain probate of the will.

Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to Administrator General.

LV. In the construction of this Act, the word "Government" shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of

ACT No VIII. of 1855.

power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the Court to have same effect and to be executed in same manner as decretal orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal orders.

XLIII. Whenever any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not and whether before or after the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit, at any time before administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred rupees.

In what case Administrator General may grant certificate.

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take) or by such other evidence as he shall require.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall pre-

Certificate with receipt annexed to be a sufficient discharge.

ACT No VIII. OF 1855.

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ACT No. VIII. OF 1855.

Proviso. clude any executor or administrator of the deceased from recovering from the person receiving the same, the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration ; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

XLVI. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded five hundred rupees.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XLVII. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Fee for Certificate.

XLVIII. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Penalty for false swearing, &c.

XLIX. It is hereby declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person or persons whomsoever, unless so far as shall appear to him to be expedient for the due management of the estates of which letters of administration shall be granted to him, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively ; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Penalty for Trading.

Exception.

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Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to Administrator General.

LV. In the construction of this Act, the word "Government" shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of Fort

Construction of Act.

ACT No. VIII. of 1855.

Fort William in Bengal or any place subordinate thereto, and the person or persons for the time being administering the Executive Government of the Presidency, so far as the Act relates to the Presidencies of Fort St. George and Bombay respectively ; the words "letters of administration" shall include any letters of administration, whether general or limited or with a will annexed, and letters *ad colligenda bona*. Words in the masculine gender shall include the feminine ; and words in the singular number shall include the plural, and *vice versa* ; unless where such construction would be inconsistent with or repugnant to the context.

Repeal of Acts. LVI. Acts VII. of 1849 and II. of 1850 are hereby repealed as to all letters of administration which shall hereafter be applied for or granted.

Act not to apply to administration of estates of soldiers or sailors. LVII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, or to the estate or effects of any officer, seaman or other person dying in the Marine Service of the East India Company, called the Indian Navy, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary, or other officer having similar powers with regard to the estate or effects of any officer, seaman or other person dying in the Indian Navy ; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the Service of the East India Company, or of any Articles of War, or of any Act of Parliament relating to the Indian Navy.

Commencement of Act. LVIII. This Act shall commence and take effect from the 1st day of March 1855.

~~1855~~