

THE ADMINISTRATOR GENERAL'S ACT, 1867.

ARRANGEMENT OF SECTIONS.

PART I.

Preliminary.

1. Short title.
2. Repeal of Acts.
3. Interpretation clause.

PART II.

Of the Office of Administrator General.

4. Designation of the Administrators General in the three Presidencies.
5. Appointment, suspension and removal of Administrators General.
6. Qualification of future and continuance of existing incumbents.
7. Administrator General not to be deemed an officer of High Court.
8. Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.
9. No Administrator General to be Ecclesiastical Registrar.
Administrator General not to hold any other office without sanction of Government.
Proviso.
10. Penalty for trading.
Exception.
11. Security to be given by Administrator General.
Substitution of security or sureties.
12. No security nor oath to be required by Court from Administrator General.
13. Appointment of officiating Administrator General.

PART III.

Of the Rights, Powers and Duties of the Administrator General.

(a).—Grants of Letters of Administration and Probate to the Administrator General.

14. As regards Administrator General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Sections 187 and 190 of Indian Succession Act.
15. Administrator General entitled to letters of administration, unless granted to next-of-kin of deceased.
Administrator General entitled in preference to creditor, non-universal legatee or friend.
16. When administration of estates of persons other than Hindús, Muhammadans or Buddhists is to be by Administrator General.

17. Upon death of any person leaving assets within local limits, High Court may, on application, if assets are in danger, direct Administrator General to apply for administration to effects of deceased Hindus, Muhammadans or Buddhists, not to be granted under this Section, unless required to protect the assets.
Costs of unnecessary application.
18. Upon death of any person leaving assets within local limits, High Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.
Rate of commission payable in such case.
19. Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.
Costs of proceedings taken by the Administrator General to be paid out of the estate.
20. If no executor or next-of-kin appear or give necessary security, letters of administration to be granted to Administrator General.
21. Administrator General in certain cases to secure and distribute the estate and effects of soldiers.
Proviso.
22. Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.
23. After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.
Exception.
Proviso.
24. What payments made or acts done by Administrator General prior to revocation of administration upon production of a Will, shall be deemed valid.
25. 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 six months and without needless delay.
26. Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.
27. Exclusion of creditors who have not proved from assets with which a dividend is made. 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.
28. Letters of administration to be granted to Administrator General in virtue of his office.
Authority given by such letters.
29. Grant of probate to Administrator General named as executor by virtue of his office.
30. Transfer by private executor or administrator of interest under probate or letters of administration.

Vesting of estates, &c., in successor of Administrator General.

(b).—Suits by and against the Administrator General.

32. Administrator General to sue and be sued in his representative capacity by his name of office. Suit not to abate by death, &c.
Proviso as to costs.
33. Creditors' suits against Administrator General.

(c).—Grant of Certificates by the Administrator General.

34. In what case Administrator General may grant certificate.
No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.
35. Grant of certificate to creditors.
Proviso.
36. Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.
37. Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.
Right of executor or administrator against certificate-holder.
Right of creditor against assets in hands of certificate-holder.
38. Administrator General not bound to take out administration on account of effects in respect of which he has granted a certificate.
39. Fee for certificate.

(d).—Expenses of the Administrator General's Establishment.

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

(e).—Accounts and Schedules.

41. Administrator General to keep a separate account for each estate, to be open to inspection on payment of fee.
42. Administrator General to furnish half-yearly schedules.
Schedules to be filed and published.

PART IV.

Of the Audit of the Administrator General's Accounts.

43. Government to appoint auditors.
44. Auditors to examine schedule, and report to Government.
45. Auditors to have power to summon witnesses and to call for books, &c.
Penalty for non-attendance.
46. Costs of preparing schedules, &c., how to be paid.
47. Auditors to report specially to Government if accounts appear not correct.
48. Proceedings upon such report.
49. Costs of reference, &c., how to be defrayed.

PART V.

Of the Commission of the Administrator General.

50. Commission to be received by Administrators General.
51. Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General.
Administrator General entitled to a commission of only three per cent. on gross amount of such property.
52. What expenses, &c., commission is to cover.
How payable.
Commission retained to be deemed a distribution.
53. Commission of the Administrator General of Bengal may be raised and again reduced
* Commission of the Administrators General of Madras and Bombay may be reduced and again raised.
Proviso.
54. Commission or agency not to be charged by executor or administrator other than the Administrator General.
Bequest in favour of executors not affected.

PART VI.

Miscellaneous.

55. 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.
56. Publication of orders, &c.
57. Orders of the Court to have same effect, and to be executed in same manner, as a decree.
58. Penalty for false evidence.
59. Assets unclaimed for fifteen years to be transferred to Government.
Proviso.
60. Mode of proceeding by claimant to recover principal money so transferred.
61. District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.
62. Act not to require administration of estates of soldiers, unless Administrator General authorized by Military Secretary or Committee of Adjustment.
63. Indian Succession Act and Indian Companies' Act not to affect Administrator General.
64. Power to appoint a Deputy Administrator General for the North-Western Provinces, and the Panjáb, Oudh and the Central Provinces.
Schedule of Acts repealed.

ACT No. XXIV OF 1867.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 22nd March 1867).

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

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the office and duties of Administrator General; It is hereby enacted as follows :—

PART I.

Preliminary.

Short title. 1. This Act may be called "The Administrator General's Act, 1867."

Repeal of Acts. 2. The Acts and parts of Acts specified in the Schedule hereto are repealed, except so far as they repeal other Acts or Regulations, or parts of Acts or Regulations. All things duly done under any of the said Acts or parts of Acts hereby repealed, shall be considered as having been done under this Act. Act No. XXVII of 1860 (*for facilitating the collection of debts on successions and for the security of parties paying debts to the representatives of deceased persons*) is repealed, except as to Hindús, Muhammadans and Buddhists and persons exempted under the Indian Succession Act, 1865, Section 332, from the operation of such Act.

Interpretation clause. 3. In this Act—unless there be something repugnant in the subject or context—

"Presidency of Bengal" includes the territories which are or shall for the time being be respectively under the governments of the Lieutenant Governors of Bengal, the North-Western Provinces and the Panjáb, and under the administrations of the Chief Commissioners of Oudh, the Central Provinces and British Burmah :

"Presidency

“ Presidency of Madras ” includes the territories which are or shall the time being be under the government of the Govern
 “ Presidency of Madras.” of Fort St. George in Council, Coorg, and also, so far as r
 gards British subjects, Mysore and the Hyderabad Assigned Districts :

“ Presidency of Bombay ” means the territories which are or shall for the
 “ Presidency of Bombay.” time being be under the government of the Governor of
 Bombay in Council :

“ Presidency Town.” “ Presidency Town ” means the town of Calcutta, Madras
 or Bombay, as the case may be :

“ Government ” means the Governor General of India in Council, so far as
 “ Government.” the Act relates to the Presidency of Bengal ; the person for
 the time being administering the executive government of
 the Presidency of Fort St. George, so far as the Act relates to the Presidency
 of Madras ; and the person for the time being administering the executive gov-
 ernment of the Presidency of Bombay, so far as the Act relates to that Presi-
 dency :

“ District Judge.” “ District Judge ” means the Judge of a principal civil
 Court of original jurisdiction :

“ Letters of Administration ” shall include any letters of administration,
 “ Letters of Admin- whether general or limited, or with a Will annexed, and
 istration.” letters *ad colligenda bona* :

“ Next-of-kin ” includes a widower or widow of a deceased person, or any other
 “ Next-of-kin.” person who, by law and according to the practice of the
 Courts, would be entitled to letters of administration in pre-
 ference to a creditor or legatee of the deceased :

“ Officer.” “ Officer ” means a commissioned officer of Her Majes-
 ty’s Army, or of Her Majesty’s Indian Army :

“ Soldier ” means a soldier of Her Majesty’s Army, or European soldier of
 “ Soldier.” Her Majesty’s Indian Army, including a warrant and a
 non-commissioned officer :

“ Assets ”

“Assets.”

“Assets” includes immoveable as well as moveable property :

Gender.
Number.

Words in the masculine gender include the feminine ; and words in the singular number include the plural, and *vice versa*.

PART II.

Of the Office of Administrator General.

4. In each of the Presidencies of Bengal, Madras 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.

Appointment, suspension and removal of Administrators General.

5. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively ; that is to say :—

The Administrator General of Bengal, by the Governor General of India in Council; the Administrator General of Madras, by the Government of Fort St. George; and the Administrator General of Bombay, by the Government of Bombay.

6. Any person hereafter appointed to the office of Administrator General or officiating Administrator General of any of the said Presidencies, shall be a member of the Bar of England or Ireland, or of the Faculty of Advocates in Scotland ; but any person now holding such office shall continue to hold the same, subject to the provisions contained in the other Sections of this Act.

Qualification of future and continuance of existing incumbents.

Administrator General not to be deemed an officer of High Court.

7. The Administrator General shall not be deemed in that capacity to be an officer of any High Court.

8. All probates and letters of administration granted by any of the late Supreme Courts of Judicature to the Ecclesiastical Registrar of such Court in virtue of his office, 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 the Administrator General.

Probates and letters of administration granted by Supreme Courts to Ecclesiastical Registrars to have same effect as if granted to the Administrator General.

9. No

9. 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 the Administrator General of the Presidency may be appointed Official Trustee under Act No. XVII of 1864 (*to constitute an office of Official Trustee*): Provided also, that the Administrator General of Bengal may hold the office of Receiver of the High Court of Judicature at Fort William.

No Administrator General to be Ecclesiastical Registrar.

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

Proviso.

10. It is hereby declared to be an offence punishable in manner provided by Section 168 of the Indian Penal Code, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person, unless so far as shall appear to him to be expedient for the due management of the estates which shall come into his charge under the provisions of this Act, 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.

11. 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 Secretary of State for India for the due execution of his office, for one l  kh of rupees by his own bond, and for another l  kh of rupees, or for separate sums amounting together to one l  kh 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 previously given for such last-mentioned l  kh 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

Security to be given by Administrator General.

Substitution of security or sureties.

of

those previously bound, so far as the security shall relate to the due execution of his office for the time then to come.

12. No Administrator General shall be required by any 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 Administrator General shall be required to verify, otherwise than by his signature, any petition presented by him under the provisions of this Act, and if the facts stated in any such petition are not within the Administrator General's own personal knowledge, the petition may be subscribed and verified by any person competent to make the verification. Whoever makes a statement in any such petition which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

13. Whenever any person holding the office of Administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person, while so officiating, shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under this Act, and shall be liable to give security under Section 11 of this Act in like manner as if he had been appointed Administrator General.

PART III.

Of the Rights, Powers and Duties of the Administrator General.

(a).—Grants of Letters of Administration and Probate to the Administrator General.

14. So far as regards the Administrator General of any of the Presidencies of Bengal, Madras and Bombay, the High Court of Judicature at the Presidency town shall be deemed to be a Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865* wheresoever within the Presidency the property to be comprised in the probate or letters of administration may be situate.

As regards Administrator General, High Court at Presidency town to be deemed a Court of competent jurisdiction within meaning of Sections 187 and 190 of Indian Succession Act.

15. Any

15. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the High Court of Judicature at any Presidency town, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next-of-kin of the deceased. The Administrator

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

Administrator General entitled in preference to creditor, non-universal legatee or friend.

other than an universal legatee, or a friend of the deceased.

16. If any person, not being a Hindú, Muhammadan or Buddhist, or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall have left assets exceeding at the date of the death or within

When administration of estates of persons other than Hindús, Muhammadans or Buddhists is to be by Administrator General.

one year thereafter the value of one thousand rupees within any of the said Presidencies, and no person shall, within one month after his death, have applied in such Presidency 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 High Court of Judicature at the Presidency town, letters of administration to the effects of such person, either generally or with a Will annexed, as the case may require. Whenever the Administrator General of the Presidency shall take proceedings under this Section, it shall be sufficient if the petition required by Section 246 of the Indian Succession Act, 1865, shall state the time and place of the deceased's death to the best of the petitioner's knowledge or belief, that the deceased left some property within the Presidency as hereinbefore defined, and the amount or value of assets which are likely to come into the petitioner's hands.

17. Whenever any person, whether a Hindú, Muhammadan or Buddhist, or not, shall have died leaving assets within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at the Presidency town, 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, legatee, next-of-kin or otherwise

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

erwise, or upon the application of a friend of any minor 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, deterioration or waste of such assets unless letters of administration of the effects of such person are granted, to make an order, upon such terms as to indemnifying the Administrator General against costs and other expenses as to the Court shall seem fit, directing the Administrator General to apply for letters of administration of the effects of such person. Provided that, in the

Administration to effects of deceased Hindús, Muhammdans or Buddhists, not to be granted under this Section, unless required to protect the assets.

case of an application being made under this Section for letters of administration to the effects of a deceased Hindú, Muhammdan or Buddhist, or person exempted as aforesaid, 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.

Costs of unnecessary application.

18. Whenever any person, whether a Hindú, Muhammdan or Buddhist,

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

or not, shall have died, whether before or after the passing of this Act, leaving assets within the local limits of the ordinary original civil jurisdiction of any of the said High Courts, and such Court shall be satisfied that danger is to be apprehended of the misappropriation, deterioration 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 adminis-

tration 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 General shall be entitled to a com-

Rate of commission payable in such case.

mission of one *per centum* upon the amount of all moveable assets collected or received by him in pursuance of such order, and also to reimburse himself for all payments made by him in respect of the assets which a private administrator of such assets might lawfully have made; and in case letters of administration of any such property shall be afterwards

wards granted to the Administrator General, the said commission of one *per centum* 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 a suit for the recovery thereof.

19. If in the course of proceedings to obtain letters of administration under the provisions of Section 16 or Section 17 of this Act 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 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 or intestate expenses thereof.

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

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

20. 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 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 the Court the Court shall grant letters of administration to the Administrator General.

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

21. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of an officer, soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole five hundred rupees, charging the estate with a commission of three *per centum* only. It shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this Section : but he shall have the same power

Administrator General in certain cases to secure and distribute the estate and effects of soldiers.

Proviso.

with

th regard to all such assets as he would have had if he had taken out such letters.

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

22. 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.

23. If any letters of administration which shall be granted to the Administrator General under the provisions of this Act, shall

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

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

Exception.

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,

Proviso.

shall affect the Administrator 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.

24. If any letters of administration which shall be granted under this

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

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.

25. If an executor or next-of-kin of the deceased, who shall not have

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

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

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 administration granted to such other person as aforesaid: Provided that

Unless a Will is proved, application to revoke such administration must be made within six months and without needless delay.

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 in the Presidency, unless the application for that purpose shall be made within six months 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.

26. 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 General in any proceedings taken to obtain such revocation, to

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

be paid to or retained by the Administrator General out of any assets belonging to the estate. Provided that, in any such case, when the deceased has left a Will appointing an executor, and probate of the Will has been granted by any Court in the Presidency to such executor within three months after the death, or when the widow or next-of-kin has, within one month if resident within the Presidency, or within three months if resident beyond the Presidency, obtained from any such Court letters of administration to the estate and effects of the deceased, then and in either of such cases the Administrator General shall (without prejudice to the provisions contained in Sections 17 and 18 of this Act) not be entitled to receive or retain any commission out of any assets belonging to such estate and situate within the jurisdiction of the Court by which probate or administration shall have been granted as last aforesaid.

27. Whenever the Administrator General shall declare a dividend among such creditors of the deceased as have proved their debts and shall notify the payment of such dividend by advertisement in the official *Gazette*, no creditor of the deceased who shall not previously to such declaration and advertisement

Exclusion of creditors who have not proved, from assets with which a dividend is made.

have

have proved his debt, shall be entitled to participate as such in the assets wherewith such dividend shall be made. Any payment or delivery of assets

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.

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 :

Person receiving payments liable to refund.

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

What to be notice of debt or claim.

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.

28. All letters of administration which shall be granted to any Ad-

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

ministrator 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

Authority given by such letters.

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.

29. Every probate which shall be granted to any Administrator General

Grant of probate to Administrator General named as executor by virtue of his office.

of a Will wherein he shall be named as executor by virtue of his office, shall be granted to him by his name of office, and shall authorize the Administrator General for the time being of the same Presidency to act as executor of the estate to

which such probate shall relate.

30. It shall be lawful for any private executor or administrator, with the

Transfer by private executor or administrator of interest under probate or letters of administration.

previous consent of the Administrator General of the Presidency in which the property comprised in the probate or letters of administration is situate, by an instrument in writing under his hand, bearing a stamp of ten rupees and notified

in

in the local *Gazette*, to transfer all estates, effects and interests vested in him by virtue of such probate or letters to the Administrator General by his name of office; and thereupon the transferor shall be exempt from all liability as such executor or administrator, as the case may be, for any act or omission in respect of the said property after the date of the said transfer; and the Administrator General for the time being shall have the rights and be subject to the liabilities which he would have had, and to which he would have been subject, if the probate or letters of administration, as the case may be, had been granted to him by his name of office at the date aforesaid. Nothing herein contained shall be taken to exempt any such transferor from liability for acts and omissions in respect of the said property prior to the transfer.

31. 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, probates or transfers as aforesaid, shall, upon every such death, resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto. All books, papers and documents kept by such Administrator General by virtue of his office or as such executor or transferee as aforesaid, shall be transferred to and vested in his successor in office.

Vesting of estates, &c., in successor of Administrator General.

(b).—*Suits by and against the Administrator General.*

32. All 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 or other proceedings already commenced or which shall be commenced by or 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 by or 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 suit against him.

Administrator General to sue and be sued in his representative capacity by his name of office.

Suit not to abate by death, &c.

Proviso as to costs.

33. If

33. Creditors' suits against Administrator General. If any suit shall be brought by a creditor against any Administrator General in his representative character, the plaintiff shall be liable to pay the costs of the suit and shall not be entitled to have the decree (if any) in such suit enforced, unless upon proof by affidavit or otherwise that not less than one calendar month previous to the institution of the suit he had applied in writing to the Administrator General, stating the amount and other particulars of the claim, and supporting the same by such evidence as, under the circumstances of the case, the Administrator General was reasonably entitled to require, and that the Administrator General had refused or neglected to register the claim according to the practice of his office. If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased *pari passu* with the other creditors.

(c).—*Grant of Certificates by the Administrator General.*

34. In what case Administrator General may grant certificate. Whenever any person, not being a Hindú, Muhammadan or Buddhist, or exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall have died, whether within any of the said Presidencies or not, whether before or after the passing of this Act, and whether testate or intestate, and shall have left moveable assets within any of the said Presidencies, and the Administrator General of such Presidency shall be satisfied that such assets do not exceed in the whole one thousand rupees in value, he may, after the lapse of one month from the death if he shall think fit, or before the lapse of the said month if he shall be requested so to do by writing under the hand of the executor or the widow or other person entitled to administer the effects of the deceased, grant to any person claiming otherwise than as a creditor to be entitled to a share of such effects, 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 one thousand rupees: Provided that no certificate shall be granted under this Section where probate of the deceased's Will or letters of administration of his effects has or have been granted, or in respect of any sum of money deposited in a Government Savings' Bank.

No certificate to be granted where probate or administration taken out, or in respect of money in Government Savings' Bank.

35. If

35. If in cases falling within Section 34 of this Act, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased shall, within three months, obtain a certificate from the Administrator General under the same Section, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration, in the same manner as if such letters of administration had been granted to him; and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall, upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the same Section, and shall be subject to all the provisions of this Act which are applicable to such certificate: Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

Grant of certificate to creditors.

Proviso.

36. 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 or solemn affirmation of the claimant (which oath 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.

37. A copy of any such certificate with a receipt annexed shall, when such copy and receipt are signed by the person to whom the certificate has been granted, be a full discharge for payment or delivery to him of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude 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

Copy of certificate with receipt annexed, when signed by certificate-holder, to be a discharge.

Right of executor or administrator against certificate-holder.

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.

Right of creditor against assets in hands of certificate-holder.

38. 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 one thousand rupees.

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

39. 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.

(d).—Expenses of the Administrator General's Establishment.

40. 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.

(e).—Accounts and Schedules.

41. 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. Such 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 for each estate, to be open to inspection on payment of fee.

42. The

42. The Administrator General of each of the said Presidencies shall twice in every year, that is to say, on or before the first day of April, and on or before the first day of October, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct, exhibit and deliver, in the High Court at Calcutta, Madras or Bombay, as the case may be, 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. Such schedules shall be filed of record in such High Court, and shall, within fourteen 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 Government, and shall be sent by such Government to the Secretary of State for India, in order that such Secretary may, if he think fit so to do, order the same to be deposited at the India Office 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 he may think fit.

PART IV.

Of the Audit of the Administrator General's Accounts.

43. The Government shall from time to time appoint 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.

44. The 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 hereinafter mentioned shall be, directed to be

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.

45. Every auditor shall have power to summon as well the Administrator General as any other person whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General or other person 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. If the Administrator General or other person when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document so 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 auditors shall certify such neglect or refusal in writing to the High Court at the Presidency town; 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 High Court.

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

Penalty for non-attendance.

46. 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. Such costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

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

47. If upon any such reference and examination the 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

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

comply with the provisions and directions of this Act or of any such rules and orders, they shall report accordingly to the Government.

48. 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 executor or administrator in the High Court in the Presidency town, 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, executor or administrator (hereinafter called the defendant), who shall be bound to answer the same as fully as if a commission had been issued under the provisions of the Code of Civil Procedure for his examination upon the said interrogatories. The Court shall have power upon any such petition to compel the attendance in Court of the defendant 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.

49. 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 out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant, the same shall be repaid to the estates by which they shall have been in the first instance contributed, and the Court may, if it shall think fit, order the defendant to receive his costs out of the said estates.

PART V.

Of the Commission of the Administrator General.

50. 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; or under any probates or letters of administration which are or shall be vested in him by Section 8 or Section 30

of

of this Act, shall be entitled to receive a commission at the following rates respectively, *viz.* :—

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

51. The last preceding Section shall not apply to cases in which the property of an officer or soldier dying on service shall come to the hands of the Administrator General of any of the said Presidencies, under the ninth or the twelfth Section of the Statute called "The Regimental Debts' Act, 1863;" and such Administrator General shall not be entitled to take, and it shall not be lawful for him to take, a percentage on any such property exceeding three *per centum* on the gross amount coming to his hands after the passing of the Administrator General's Act, 1865, if preferential charges as defined by the fourth Section of the said Statute have been previously paid, or on the gross amount remaining in his hands after payment by him of such charges, as the case may be.

Section 50 not to apply to property of officers and soldiers dying on service, which shall come to hands of Administrator General.

Administrator General entitled to a commission of only three per cent. on gross amount of such property.

52. The Administrator General shall be entitled to reimburse himself for any payments made by him in respect of any estate in his charge, which a private administrator of such estate might have lawfully made; but save as aforesaid, 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 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.

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

How payable.

Commission retained to be deemed a distribution

53. Th

53. The Governor General of India in Council may from time to time order the rate of commission hereinbefore authorized to be received by the Administrator General of Bengal to be raised to any rate not exceeding five *per centum* upon the amount or value of the assets which he shall collect and distribute in due course of administration and again to be reduced. The Governments of the 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 Madras and Bombay 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 centum* of the assets collected, and that no person now holding the office of Administrator General of Bengal, Madras 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 centum* in respect of all assets collected and actually administered by him.

Commission of the Administrator General of Bengal may be raised and again reduced.

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

Proviso.

54. 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 or High Court of Judicature at Fort William in Bengal since the passing of Act No. VII of 1849 (*for the appointment of an Administrator General in Bengal*), or by either of the Supreme or High Courts of Judicature at Madras and Bombay since the passing of Act No. II of 1850 (*to amend and extend to Madras and Bombay Act No. VII of 1849*), or which have been or shall be granted by any Court of competent jurisdiction within the meaning of Sections 187 and 190 of the Indian Succession Act, 1865 ; 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.

Bequest in favour of executors not affected.

PART VI.

Miscellaneous.

55. 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

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

curities which shall come to the hands or possession of the Administrator General, and for the remittance to the India Office 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 be of the same force and effect as if the same had been made and published under this Act.

For custody of assets.
For remittance of money.

For guidance of Administrator General.

Proviso as to rules now in force.

56. Such orders shall be published in the *Gazette of India*, the Fort St. George *Gazette*, or the Bombay Government *Gazette*, as the case may be, and it shall be the duty of the 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.

Publication of orders, &c.

Orders of the Court to have same effect, and to be executed in same manner, as a decree.

57. Any order which shall be made under this Act by any Court shall have the same effect and be executed in the same manner as a decree.

58. Whoever, having been sworn or having taken a solemn affirmation under this Act, shall upon any examination authorized by this Act, make a statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Penalty for false evidence.

59. All

a 6

59. All assets in the official charge of the Administrator General of any of the said Presidencies, and which now appear or shall hereafter appear from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of any of those Presidencies, or from the official books and accounts of any 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 Controller General of Accounts or to the Accountant General to the Government of Fort St. George or Bombay, as the case may be, and be carried to the account and credit of the Government of India for the general purposes of Government; and the receipt of the said Controller General or Accountant General, as the case may be, shall be a full indemnity and discharge to the said Administrator General for any such transfer or payment: Provided that this Act shall not authorize the transfer or payment of any such proceeds as aforesaid, pending any suit already instituted or which shall be hereafter instituted in respect thereof.

Assets unclaimed for fifteen years to be transferred to Government.

Proviso.

60. 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 Government of India under the provisions of this Act, and if such claim shall be established to the satisfaction of the Controller General or the Accountant General to the Government of Fort St. George or Bombay, as the case may be, the Government of India shall pay to the claimant the amount of the principal so carried to the credit and account of the said Government of India, 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 Controller General or Accountant General, as the case may be, the claimant may apply by petition to the High Court at the Presidency town against the Secretary of State for India, 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, and such order shall be binding on all parties to the suit.

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

61. Whenever any person, other than a Hindú, Muhammadan or Buddhist or a person exempted under the Indian Succession Act, 1865, Section 332, from the operation of that Act, shall die leaving assets within the limits of the jurisdiction of a District Judge, it shall be the duty of the District Judge to

District Judge in certain cases to take charge of property of deceased persons, and to report to Administrator General.

to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge, or appointing an officer under the provisions of the Indian Succession Act, 1865, Section 239, to take and keep possession of the same until the Administrator General shall have obtained letters of administration, or until some other person shall have obtained such letters or a certificate from the Administrator General under the provisions of this Act, when the property shall be delivered over to the person obtaining such letters of administration or certificate, or, in the event of a Will being discovered, to the person who may obtain probate of the Will.

62. 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, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary to Government, or by a Committee of Adjustment or other officers or persons acting under any law for the time being in force relating to the payment of regimental debts; 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 Her Majesty in India, or of any Articles of War.

63. Nothing contained in the Indian Succession Act, 1865, or the Indian Companies' Act, 1866, shall be taken to supersede or affect the rights, duties and privileges of the Administrators General and officiating Administrators General of Bengal, Madras and Bombay respectively.

64. It shall be lawful for the Governor General of India in Council to appoint a Deputy Administrator General for all or any of the territories which are or shall for the time being be respectively under the governments of the said Lieutenant Governors of the North-Western Provinces and the Panjáb, and under the administrations of the Chief Commissioners of Oudh and the Central Provinces; and the provisions contained in this Act as to the Administrator General of Bengal, shall apply to any Deputy Administrator General so appointed,

appointed, save that in such case this Act shall be construed in the North-Western Provinces, Oudh and the Central Provinces as if the High Court of Judicature for the North-Western Provinces of the Presidency of Fort William in Bengal and, in the Panjáb, as if the Chief Court of the Panjáb, were substituted for the High Court of Judicature at Fort William.

SCHEDULE.

NUMBER OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
VIII of 1855	An Act to amend the law relating to the office and duties of Administrator General.	The whole Act.
XXVI of 1855	An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of the deceased depositors.	Section 4.
XXVI of 1860	An Act to amend Act VIII of 1855 (relating to the office and duties of Administrator General).	The whole Act.
IV of 1865	An Act to exempt the estates of deceased officers and soldiers delivered over to the Administrator General of Bengal, Madras or Bombay, from the operation of the 26th Section of Act No. VIII of 1855.	The whole Act.
X of 1865	The Indian Succession Act, 1865	Section 330.
XXV of 1866	An Act to transfer to the Government of India certain securities and monies deposited in the High Courts of Judicature at Fort William, Madras and Bombay, and in the Supreme Court of the Straits' Settlement, and the proceeds of certain estates in the charge of the Administrator General of Bengal.	So much of the Act as relates to the Administrator General of Bengal.