

ACT No. XI OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 25th February 1863.)

An Act to consolidate and amend the law relating to the employment and remuneration of Peons for the service and execution of Civil Process.

WHEREAS it is expedient to consolidate and amend the law relating to
Preamble. the employment and remuneration of Peons for the service
and execution of Civil process in the Courts of the
North-Western Provinces of the Presidency of Fort William in Bengal and in
other parts of the British Territories in India, to which this Act shall be
extended as hereinafter provided ; It is enacted as follows :—

I. From and after the passing of this Act, Section XIV of Regulation
Laws repealed. XXVI. 1814 of the Bengal Code (*for modifying some of
the Rules at present in force regarding the admission and
trial of special and summary appeals from decisions passed in regular suits ; for
limiting and altering some of the existing provisions respecting the pleadings and
processes, and the mode of executing decrees and regular suits and appeals ; and
for explaining and making certain additions to the provisions of Regulation I.
1814*), Section V of Regulation VII. 1832 of the said Code (*for modifying
certain of the provisions of Regulation V. 1831, and for providing supplement-
ary Rules to that enactment*), and Act XIV of 1845 (*to provide for the
appointment of Nazirs in the Moonsiff's Courts*), shall cease to have effect in the
North-Western Provinces of the Presidency of Fort William in Bengal.

II. Subject to the approval of the Sudder Court the Judges of the sever-
al Zillah Courts in the said North-Western Provinces shall
Number of Peons for each Court by whom to be fixed. fix the number of Peons necessary to be employed in the
said Zillah Courts and in the several Courts subordinate
to them for the service and execution of processes issued out of such Courts,
respectively, and the Judges of the Courts of Small Causes in the said
Provinces shall in like manner fix the number of Peons necessary to be employed
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in the said Small Cause Courts for the service and execution of processes issued out of such Courts. Subject to the like approval the said Judges may from time to time alter the number of Peons to be so employed.

III. The appointment of Peons in the several Courts mentioned in the last preceding Section shall be made, subject to the approval of the Judge of the Court, by the Nazir of the Court in which the Peons are employed, or by the Clerk of the Court where there is such an Officer; and every such appointment shall be registered in the Court with the following particulars: the name of the Peon, his age, his place of abode, his father's name, and date of appointment.

IV. No person who shall not be appointed and registered as a Peon in the manner hereinbefore provided shall be employed in the service or execution of the process of any Court without the special leave of such Court.

V. The Peons who are appointed and registered in the manner above prescribed, shall be furnished at the expense of the State with a uniform belt and plate, on which shall be inscribed the Court to which the Peon belongs and the number of the Peon in the Register.

VI. The Peons appointed and registered under this Act shall either receive fixed salaries, or be remunerated by fees for the service of the processes served or executed by them, as the local Government shall direct. The amount of salary shall be fixed by the local Government.

VII. When the Peons appointed under this Act are remunerated by a fixed salary, the money paid under this Act for the service or execution of processes shall be carried to the credit of Government, and shall be formed into a fund out of which the salaries of such Peons shall be paid. Any surplus that may accrue from such fund, after paying the salaries of the Peons, shall be at the disposal of the local Government, and may be applied by such Government, subject to the approval of the Governor-General in Council, to the improvement of the administration of Civil Justice in the North-Western Provinces.

VIII. A

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VIII. A regular account of all moneys received into and paid out of Court under this Act shall be kept, and extracts from this account shall be forwarded to the local Government at such times, and in such form as such Government shall direct.

Account of moneys received into and paid out of Court.

IX. Every process served or executed under this Act shall be held to be a process within the meaning of Section 188 of the Code of Civil Procedure and Section II of Act XXIII of 1861 (to amend Act VIII of 1859 for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter).

Construction of process.

X. The Sudder Court shall make rules prescribing the cost of serving and executing processes issued by the said Court, and by the Courts subordinate to such Court, as well as by the Courts of Small Causes, established within the local limits of the jurisdiction of such Sudder Court, and for levying the same, and also rules for the remuneration of the Peons appointed and registered under this Act who are not paid by fixed salaries, and of all other persons who may be employed in the service or execution of processes by leave of a Court under the 4th Section of this Act, and also such other rules as the Sudder Court shall deem necessary, and shall not be inconsistent with the provisions of this Act, for carrying out the provisions of this Act. The rules made under this Section, after being confirmed by the local Government, shall have the force of law. Subject to the same confirmation the Sudder Court may from time to time vary the rules made under the authority of this Section. The rules made and confirmed under this Section, and a table of costs for serving and executing processes, shall be exposed to public view in every Court for which Peons are appointed and registered under this Act.

Sudder Court to make rules for fixing cost of serving process, remuneration of peons, &c.

XI. The Governor-General of India in Council shall have power by an order to be published in the *Calcutta Gazette* to extend the provisions of this Act to any part of the Territories under the immediate administration of the Governor-General in Council; and the Lieutenant-Governor of the Punjab shall have power by an order to be published in the *Official Gazette* to extend the provisions of this Act to any part of the Territory under his Government.

Powers of Governor General, and of Lieutenant-Governor, Punjab, to extend Act.

XII. The

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XII. The term "Judge" in this Act shall denote the Presiding Judicial Officer in every Court of Civil Judicature by whatever title he shall be designated. And in any place not subject to the General Regulations to which the provisions of this Act extend, or shall hereafter be extended as provided in the last preceding Section, the Judges of the principal Courts of original Civil Jurisdiction in such place shall be the Judges to fix the number of Peons necessary to be employed in such Courts, and in any Courts subordinate to such Courts, as provided in Section II of this Act, and subject to the approval therein mentioned.

XIII. When this Act shall be extended to any place under Section XI of this Act the term "Sudder Court" as used in this Act shall be taken to mean the highest Civil Court of appeal established in the place to which this Act shall be so extended.

Interpretation of "Sudder Court" in places to which Act shall be extended.