



सत्यमेव जयते

THE REGISTRATION MANUAL ASSAM

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PREFACE

In exercise of the passing of the adaptation of Laws Order, 1950, it has been considered advisable to revise the Registration Manual, published in 1914.

In the new Manual, Chapter - I contains the Indian Registration Act, XVI of 1908 as amended by the Decentraization Act, IV of 1914, Act, XV of 1917, the Devolution Act, XXXVIII of 1920 and the Adaptation of Laws Order 1950, Chapter-II Statutory Orders and Rules and Executive Orders of the Governor, Chapter-III, the revised Rules under Section-69 which have the force of Law, Chapter-IV, the revised table of fees and Chapter-V Executive Instructions and Orders advantage has been taken of the opportunity to add short notes leased on important High Copurt Rulings and Executive Instructions and these have been arranged in accordance with the Sections of the Act and the Rules to which they relate. A full index has been added so facilitaes reference.

The Manual may be cited as the Assam Registration Manual, 2007, it supersedes the Manual of 1953.

It is requested that any errors or omission may be brought to the notice of the Inspector General of Registration.

Date - 23.08.2007

Place - Guwahati

Syed I. Hussain, IAS
Inspector general of Registration, Assam,
Rupnagar : Guwahati - 32

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PHYSICS DEPARTMENT

MEMORANDUM

To: The Director of the Laboratory of Atomic Physics

From: The Laboratory of Atomic Physics

Subject: Report on the results of the experiment on the measurement of the fine structure constant.

Reference is made to the report of the Committee on the Fine Structure Constant.

The results of the experiment are summarized in the following table.

The results are in good agreement with the theoretical predictions.

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The Indian Registration Act, 1908

(XVI of 1908)

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THE INDIAN REGISTRATION ACT

(No. XVI of 1908)

Passed by the Governor General of India in Council
(Received the assent of the Governor General on the
18th December 1908).

An Act to consolidate the enactments relating to
the Registration of Documents.

Whereas it is expedient to consolidate the
enactments relating to the registration of
documents, it is hereby enacted as
follows:-

PART - I

Preliminary

Short title
extent and
commence-
ment

1.(1) This Act may be called the Indian Registration
Act, 1908.

(2) It extends to the whole of India except Part B States
and except such districts or tracts of country as the State
Government may exclude from its operation*.

(3) It shall come into force on the first day of January
1909.

Notes - By notification under Section 1(2) of the Indian Registration Act,
1908 (XVI of 1908), the undermentioned areas have been excluded
from the operation of the said Act with effect from the 8th
July, 1911 :-

(1) The United District of Mikir and North Cachar Hills except so
much of the Barpathar and Sarupathar mauzas as are included
within the district.

(2) The Lushai Hills District.

(3) The Dibrugarh Frontier Tract.

(4) The Naga Hills District.

*As amended by the Devolution Act XXXVIII of 1920 and the Adaptation of Laws
Order, 1950.

(5) The Garo Hills District with the exception of the civil station of Tura.

(6) The United Khasi-Jaintia Hills District with the exceptions of (1) any areas for the time being comprised within the Cantonment and Municipality of Shillong and (2) the Jowai Sub-Division with the exception of the Bhoi, Nongphyllut and Narpuh Circles.

(Vide Notification No. LRG.55/48/69, dated the 10th March 1962)

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-

(1) "addition" means the place of residence and the profession, trade, rank and title (if any) of a person described, and in the case of an *Indian, his caste (if any) and his father's name, or where he is usually described as the son of his mother, then his mother's name ;

(2) "book" includes a portion of a book and also any number of sheets connected together with a view of forming a book or portion of a book ;

(3) "district" and "sub-district" respectively means a district and sub-district formed under this Act ;

(4) "District Court" includes the High Court in its ordinary original civil jurisdiction ;

(5) "endorsement" and "endorsed" include and apply to an entry in writing by a registering officer on a rider or covering slip to any document tendered for registration under this Act ;

(6) "immovale property" includes land, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anythings which is atyatched to the earth but not standing timber, growing crops nor grass ;

Notes.-(i) See also definition of immovable property under section 3. Transfer of Property Act IV of 1882, and section 5 of the General Clauses Act, 1897 (X of 1897).

(ii) It has been held that by the term "timber" is meant property such as trees as are fit to be used in building and repairing houses.

(I.L.R., Volume - XXIV, Bombay Series, page 31). "

(iii) A simple agreement to grow indigo or other produce without any transfer of land, actual or contingent should be registered in Book IV, and the fee charged under Article F of the Table of fees. But the existence of any provision which involves even a contingent transfer of land as a penalty for non-fulfilment of the contract will bring the deed within the scope of documents relating to immovable property, and the deed should be registered in Book I.

(7) "lease" includes a counterpart, kabuliyat, and undertaking to cultivate or occupy and an agreement to lease ;

Note : (i) See definition of lease under section 105 of the Transfer of Property Act IV of 1882.

(ii) An undertaking to cultivate or occupy means an accepted undertaking giving to the lessee a right or interest in the things let (I. L. R., 3 Bom 21).

"Signaturer" and "signed" include and apply to the affixing of a mark ;

(8) "minor" means a person who, according to the personal law to which he is subject, has not attained majority ;

(9) "movable property" includes standing timber, growing crops and grass, fruit upon juice in trees, and property of every other description, except immovable property ; and

(10) "representative" includes the guardian of a minor and the committee or other legal curator of a lunatic or idiot ;

(11) "States" means all the territories for the time being comprised within Part A States and Part C States :

Note : (i) Under English Law majority is attained at twenty one Years, and the same age has been fixed by section 3 of the Indian Majority Act. in the case of minors under the Court of Wards, or of whose person or property a guardian has been appointed by a Court of Justice. The same section prescribes that "every other person domiciled in the States shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before". Under Section 3 of the Indian Succession Act X of 1865, also, majority is reached at eighteen.

(ii) A person made the guardian of a minor by his father's Will is not one appointed by a Court of Justice within the meaning of section 3, Act IX of 1875, even although he applies for an obtains probate of the Will from the Court. In such a case the minor attains majority on his completing the age of 18 years. (Jogesh Chandra Chakrabarti versus Umatarra Debi, 2, C. L. R., 577).

(iii) The appointment of a guardian *ad litem* is sufficient to make the minor party subject to section 3, Act IX of 1875, so far as it relates to the property is suit. (Suttya Ghosal versus Sutt्यानand Ghosal, I L. R., Cal. 388).

PART II

Of the Registration Establishment

Inspector
General of
Registration

3. (1) The *State Government shall appoint an officer to be the Inspector General of Registration for the territories subject to such Government :

Provided that the *State Government may, instead of making such appointment, direct that all or any of the powers and duties hereinafter conferred and imposed upon the Inspector General shall be exercised and performed by such officer or officers, and within such local limits as the *State Government appoints in this behalf.

(2) Any Inspector General may hold simultaneously any other office under the Government.

4. Omitted (a)

Districts and
Sub-district

5. (1) For the purposes of this Act, the State Government shall from districts and sub-districts and shall prescribe, and may alter, the limits of such districts and sub-districts.

*Inserted by the Adaptation of Laws Order, 1950.

(a) (Vide Adaptation Order, 1937).

(2) The districts and sub-districts formed under the section.

together with the limits thereof, and every alteration of such limits, shall be notified in the (b) official Gazette.

(3) Every such alteration shall take effect on such day after the date of the notification as is therein mentioned.

6. The *State Government may appoint such persons, whether public officers or not, as it think proper, to be Registrar of the several districts and to be Sub-Registrars of the several sub-district formed as aforesaid respectively.

7.(1) the *State Government shall establish in every district an office to be styled the office of the Registrar and in every sub-district an office or offices to be styled the office of the Sub-Registrar, or the offices of the joint Sub-Registrars.

(2) The *State Government may amalgamate with any office of a Registrar any office of a Sub-Registrar subordinate to such Registrar, and may authorise subordinate to such Registrar, and may authorise any Sub-Registrar whose office has been so amalgamated to exercise and perform, in addition to his own powers and duties, all or any of the powers and duties of the Registrar to whom he is subordinate :

Provided that no such authorization shall enable a Sub-Registrar to hear an appeal against an order passed by himself under this Act.

8.(1) The *State Government may also appoint Officers to be called Inspectors of Registration offices, and may prescribe the duties of such Officers.

(2) Every such Inspector shall be subordinate to the Inspector General.

9. Ommited.*

(b) The word "local" omitted by the Adaptation Order, 1937.

*Vide Adaptation of Laws-Order, 1937 and 1950.

*Vide Adaptation of Laws-Order, 1950.

*Vide Adaptation of Laws-Order, 1950.

*Vide Repealing and Amending Act. (X of 1927), Schedule II

Absence of Registrar or vacancy in his office

10.(1) when any Registrar, other than the Registrar of a district including a Presidency-town, is absent otherwise than on duty in his district, or when his office is temporarily vacant, any person whom the Inspector General appoints in this behalf, or in default of such appointment, the Judge of the District Court within the local limits of whose jurisdiction the Registrar's office is situate, shall be the Registrar during such absence or until the *State Government fill up the vacancy.

(2) When the Registrar of a district, including a Presidency-town is absent of otherwise than on duty in his district, or when his office temporarily vacant, any person whom the Inspector General appoints in this behalf shall be the Registrar during such absence, or until the *State Government fills up the vacancy.

Absence of Registrar on duty in his district.

11. When any Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform, during such absence, all the duties of a Registrar except those mentioned in sections 68 and 72.

Absence of Sub-Registrar or vacancy in his office

12. Whenever any Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar of the district appoints in this behalf shall be Sub-Registrar during such absence, or until the vacancy is filled up.

Note : -When a Sub-Registrar at headquarters is absent, or his office is temporarily vacant, if the Registrar is unable to appoint a suitable substitute, he may himself assume charge of the Sub-Registrar office pending the return of the Sub-Registrar, or the appointment of a successor ; and in such cases the extra or additional fee chargeable for registration by a Registrar under Section 30 (I) and the table of fees shall not be charged upon registrations effected during the absence of the Sub Registrar.

Report of certain appointments and suspension and removal and dismissal of officers.

13. All appointments made under Section 10, section 11 or Section 12 shall be reported to the *State Government by the Inspector General.

(2) Such report shall be either special or general, as the *State Government directs.

(3) Cancelled.

*Vide Adptation of Laws Order, 1950.

*Vide Adptation of Laws Order of 1937 and 1950.

Remuneration and establishment of registering officers.

14. (1) Cancelled.

(2) The *State Government may allow proper establishments for the several office under this Act.

Seals of Registering Officers

15. The several Registrars and Sub-Registrars shall use a seal bearing the following inscription in English and in such other language as the *State Government directs :- "The seal of the Registrar (or of the Sub-Registrar) of"

Note : -The seal of District Registrars and Deputy Registrar made under Section 12 of Act XVI of 1864 (an Act for Registration of assurances repealed Act XX of 1866) shall be deemed to be seals of Registrars and Sub-Registrars under this Act. The Seal shall always remain in personal custody of the registering officer.

16. (1) The *State Government shall provide for the office of every registering officer the books necessary for the purposes of the Act.

Register books and fire-proof boxes.

Note : -See also Section 51.

(2) The books so provided shall contain the forms from time to time prescribed by the Inspector General, with the sanction of the *State Government, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the officer by whom such books are issued.

(3) The *State Government shall supply the office of every Registrar with a fire-proof box, and shall in each district make suitable provision for the safe custody of the records connected with the registration of documents in such district.

16.-A. Keeping of books in Computer floppies and diskettes, etc.-

(1) Notwithstanding anything contained in Section 16, the books provided under Sub-Section (1) of that section may also be kept in Computer floppies or diskettes or in any other electronic form in the manner and subject to the safeguards as may be prescribed by the Inspector General with the sanction of the State Government.

(2) Notwithstanding anything contained in this Act or in any other law for the time being in force, a copy or extracts from the books kept under Sub-Section (1) given by the registering officer under his hand and seal shall be deemed to be a copy given under Section-57 for the purposes of Sub-Section (5) of that Section.

Note : -The safes in which sealed covers are disposed should be built into the wall of the registration office or, with the Collector's permission, of the treasury.

*Vide Adptation of Laws Order of 1937.

*Vide Adptation of Laws Order 1950.

*Vide Adptation of Laws Order 1950.

*Vide Adptation of Laws Order 1950.

PART III

Of the Registrable Documents

Documents
of which regi-
stration is
compulsory
XX of 1866
VII of 1871
III of 1873

17.(1) The following documents shall be registered, if the property to which they relate is situate in a district in which and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877 or this Act, came or comes into force, namely--

- (a) instruments of gift of immovable property ;
- (b) other non -testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of the value of one hundred rupees and upwards, to or in Immovable property ;
- (c) non-testamentary instruments which acknowledge the receipt or payment of any consideration, on account of the creation, declaration, assignment, limitation or extinction of any such right, title or interest ; and
- (d) leases of immovable property from year to year, or any term exceeding one year, or reserving a yearly rent ;
- (e) non-testamentary instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish whether in present or in future, any right, title or interest, whether vested or contingent of the value of one hundred rupees and upwards, to or in immovable property.

Provided that the *State Government may, by order published in the *official Gazette, exempt from the operation of this sub-section any leases executed in any district, or part of a district, the terms granted by which do not exceed five years and the annual rents reserved by which do not exceed fifty rupees.

[(1-A). The documents containing contracts to transfer for consideration, any immovable property for the purpose of Section 53-A of the Transfer of Property Act, 1882, shall be registered if they have been executed on or after the commencement of the Registration and Other Related Laws (Amendment) Act, 2001 and if such document are not registered on or after such commencement then, they shall have no effect for the purposes of the said Section 53-A]

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to-

- (i) any composition-deed ; or
- (ii) any instrument relating to shares in a joint Stock Company, notwithstanding that the assets of such Company consist in whole or in part of immovable property ; or
- (iii) any debenture issued by any such Company and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitle the holder to the security afforded by a registered instrument whereby the Company has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or
- (iv) any endorsement upon or transfer of any debenture issued by any such Company ; or
- (v) any document not itself creating, declaring, assigning, limiting or extinguishing, any right, title or interest of the value of one hundred rupees and upwards to or in immovable property, but merely creating a right to obtain another document which will, when executed, create, declare, assign, limit or extinguishing any such right, title or interest ; or

- (vi) any decree or order of a Court* except a decree or order expressed to be made on a compromise and comprising immovable property, other than that which is the subject matter of the suit or proceeding ; or
- (vii) any grant of immovable property by Government ; or
- (viii) any instrument of partition made by a Revenue Officer ; or
- (ix) any order granting a loan or instrument of collateral security granted under the Land Improvement Loans Act, 1871, or the Land Improvement Loans Act, 1883 ; or

XXVI of 1871.
XIX of 1883.

Note : (i) All instrument of gifts of immovable property of any value must be registered. (*Protona Kolita Versus Mothea Kolita*. II W. R. 334).

(ii) It has been held in the suit *Winterscale versus Gopal Chandra Seal* (3 B. L. R. O. C. 90) that a deed by which a defendant covenanted to pay a monthly sum "for the use and hire of machinery sheds and a bungalow". is one relating to immovable property. Documents of this class should therefore be registered in Book I.

(iii) The consideration mentioned in a deed of sale is to be taken as the value of the interest conveyed for registration purposes (*Rohini Debia versus Shib Chander Chatterjee*, 15 W.R. 558 *vesudev Moreshawar Vesudev Rama Babaji*, II Bom. H.C. A. C. 149).

(x) any order granting a loan under the Agriculturist' loan Act, 1884, or instrument for securing the repayment of a loan made under that Act ; or

XII of 1884.

(xi) any endorsement on a mortgage-deed acknowledging the payment of the whole or any part of the mortgage money, and any other receipt for payment of money due under a mortgage when the receipt does not purport to extinguish the mortgage ; or

(xii) any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Officer.

(*Inserted by the Transfer of property (Amendment) supply Act. XXI of 1929)

**Explanation* - A document purporting or operating to effect a contract for the sale of immovable property shall not be deemed to require or ever to have required registration by reason only of the fact that such document contains a recital of the payment of any earnest money or of the whole or any part of the purchase money.

(3) Authorities to adopt a son, executed after the first day of January, 1872, and not conferred by a will, shall also be registered.

Documents of which registration is optional.

18. Any of the following documents may be registered under this Act, namely -

(a) instruments (other than instruments of Gift and Wills) which purport or operate to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immovable property ;

(b) instrument acknowledging the receipt or payment of any consideration on account of the creation, declaration, assignment limitation or extinction of any such right, title or interest ;

(c) leases of immovable property for any term not exceeding one year, and leases exempted under Section 17 ;

(d) instruments (other than Wills) which purport or operate to create, declare, assign, limit or extinguish any right, title or interest to or in movable property ;

(e) Wills ; and

(f) all other documents not required by Section 17 to be registered.

Note : (i) - The necessity for registration must be determined by the value of the consideration stated in the deed and not by the actual market value of the property. [Rohinee Debia *versus* Shib Chander Chatarjee (15 W. R. 558).]

- (ii) It is no part of the duty of a registering officer to give decisions or advice as to whether the registration of a document is compulsory or optional, and they should refrain from doing so.

Documents in language not understood by registering officer.

19. If any document duly presented for registration be in a language which the registering officer does not understand, and which is not commonly used in the district, he shall refuse to register the document, unless it be accompanied by a true translation in to a language commonly used in the district and also by a true copy.

Documents containing interlineations, blanks erasures or alterations.

20.(1) The registering officer may in his discretion refuse to accept for registration any document in which any interlineation, blank, erasure or alteration appears, unless the persons executing the document attest with their signatures or initials such interlineation, blanks erasure or alteration.

(2) If the registering officer registers any such document, he shall, at the time of registering the same, make a note in the register of such interlineation, blank, erasure or alteration.

Note : (i) Refusal by the executing party to initial an apparent alteration not materially affecting the instrument, unaccompanied by any suggestion that the alteration was improperly made after execution, does not render the document non-registerable. [In the matter of the petition of Venkatasami Naik (I.L.R. 4 Mad. 101)].

Description of property and maps or plans.

21.(1) No nontestamentary document relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

(2) Houses in towns shall be described as situate on the north or other side of the street or road which should be specified to which they front, and by their existing and former occupancies, and by their numbers if the houses in such street or road are numbered.

(3) Other houses and lands shall be described by their name, if any, and as being in the territorial division in which they are situate, and by their superficial contents, the roads and other properties on which the contents, abut, and their existing occupancies, and also, whenever it is practicable, by reference to a Government map or survey.

(4) No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts.

Note : Where two instruments are contained in the same paper and relate to the same property, it is not a sufficient ground for refusing registration that in one of the documents the property is described only by reference to the other. (I.L.R. 4 Mad. 101).

Description of houses and land by reference to Government maps or surveys.

22.(1) Where it is in the opinion of the *State Government, practicable to describe houses not being houses in towns, and lands by reference to the Government map or survey, the *State Government may, by rule made under this Act, require that such houses and lands as aforesaid shall, for the purposes of Section 21, be so described.

(2) Save as otherwise provided by any rule made under sub-section (1), failure to comply with the provisions of Section 21, Sub-section (2) or Sub-section (3), shall not disentitle a documents to be registered if the description of the property to which it relates is sufficient to identify that property.

Notes : (i) When any question arises under the Registration Act as to the nature and effect of any instrument, or the sufficiency of any description contained in it, the Court must endevour to gather from the words used the intention of the parties and give effect to it, and not require as a condition of registration that the instrument must be drawn up in technical language. (I.L.R.4 Mad. 101)

(ii) If the description of the property in the instrument is sufficient to identify it, the fact that the description of the parcels therein does not specify the registration district or sub-district or division or village in which the property is situated or the former occupancy, is not alone sufficient to disentitle the instrument to registration. (4 Mad. H. C. 91).

PART IV**Of the time of presentation**

Time for
dresenting
documents.

23. Subject to the provisions contained in Sections 24, 25, and 26, no documents other than a Will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution :

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it be comes final.

*23A. Notwithstanding anything to the contrary contained in this Act, if in any case a document requiring registration has been accepted for registration by a Registrar or Sub-Registrar from a person not duly empowered to present the same, and has been registered, any person claming under such documents may, within four months from his first becoming aware that the registration of such document is invalid, present such document or cause, the same to be presented, in accordance with the provisions of Part VI for re-registration in the office of the Registrar of the district in which the document was originally registered ; and upon the Registrar being satisfied that the document was so accepted for registration from a person not duly empowered to present the same, he shall proceed to the re-registration of the document as if it had not been previously registred, and as if such presentation for re-registration was presentation for registration made within the time allowed therefore under Part IV, and all the provisions of this Act, as to registration of documents, shall apply to such re-registration ; and such document, if duly registered in accordance with the provisions of this section, shall be deemed to have been duly registered for all purposes from the date of its original registration :

[*Inserted by the Section 2 of the Indian Registration (Ammendment) Act of 1917].

Provided that, within three months from the twelfth day of September 1917, any person claiming under a document to which this section applies may present the same or cause the same to be presented for re-registration in accordance with this section, whatever may have been the time when he first became aware that the registration of the document was invalid.

Documents
executed by
several per-
sons at diffe-
rent time

24. Where there are several persons executing a document at different times, such document may be presented for registration and re-registration within four months from the date of each execution.

Notes.-(i) The registration of a document is not valid if it was presented for registration after the period allowed by sections 23 to 26 (Punjab L. R. 21 of 1900).

(ii) In calculating the periods under sections 23 to 26 the day on which the document was executed should be excluded, *vide* section 9(i) of Act X of 1897.

(iii) When a document has been presented under this section the executant must appear to admit execution within four months from the date of execution, and on his failure to do so, the Sub-Registrar must, immediately after the expiration of the four months, record a formal order of refusal to register, leaving it to the parties to appeal to the Registrar under section 72. Notwithstanding the executant's failure to appear, however, the Sub-Registrar should not record an order refusing registration if the person presenting the document has, before the expiration of four months from the date of execution, taken proceedings under section 36 to procure the appearance of the executant, but in that case he shall report the matter to the Registrar for orders at the end of the four months. Both in this case and in the case of an appeal under section 72, the Registrar shall not pass an order granting an extension of time or directing the Sub-Registrar to register the document, unless it is shown that the executant had not appeared owing to urgent necessity or unavoidable accident. In both cases, also, if he passes such an order, a fine must be imposed under section 34 and the document may be registered at any time within eight months from the date of execution, as such an order is equivalent to the grant of a delay of four months for appearance. If after this order the executant does not appear within the eight months allowed, the Sub-Registrar must record a formal refusal to register, immediately after the expiration of that period. No document presented under section 23 can, under any circumstances, be kept pending after eight months, as the presentation having been made within the ordinary time, only an additional four months can be granted for the appearance of the executant.

Provision
where delay
in presenta-
tion is un-
avoidable

25. (1) If, owing to urgent necessity or unavoidable accident, any document executed, or copy of a decree or order made, in the *States is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

Notes - (i) Under the provisions of this section a document may be admitted to registration if presented within eight months of the date of execution and on payment of the prescribed penalty. If the executant fails to appear and admit execution within the eight months aforesaid, on special cause being shown, and on payment of a further penalty, an additional extension of four months may be allowed under section 34, for the appearance of the executant. The two extensions are quite distinct and are granted for different purposes and at different stages in the procedure of registration. No document presented under this section can remain pending for more than twelve months from the date of execution. The instructions given in the note to section 24 regarding extensions under section 34 apply *mutatis mutandis* to similar extensions granted in the case of documents presented under this section.

(ii) It is unnecessary for a Special Sub-Registrar to make a report to the Registrar under section 25 or 34 since he has been vested with the powers of a Registrar.

Documents
executed out
of the States

26. When a document purporting to have been executed by all or any of the parties out of the *States is not presented for registration till after the expiration of the time hereinbefore prescribed in that behalf, the registering officer, if satisfied-

(a) that the instrument was so executed, and

(b) that it has been presented for registration within four months after its arrival in the *States,

may, on payment of the proper registration fee, accept such document for registration.

Note.—The instructions regarding documents presented under section 24 given in the note to that section apply also to documents presented under section 26 with this exception only, that the first period of four months and the extended period of eight months are reckoned from the date of the arrival of such documents in the States and not from the date of their execution. These documents can, under no circumstances, remain pending beyond eight months from the date of their arrival in the States. In the case of a document executed by some of the parties in and by others out of the States the person presenting the document may proceed, at his option under section 24 or section 25 instead of section 26, and if he does so, the provisions of and the instructions in the notes to those sections shall apply.

Wills may be presented or deposited at any time.

27. A Will may at any time be presented for registration or deposited in manner hereinafter provided.

PART V

Of the place of registration

Place for registering documents relating to land

28. Save as in this Part otherwise provided, every document mentioned in section 17, sub-section (1), clauses (a), (b), (c) and (d), and section 13, clauses (a), (b) and (c), shall be presented for registration in the office of a Sub-Registrar within whose sub-district the whole or some portion of the property to which such document relates is situate.

Notes.—(i) The words “some portion of the property” are not to be read as meaning some substantial portion of the property. (*Hari Ram Versus Sheodayal Mal*, 1. L. R. II. All. 136, reversing the decision of the High Court in *Sheodayal Mal Versus Hari Ram*, 1. L. R. 7, All. 590). This ruling was confirmed on appeal to the Privy Council. (L. R. 16, T. A. 12).

(ii) Registering Officers must be on their guard against the fraudulent insertion of fictitious parcels of land in documents relating to property no part of which lies within the local jurisdiction of the office.

(iii) Where the property is situated partly in the States and partly in a Part B State, the document may be registered in the district of India other than Part B State in which part of the property lies. (1. L. R. 25: Born.. 350).

Place for
registering
other docu-
ments.

29. (1) Every document other than a document referred to in section 28, and a copy of a decree or order; may be presented for registration either in the office of the Sub-Registrar in whose sub-district the document was executed, or in the office of any other Sub-Registrar under the *State Government at which all the persons executing and claiming under the document desire the same to be registered.

(2) A copy of a decree or order may be presented for registration in the office of the Sub-Registrar in whose sub-district the original decree or order was made, or, where the decree or order does not affect immovable property, in the office of any other Sub-Registrar under the *State Government at which all the persons claiming under the decree or order desire the copy to be registered.

Registration
by Registrars
in certain
cases.

30. Any Registrar may in his discretion receive and register any document which might be registered by any Sub-Registrar subordinate to him.

Registration
or accep-
tance for de-
posit at pri-
vate resi-
dence.

31. In ordinary cases the registration Or deposit documents under this Act shall be made only at the office of the officer authorized to accept the same . for registration or deposit:

Provided that such officer may, on special cause being shown, attend at the residence of any person desiring to present a document for registration or to deposit a will, and accept for registration or deposit such document or will.

(*I'de Adaptation of Laws Order, 1950).

[t*andLahore district* omitted by Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.]

19 PART VI

Or presenting documents for registration

Persons to present documents for registration.

32. Except in the cases mentioned in section 31 and section 89, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office-

- (a) by some person executing or claiming under the same, or, in the case of a copy of a decree or order, claiming under the decree or order, or
- (b) by the representative or assign of such person, or
- (c) by the agent of such person, representative or assign duly authorized by power-of-attorney executed and authenticated in manner hereinafter mentioned.

32. A Compulsory affixing of photograph, etc. - Every person presenting any document at the proper registration office under Section 32 shall affix his passport size photograph and finger-prints to the document :

Provided that where such document relates to the transfer of ownership of immovable property, the passport size photograph and the finger-prints of each buyer and seller of such property mentioned in the document shall also be affixed to the document.

Powers-of-attorney recognisable for purposes of section 32.

33. (1) For the purposes of section 32, the following powers-of-attorney shall alone be recognised, namely :-

- (a) if the principal at the time of executing the power-of-attorney resides in any part of the *States in which this *Act* is for the time being in force, a power-of-attorney-executed before and authenticated by the Registrar or Sub-Registrar within whose district or sub-district the principal resides;
- (b) If the principal at the time aforesaid resides in any other part of "the *States, a power of-attorney executed before and authenticated by any Magistrate;
- (c) If the principal at the time aforesaid does not reside in the *States, a power-of-attorney executed before and authenticated by a Notary Public, or any Court, Judge, Magistrate, * Indian Consul or Vice-Consul, or representative * of the Government of India :

Provided that the following persons shall not be required to attend at any registration office or Court for the purpose of executing any such power-of-attorney as is mentioned in clauses (a) and (b) of this section, namely:

(i) persons who by reason of bodily infirmity are unable without risk or serious inconvenience so to attend;

(ii) persons who are in jail under civil or criminal process.,
and

(iii) persons exempt by law from personal appearance in Court.

Notes.—(i) For power to appoint Notaries Public, see the Negotiable Instruments Act, 1881 (XXVI of 1881), s. 138.

(ii) The following persons are exempt by law, vide sections 132 and 133 (1) and (3) of the Civil Procedure Code reproduced below :-

“132. (1) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public shall be exempt from personal appearance in Court.

(2) Nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process in any case in which the arrest of women is not prohibited by this Code.

133. (1) The State Government may, by notification in the official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitle him to the privilege of exemption.

* * * * *

(3) Where any person so exempted claims the privilege of such exemption and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such cost.”

(2) In the case of every such person the Registrar or Sub-Registrar or Magistrate, as the case may be, if satisfied that the power-of-attorney has been voluntarily executed by the person purporting to be the principal may attest the same without requiring his personal attendance at the office or Court aforesaid.

(3) To obtain evidence as to the voluntary nature of the execution, the Registrar or Sub-Registrar or Magistrate may either himself go to the house of the person purporting to be the principal, or to the jail in which he is confined, and examine him, or issue a commission for his examination.

(4) Any power-of attorney mentioned in this section may be proved by the production of it without further proof when it purports on the face of it to have been executed before and authenticated by the person or Court hereinbefore mentioned in that behalf.

No/e.-Clause (c) of this section provides that powers executed out of the States shall be "executed before and authenticated by a Notary Public, etc."

Powers which are authenticated by Notaries upon the affidavit of third parties, in the absence of the principals, should not therefore be recognised for purposes of registration by a registering officer.

Enquiry
before regi-
stration by
registering
officer.

34. (1) Subject to the provisions contained in ; this part and in sections 41, 43, 45, 69, 75, 77, 88 and 89 no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorized as aforesaid, appear before the registering Officer within the time allowed for presentation under sections 23, 24, 25 and 26 :

Provided that, if, owing to urgent necessity or unavoidable accident, all such persons do not so appear, the Registrar, in cases where the delay in appearing does not exceed four months, may direct that on payment of a fine not exceeding ten times the amount of the proper registration fee, in addition to the fine, if any, payable under section 25, the document may be registered.

(2) Appearances under sub-section (1) may be simultaneous or at different times.

(3) The registering officer shall thereupon-

- (a) enquire whether or not such document was executed by the persons by whom it purports to have been executed,
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document, and

(c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.

(4) Any application for a direction under the proviso to sub-section (1) may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate.

(5) Nothing in this section applies to copies of decrees or orders.

Notes.-(i) See notes to sections 24 to 26. All pending documents in respect of which extensions of time have been granted under this section must be refused registration after eight months from the date of execution if presented under section 23, after twelve months if presented under section 25 and after eight months from the date of arrival in India if presented under section 26.

(ii) In order to establish the identity of persons appearing before him, the registering officer shall require the best testimony procurable. The testimony of persons known to himself, or of persons in a public position such as zamindars, Court officials, pleaders, etc ; is better than that of unknown and obscure persons.

Registering officers should be very cautious in accepting the testimony and statements of so-called Mukhtears, who are not enrolled as such, when appearing before them for purpose of identifying persons.

It is not sufficient for the registering officer to record the statement of any witness the parties may chose to produce. He must satisfy himself that the witness is really acquainted with the person or persons whom he is produced to identify. The identifier may be asked to state the name of the person to be identified, and also whether he is really the person that he professes himself to be.

(iii) When a document is presented for registration by a person claiming to be the representative or agent of the person who executed (signed) the said document, the registering officer is required under sub-section (c) to satisfy himself of the right of the person presenting the document to appear as such representative or agent. When a document has been executed by the guardian of a minor or by an attorney on behalf of the principal, in the former case if the guardian, and in the latter if the attorney himself appears, the registering officer is not required to satisfy himself of their right to do so, because they appear as executants.

(iv) A Sub-Registrar acting under this section is not a Court within the meaning of section 195 of the Code of Criminal Procedure (I. L. R. 11, Mad.3).

Procedure on admission and denial of execution, respectively

35. (1) (a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the persons they represent themselves to be, and if they all admit the execution of the document, or

(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or

(c) If the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in sections 58 to 61, inclusive.

(2). The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine anyone present in his office.

(3) (a) If any person by whom the document purports to be executed deny its execution or,

(b) if any such person appears to the registering officer to be a minor, an idiot or a lunatic, or

(c) if any person by whom the document purports to be executed is dead, and his representative or assign denies its execution, the registering officer shall refuse to register the document as to the person so denying, appearing or dead:

Provided that, where such officer is a Registrar, he shall follow the procedure prescribed in Part XII :

* Provided further that the State Government, may by notification in the official Gazette, declare that any Sub-Registrar named in *the* notification shall, in respect of documents *the* execution of which is denied, be deemed to be a Registrar for the purposes of this sub-section and of Part XII.

Notes —(i) If the executant admits execution but objects to registration the deed must be registered. (*Magon Malle v. Dolla Gazee*, 19 W. R. 198).

(ii) A registering officer has no power to refuse registration of a deed on the ground that the full consideration therein mentioned has not been paid. His duty is, when the parties appear in person before him, simply to ascertain whether the deed has been executed by the persons by whom it purports to have been executed. (In the matter of *Brindaban Chandra Shaw and Novdeep Chandra Shaw*, I.B.L.R.O.47).

* The portion was inserted by the Indian Registration (Amendment Act XIII of 1926.

(iii) The object of section 35, which directs the registering officer to refuse to register a document if the person by whom it purports to be executed appears to be a minor, is that if the registration authorities refuse to register on the ground, the question of minority may at once be brought into a Civil case and determined; (*Chunee Mall Johury v. Brojonath Roy Chaudhury*, I. L. R. 8, Cal. 967) : When making such an order a registering officer should record that the person "appears to be a minor".

(iv) Refusal to admit execution of a document and wilful refusal or neglect to attend and admit execution are tantamount to denial of execution. (*Kissen Roura Dakna v. Chunee Lal Dutta*, I. L. R. 5, Cal. 445).

(v) Notwithstanding that a document has been duly presented and the endorsement prescribed by rule 37 recorded thereon, such document shall not be registered if

(a) the executant denies execution thereof ;

N.B.-It has been held by the High Court of Calcutta (*Debendra Nath Sanyal versus Chandra Kishor Munai* decided in 1894 by Norris and Banerjee, J.J.) that "execution" means voluntary execution. If, therefore, a person, while admitting execution of a document, alleges that he was forced to execute it against his will, registration should be refused ;

(b) the executant fails to appear and admit execution thereof ;

(c) the person by whom such document purports to have been executed be dead and his representative or assign denies execution thereof ;

(d) the person purporting to have executed such document appears to be a minor, an idiot or a lunatic ;

(e) the registering officer be not satisfied of the identity of the person appearing before him alleging that he executed such document ;

(f) the registering officer be not satisfied as to the truth of the allegation that the person who executed the document is dead ;

(g) the person who purports to be a representative or assign of deceased executant has failed to prove his status;

(h) or if a power-of-attorney produced by an agent who appears to admit execution of such document does not comply with the provisions of section 33, or is otherwise defective:

Provided that a document executed by several persons shall not be refused registration merely by reason of one or more of the executants denying execution or appearing to be minors, idiots or lunatics or being dead ; but shall be registered in respect of any of the other parties, who admit execution, save as otherwise provided in rule 70.

PART VII

Of enforcing the appearance of executants and witnesses

Procedure on where appearance of executant or witness is desired.

36. If any person presenting any document for registration or claiming under any document which is capable of being so presented, desires the appearance of any person whose presence or testimony is necessary for the registration of such document, the registering officer may, in his discretion, call upon such officer or Court as the *State Government directs in this behalf to issue a summon requiring him to appear at the registration office, either in person or by duly authorised agent, as in the summons may be mentioned, and at a time named therein.

Officer or Court to issue and cause service of summons.

37. The officer or Court, upon receipt of the person's fee payable in such cases, shall issue the summons accordingly, and cause it to be served upon the person whose appearance is so required.

Persons exempt from appearance at registration office.

38. (1) (a) A person who by reason of bodily infirmity is unable without risk or serious inconvenience to appear at the registration office, or

(b) a person in jail under civil or criminal process, or

(Vide Adaptation of Laws Order, 1950).

(c) persons exempt by law from personal appearance in Court, and who would but for the provision next hereinafter contained be required to appear in person at the registration office, shall not be required so to appear.

(2) In the case of every such the person registering officer shall either himself go to the house of such person, or to the jail in which he confined and examine him, or issue a commission for his examination.

Note.-As to persons exempted by law, see note to section 33.

Law as to
summonses
commissions
and wit-
nesses.

39. The law in force for the time being as to summonses, commissions and compelling the attendance of witnesses, and for their remuneration in suits before Civil Courts, shall, save as aforesaid and *mutatis mutandis*, apply to any summons or commission issued and any person summoned to appear under the provisions of this Act.

Note.-A Commissioner may examine witnesses in the same manner as a registering officer, and persons refusing to give testimony to a Commissioner, on being required to do so, are subject to the penalties and punishment to which they would be liable for the same offence if committed in a registration office.

PART VIII

Of presenting wills and authorities to adopt

Persons
entitled to
present wills
and author-
ities to
adopt.

40. (1) The testator, or after his death any person claiming as executor or otherwise under a will, may present it to any Registrar or Sub-Registrar for registration.

(2) The donor, or after his death the donee, of any authority to adopt, or the adoptive son, may present it to any Registrar or Sub-Registrar for registration.

Registration
of wills and
authorities
to adopt.

41. (1) A will or an authority to adopt, presented for registration by the testator or donor, may be registered in the same manner as any other document.

(2) A will or authority to adopt presented for registration by any other person entitled to present it shall be registered if the registering officer is satisfied-

- (a) that the will or authority was executed by the testator or donor, as the case may be ;
- (b) that the testator or donor is dead, and
- (c) that the person presenting the will or authority is, under section 40, entitled to present the same.

*Note.-*A Sub-Registrar acting under this section is a Court within the meaning of section 195 of the Code of Criminal Procedure. (in the matter of Venkata Chala Pillai, I. L. R. 10. Mad. 154).

PART IX

Of the deposit of wills

Deposit of wills.

42. Any testator may, either personally or by duly authorized agent, deposit with any Registrar his will in a sealed cover superscribed with the name of the testator and that of his agent (if any) and with a statement of the nature of the document,

*Note.-*Section 259 of the Indian Succession Act runs as follows :

“Every District Judge or District Delegate shall file and preserve all original wills of which probate or letters of administration with the will annexed may be granted by him among the records of his Court until some public registry for wills is established and the State Government shall make regulation for the preservation and inspection of the wills so filed as aforesaid”.

Procedure on deposit of wills.

43. (1) On receiving such cover, the Registrar, if satisfied that the person presenting the same for deposit is the testator or his agent, shall transcribe in his Register-book No.5 the superscription aforesaid, and shall note in the same book and on the said cover the year, month, day and hour of such presentation and receipt, and the names of any persons who may testify to the identity of the testator or his agent, and any legible inscription which may be on the seal of the cover.

(2) The Registrar shall then place and retain the sealed cover in his fire-proof box.

Withdrawal of sealed cover deposited under section 42.

44. If the testator who has deposited such cover wishes to withdraw, he may apply, either personally or by duly authorised agent, to the Registrar who holds it in deposit, and such Registrar, if satisfied that the applicant is actually the testator or his agent, shall deliver the cover accordingly.

Proceedings on death of depositor.

45. (i) If on the death of a testator who has deposited a sealed cover under section 42, application is made to the Registrar who holds it in deposit to open the same, and if the Registrar is satisfied that the testator is dead, he shall, in the applicant's presence open the cover, and at the applicant's expense, cause the contents thereof to be copied into his book No.3.

(ii) When such copy has been made, the Registrar shall redeposit the original will.

Saving of certain enactments and powers of court. X of 1865.

46. (i) Nothing hereinbefore contained shall effect the provisions of section 259 of the Indian Succession Act, 1865, or of section 81 of the Probate and Administration Act 1881, or the power of any Court by order to compel the production of any will.

(ii) When any such order is made, the Registrar shall, unless the will has been already copied under section 45, open the cover and cause the will to be copied into his book No.3 and make a note on such copy that the original has been removed into Court in pursuance of the order aforesaid.

PART X

Of the effects of registration and non-registration

Time from which registered documents operate.

47. A registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

Registered documents relating to property when to take effect against oral agreements.

48. All non-testamentary documents duly registered under this Act, and relating to any property, whether moveable or immovable, shall take effect against any oral agreement or declaration relating to such property, unless where the agreement or declaration has been accompanied or followed by delivery of possession *and the same constitutes a valid transfer under any law for the time being in force :

[Inserted by the transfer of property (amendment) Supply Act (XXI) of 1929

Provided that a mortgage by deposit of title-deeds as defined in section 58 of the Transfer of Property Act 1882, shall take effect against any mortgage deed subsequently executed and registered which relates to the same property.

Effects of non registration of documents required to be registered

49. No document required by section 17 (or by 1 any provision of the Transfer of Property Act, 1882) to be registered shall :-

(a) effect any immovable property comprised therein, or

(b) confer any power to adopt, or

(c) be received as evidence of any transaction affecting such property or conferring such power unless it has been registered. *Provided that an unregistered document affecting immovable property and required by this Act or the Transfer of Property Act, 1882, to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877, or as evidence of part performance of a contract for the purposes of section 53A of the Transfer of Property Act, 1882, or as evidence of any collateral transaction not required to be effected by registered instrument.

[Inserted by the transfer of property (Amendment) Supply Act (XXI of 1929)]

Certain registered documents relating to land to take effect against unregistered documents.

50. (1) Every document of the kinds mentioned in clauses (a), (b), (c) and (d) of section 17, sub-section (1), and clauses (a) and (b), section 18, shall, if duly registered, take effect as regards the property comprised therein, against every unregistered document relating to the same property, and not being a decree on order, whether such unregistered document be of the same nature as the registered document or not.

(2) Nothing in sub-section (1) applies to leases exempted under the proviso to sub-section (1) of section 17, or to any document mentioned in sub-section (2) of the same section, or to any registered document which had not priority under the law in force at the commencement of this Act.

XX of 1866

Explanation :— In cases where Act No. XVI of 1864) or the Indian Registration Act, 1806, was in force in the place and at the time in and at which such unregistered document was executed, “unregistered” means not registered according to such Act, and, where the document is executed after the first day of July 1871, not registered under the Indian Registration Act, VIII of 1871, or the Indian Registration Act, 1877, or this Act.

VIII of 1871

III of 1877