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INDIAN ARBITRATION ACT

SECOND EDITION

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THE

INDIAN ARBITRATION ACT

(ACT IX of 1899)

WITH SHORT EXPLANATORY NOTES AND THE RULES IN
FORCE IN THE HIGH COURTS OF CALCUTTA, BOMBAY
AND MADRAS AND IN THE COURT OF THE JUDI-
CIAL COMMISSIONER OF SIND, KARACHI
AND IN THE CHIEF COURT OF
LOWER BURMA

BY

THE LATE H. N. MORISON, ESQ.

Barrister-at-Law, of the Middle Temple

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~~15/4/14~~

SECOND EDITION

(Revised and brought up to date)

CALCUTTA :
THACKER, SPINK & CO.

1914

AR. 95.

PREFACE TO SECOND EDITION.

THE Second Edition of this work includes the Rules laid down under the Act by the various Courts to which the Act now applies.

The new Indian Companies Act has introduced a very important modification of the law, in the case of Arbitrations to which a company is a party.

The more recent decisions of the Courts upon questions arising under the Act will be found incorporated in the notes to the sections.

THE PUBLISHERS.

CALCUTTA, }
January, 1914. }

CALCUTTA :
PRINTED BY THACKER, SPINK & CO.

CONTENTS.

SECTIONS.	PAGE.
1. Short title, extent and commencement ..	5
2. Application	6
3. Exclusion of certain enactments in certain cases where Act applies	7
4. Definitions	10
5. Submission to be irrevocable except by leave of Court	11
6. Provisions implied in submissions ..	12
7. Reference to arbitrator to be appointed by third person	13
8. Power for Court to appoint arbitrator ..	14
9. Power for parties in certain cases to supply vacancies	16
10. Powers of arbitrators	18
11. Award to be signed and filed ..	19
12. Power for Court to enlarge time for making award ..	20
13. Power to remit award	20
14. Power to set aside award	21
15. Award when filed to be enforceable as a decree ..	23
16. Power to remove arbitrator or umpire ..	23
17. Costs	24
18. Forms	24
19. Power to stay proceedings where there is a submission	24
20. Power for High Court to make rules ..	28
21. Amendment in Specific Relief Act ..	29
22. Provisions binding the Crown ..	29
23. Application of the Act to Rangoon ..	29
THE FIRST SCHEDULE.—Provisions to be implied in submission ..	31

PREFACE TO FIRST EDITION.

IN this volume has been incorporated all the Statute Law in force in British India upon the subject of arbitration. Explanatory notes and references to important judicial decisions have been supplied to the text where considered necessary, and the Rules framed by the High Courts of Calcutta and Bombay will be found in the Appendix.

Rules are under consideration by the High Court of Madras and the Chief Court of Burma.

The frequency of arbitration clauses in business contracts induces the author to trust that this work will be of assistance to mercantile firms as well as to the legal profession.

CALCUTTA, }
7th May, 1901.

H. N. M.

CONTENTS.

	PAGE.
THE SECOND SCHEDULE.—Forms for submission; agreement of appointment; enlargement of time; stating special cases; awards ..	33
APPENDIX A.—Provisions in the Civil Procedure Code relating to arbitration ..	37
APPENDIX B.—Rules of the High Court of Calcutta ..	45
APPENDIX C.—Rules of the Bombay High Court ..	49
APPENDIX D.—Rules of the Madras High Court ..	51
APPENDIX E.—Rules of the Court of the Judicial Commissioner of Sind, Karachi ..	53
APPENDIX F.—Rules of the Chief Court of Burma ..	55
INDEX	59

TABLE OF CASES.

	PAGES.
Aitken v. Batchelor	10, 25
Astley and Tyddesley Coal Co., <i>In re</i> ..	13
Austrian Lloyd S. S. Co. v. Gresham Life Ass. Society, <i>Ld.</i>	10
Bajjnath v. Ahmed	11, 25, 29, 45 <i>n.</i>
Baker v. Yorkshire Fire Insurance Co. ..	10, 25
Bansi v. Sital	21
Barnard v. Wainwright	21
Beddow v. Beddow	23
Bilfield v. Bourne	26
Bombay Co., <i>Ltd.</i> v. National Jute Mills ..	11, 16, 25
Brighton Marine Palace Co. v. Woodhouse ..	26
Buta v. Municipal Committee of Lahore ..	22
Chappel v. North	26
Chooni Lal v. Madhoram	16
City of Calcutta, <i>In re</i>	28
Crichton, <i>In re</i>	22
Davies v. Pratt	21
Dinn v. Blake	21
Eckersley v. Mersey Docks and H. B. ..	27
Enoch, <i>etc.</i> , <i>In re</i>	22
Eyre, <i>In re</i>	15
Fazulbhoy v. The Bombay and Persia Co. ..	29
Flynn v. Robertson	21
Ford's Hotel Co. v. Bartlet	27
Gajjar (T. K.) v. Lallubhai	23
Gangaram Khushaba v. Narayan Babaji ..	11
Ganges Mfg. Co. v. Indra Chand	10, 14, 25

	PAGES.
Greenwood <i>v.</i> Brownhill	21
Hara Krishna <i>v.</i> Ramgopal	12
Hodgkinson <i>v.</i> Fernie	21
Hogge <i>v.</i> Burgess	21
Howett <i>v.</i> Clements	21
Hurdwary Mull <i>v.</i> Ahmed	21, 22
Ives and Barkar <i>v.</i> Willans	26, 27, 28
Jackson <i>v.</i> Barry Ry. Co.	27
Junghiem <i>v.</i> Foukelmann	17
Kamta <i>v.</i> Jodha	20
Keighley and Durrant, <i>In re</i>	20
Kirkleathan Local Board, <i>In re</i>	17
Knight and Tabernacle, etc., Society, <i>In re</i>	17
Laing <i>v.</i> Todd	20
Mahomed <i>v.</i> Hakiman	21
Malmesbury Ry. <i>v.</i> Budd	23
Montgomery Jones & Co., <i>In re</i>	22
Mordue <i>v.</i> Palmer	21
Morgan <i>v.</i> Mather	21
Mulji <i>v.</i> Ransi	21
N. W. Rubber Co. <i>v.</i> Huttenbach & Co.	24
Ochs <i>v.</i> Ochs Brothers	27
Palmer and Hoskin, <i>In re</i>	18, 23
Pepper <i>v.</i> Gorham	22
Peruri <i>v.</i> Gullapudi	25
Phipps <i>v.</i> Ingram	22
Pini <i>v.</i> Rancoroni	26
Prebble and Robinson, <i>In re</i>	24, 32
Protap <i>v.</i> Toolsey	21
Ralli <i>v.</i> Noor Mahomed	28
Ramjidas <i>v.</i> Howse	25
Ram Narain <i>v.</i> Liladhur	10, 22, 25

	PAGES.
Routledge <i>v.</i> Thornton	11
Rubber Co. (N. W.) <i>v.</i> Huttenbach & Co.	22
Rukhanbai <i>v.</i> Adamji	10
Sarat <i>v.</i> Corporation of Calcutta	27
Sharman <i>v.</i> Bell	21
Smith and Nelson, <i>In re</i>	16
Spartali <i>v.</i> Van Hoorn	25
Spillers and Leatham, <i>In re</i>	18
Steven <i>v.</i> Bunclie	27
Stringer, <i>In re</i>	21
Tabernacle Permanent, etc., Society <i>v.</i> Knight	22
Threlfall <i>v.</i> Fanshawe	20
Tittenson <i>v.</i> Peat	21
T. K. Gajjar <i>v.</i> Lallubhai	23
Turnell <i>v.</i> Sanderson	26
Turnock <i>v.</i> Sartoris	28
Vawdrey <i>v.</i> Simpson	26
Whiteley <i>v.</i> Roberts	21
Whitley <i>v.</i> Morland	21
Williams and Stepney, <i>In re</i>	8, 13
Wilson and Eastern Countries, etc., <i>In re</i>	16
Wordsdell <i>v.</i> Holder	21
Workman <i>v.</i> Belfast Harbour Commissioners	28

695
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THE
INDIAN ARBITRATION ACT

BEING

ACT No. IX of 1899.*

PASSED BY THE GOVERNOR-GENERAL OF INDIA
IN COUNCIL.

*(Received the assent of His Excellency the Governor-
General on the 3rd March, 1899.)*

[First published in the Gazette of India on the 4th
March, 1899.]

An Act to amend the Law relating to Arbitration.

WHEREAS it is expedient to amend the law relating to arbitration by agreement without the intervention of a Court of Justice ; It is hereby enacted as follows :—

As the preamble states, the object of this Act is to amend the law relating to *arbitration by agreement without the intervention of a Court of Justice.*

* For Statement of Objects and Reasons, see *Gazette of India*, 1898, Pt. V, p. 216 ; for Report of the Select Committee, see *Ibid*, 1899, Pt. V, p. 31 ; for Proceedings in Council, see *Ibid*, 1898, Pt. VI, p. 366, and *Ibid*, 1899, Pt. VI, pp. 17, 52 and 60.

The enactments relating to arbitration in India are to be found scattered through various Statutes.

The Code of Civil Procedure (Act V of 1908), second schedule, cls. 1—16, refers to cases where the parties to a suit desire to refer their disputes to the decision of an arbitrator. The above clauses are not of great importance in considering the Indian Arbitration Act and are set out for convenience in the Appendix A at pp. 37—41. Cls. 17—23 of that schedule, however, provide for the case of arbitrations where the parties are not before the Court. They are as follows :—

Order of reference on agreements to refer.

17. (1) Where any persons agree in writing that any difference between them shall be referred to arbitration, the parties to the agreement, or any of them, may apply to any Court having jurisdiction in the matter to which the agreement relates, that the agreement be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application has been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

(3) On such application being made, the Court shall direct notice thereof to be given to all the parties to the agreement, other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

(4) Where no sufficient cause is shown, the Court shall order the agreement to be filed, and shall make an order of reference to the arbitrator appointed in accordance with the provisions of the agreement or, if there is no such provision and the parties cannot agree, the Court may appoint an arbitrator.

18. Where any party to any agreement to refer to arbitration, or any person claiming under him, institutes any suit against any other party to the agreement, or any person claiming under him, in respect of any matter agreed to be referred, any party to such suit may, at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, apply to the Court to stay the suit; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the agreement to refer to arbitration, and that the applicant was, at the time when the suit was instituted and still remains, ready and willing to do all things necessary to the proper conduct of the arbitration, may make an order staying the suit.

19. The foregoing provisions, so far as they are consistent with any agreement filed under paragraph 17, shall be applicable to all proceedings under the order of reference made by the Court under that paragraph, and to the award and to the decree following thereon.

Arbitration without the intervention of a Court.

20. (1) Where any matter has been referred to arbitration without the intervention of a Court, and an award has been made thereon, any person interested in the award may apply to any Court having jurisdiction over the subject-matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

21. (1) Where the Court is satisfied that the matter has been referred to arbitration and that an award has been made thereon and where no ground such as is mentioned or referred to in paragraph 14 or paragraph 15 is proved, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

22. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, shall not apply to any agreement to refer to arbitration, or to any award, to which the provisions of this schedule apply.

23. The forms set forth in the Appendix, with such variations as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

CONTRACT ACT.—The provisions on arbitration contained in the Indian Contract Act (IX of 1872) are set out in s. 28, which is as follows :—

28.—Every agreement, by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights, is void to that extent.

Exception 1.—This section shall not render illegal a contract by which two or more persons agree that any dispute which may arise between them in respect of any subject or class of subjects shall be referred to arbitration, and that only the amount awarded in such arbitration shall be recoverable in respect of the dispute so referred.

Exception 2.—Nor shall this section render illegal any contract in writing, by which two or more persons agree to refer to arbitration any question between them which has already arisen, or affect any provision of the law in force for the time being as to references to arbitration.

SPECIFIC RELIEF ACT.—The provision in the Specific Relief Act, relating to arbitrations as amended by the present Act, is as follows :—

And save as provided by the Code of Civil Procedure and the Indian Arbitration Act, no contract to refer present or future differences to arbitration shall be specifically enforced; but if any person who has made such a contract, and has refused to perform it, sues in respect of any subject which he has contracted to refer, the existence of such contract shall bar the suit.

The italicised portions of the above section mark the amendments made by ss. 3 and 4 of this Act.

INDIAN COMPANIES ACT.—See notes to section 3.

The provisions of the law were found to be inadequate, for they only applied to disputes which had arisen at the time of the agreement to refer, and not to disputes that might arise in the future, and they also required the agreement to refer either to name the particular arbitrator or to leave the Court to appoint one. The provisions on the subject, which were contained in the Contract and Specific Relief Acts amounted to this, that, if a person who had contracted to refer to arbitration any dispute that might arise between him and another refused to do so, his contract would be a bar to his afterwards bringing a suit in respect of the matter which he originally agreed so to refer. These provisions were, however, of a negative kind and ineffective in practice, for the recusant party had, as a rule, only to remain inactive in order to be beyond the reach of the other party. The present Act was therefore passed to meet these deficiencies.

Short title, extent and commencement. 1. (1) This Act may be called “The Indian Arbitration Act, 1899.”

(2) It extends to the whole of British India; and

(3) It shall come into force on the first day of July, 1899.

The Act is drawn upon the lines of the English Arbitration Act (52 and 53 Vict., c. 49). Though it extends to the whole of British India it is at present only applicable to the Presidency-towns (s. 2, *post*) and Rangoon (ss. 2 and 23, *post*) and Karachi.* The proviso to s. 2, however, gives the Local Governments power, with the previous sanction of the Governor-General in Council, to extend the provisions of the Act to any other local area as if it were a Presidency-town.

The term "British India" means "all territories and places within Her Majesty's dominions which are for the time being governed by Her Majesty through the Governor-General of India or through any Governor or other officer subordinate to the Governor-General of India." (Act X of 1897, s. 3, cl. 8).

2. Subject to the provisions of section 23, this Act shall apply only in cases where if the subject-matter submitted to arbitration were the subject of a suit, the suit could, whether with leave or otherwise, be instituted in a Presidency-town :

Application.

Provided that the Local Government, with the previous sanction of the Governor-General in Council, may, by notification in the local official Gazette, declare this Act applicable in other local area as if it were a Presidency-town.*

In the first place, the subject-matter submitted to arbitration must be one upon which a suit would lie, otherwise the provisions of the Act would not be capable of being invoked. If the subject-matter of a dispute were illegal or not enforceable by law, the provisions of this Act could not be employed in enforcing the agreement to refer it to arbitration.

* The Act has been declared applicable to the Town of Karachi. See *Bombay Government Gazette*, 1899, Pt. I, p. 1127

Subject to s. 23, which makes the Act specially applicable to Rangoon, this section lays it down that the Act is only to apply to those cases in which a suit could have, whether with leave or without leave, been brought in a Presidency-town if the subject-matter submitted to arbitration were the subject of a suit.

Though not very clearly worded this section means that the Act only applies to subject-matters of arbitration arising within the jurisdiction of Presidency-towns. To ascertain if the provisions of the Act would apply to any particular set of circumstances it must be seen if, supposing the subject-matter submitted to arbitration were the subject of a suit, that suit could have been, whether by the special leave of the Court or otherwise, instituted in a Presidency-town. If it could have been instituted in a Presidency-town, then the Act applies. To ascertain this, it is necessary to see when and under what circumstances suits may be brought in Presidency-towns. [See as to this the Civil Procedure Code (Act V of 1908), s. 15, *et seq.*, also s. 120, and High Court Charters.]

Taken in the broad sense that it is only to apply to arbitrations when the subject-matter gives rise to jurisdiction in a Presidency-town, and subject to its special application to the town of Rangoon by s. 23, *post*, this Act does not apply to arbitrations when the subject-matter arises or gives rise to jurisdiction in places beyond Presidency-towns. An exception to this rule is, however, provided in the case of Arbitrations to which a Company is a party, under the Indian Companies Act (VII of 1913), s. 152 (3), as to which see notes to s. 3, *post*.

3. The last thirty-seven words of section 21 of the Specific Relief Act, 1877, and sections 523 to 526* of the Code of Civil Procedure shall not apply to any submission or arbitration to which the provisions of this Act for the time being apply :

* See now Code of Civil Procedure, 1908, Second Schedule, paras. 17-21. Also s. 158.

Provided that nothing in this Act shall affect any arbitration pending in a Presidency-town at the commencement of this Act or in any local area at the date of the application thereto of this Act as aforesaid, but shall apply to every arbitration commenced after the commencement of this Act or the date of the application thereof, as the case may be, under any agreement or order previously made :

We have already dealt, in the notes to the preamble (*ante*), with the amendments made in the Specific Relief Act and the Civil Procedure Code. The provisions of the Specific Relief Act which are repealed are supplanted by s. 19 of this Act.

The proviso is of a general nature and lays down the rule that arbitrations that were pending at the time the Act came into force (*i.e.*, July 1st, 1899, s. 1, cl. 3, *ante*), shall not be affected by its provisions. This is the general rule of law that no Act shall have a retrospective effect unless such an intention is specially declared by the Legislature. The phrase "but shall apply," which is ungrammatical in its situation in the section, must be read "but this Act shall apply." And "this Act" means the whole Act, including the schedule. The provisions in the schedule, which, by s. 6, are to be implied so far as they are applicable, in every submission, must be implied in a submission made before the commencement of this Act (*Williams and Stepney, In re*, 60 L. J. Q. B., 636 ; [1891] 2 Q. B., 257).

Before the passing of the Indian Companies Act (VII of 1913) the second proviso to this section ran as follows :

"Provided, also, that nothing in this Act shall affect the provisions of the Indian Companies Act, 1882, relating to arbitration.

This proviso has, however, been repealed by section 290 of that Act, and section 152 now contains the law relating to arbitration in the case of companies. Section 152 (Act VII of 1913) is as follows :

"152. (1) A company may by written agreement refer to arbitration, in accordance with the Indian Arbitration Act, 1899, an existing or future difference between itself and any other company or person.

Power for Companies to refer matters to arbitration.

- (2) Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.
- (3) The provisions of the Indian Arbitration Act, 1899, other than those restricting the application of the Act in respect of the subject-matter of the arbitration, shall apply to all arbitrations between companies and persons in pursuance of this Act.

The last clause is of very wide importance, inasmuch as, in the case of arbitrations between "companies and persons," it removes the restriction to which other arbitrations are subject (see section 2 *supra*). In view however of the language of clause (1) of the section it appears to be arguable upon the ordinary canons of construction that the restriction still stands in the case of an arbitration between one company and another company. Moreover, if it be correct to say that section 152 clause (3) has no application in the case of arbitration *between company and company*, then, although under clause (1) there may be a *reference* in such case, there would seem to be no means provided for proceeding to the award, or, after award made, of enforcing it. It should also be remarked that s. 289 of the Act excludes the operation of s. 152 in the case of the Bank of Bengal, the Bank of Madras and the Bank of Bombay.

Under the former Indian Companies Act (VI of 1882) arbitrations in the case of Companies were governed by the provisions of sections 96 to 123, but s. 296 excluded the operation of these sections in the case of the Presidency Banks, though such Banks had (and have) power to refer claims to arbitration under s. 64 of the Presidency Banks Act (XI of 1876).

Section 214 of the Indian Companies Act makes the provisions of this Act applicable to an arbitration to settle a dispute as to

the price to be paid for the purchase of the interest of a member dissenting under s. 213 (3).

4. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “the Court” means, in the Presidency-towns, the High Court, and elsewhere, the Court of the District Judge; and

(b) “submission” means a written agreement to submit present or future differences to arbitration, whether an arbitrator is named therein or not.

Submission here means a written agreement to submit present or future differences to arbitration, and s. 19 gives power to stay any legal proceedings commenced by any party to the submission against any other party thereto. An oral submission gives no legal foundation to an award made thereon. (*Rukhanbai v. Adamji* [1908], 33 B., 69; 10 Bom. L R., 366). An action on a fire-insurance policy having been stayed on the ground that the policy contained a clause that any differences arising under it should be referred to arbitration, it was held that the policy, although not signed by the plaintiff, amounted to a “submission” to arbitration within the meaning of the above section, and that the action was rightly stayed. (*Baker v. Yorkshire Fire Insurance Co.* [1892], 61 L. J. Q. B., 838; 1 Q. B., 144; and see *Austrian Lloyd S. S. Co. v. Gresham Life Ass. Society, Ltd.* [1903], 1 K. B., 249).

It was held to be a “submission,” when, at the trial of an action, the counsel on each side agreed that the counter-claim should be referred to arbitration and indorsed and signed their own briefs to that effect. The indorsements were held to be a written agreement within the definition of the word ‘submission’ (*Aitken v. Batchelor*, 62 L. J. Q. B., 193). A clause providing for the reference of any dispute to arbitration contained in a contract effected by means of bought and sold notes, identical in their terms and signed by the parties or their agents, constitutes a submission within s. 4. [*Ram Narain v. Liladhur* (1906), 33 C., 1237; *Ganges Mfg. Co. v. Indra Chand* (1906), 33 C., 1169].

Stamp.—Letters written by parties authorizing arbitrators to arbitrate between them are exempt from stamp-duty (*Gan-garam Kushaba v. Narayan Babaji*, 19 B., 32). Similarly, the appointment of an umpire made in writing by two arbitrators requires no stamp (*Routledge v. Thornton*, 4 Taunt., 704). Contract-notes which contain a provision for the submission of disputes to arbitration need not bear an eight-anna stamp (*Baijnath v. Ahmed* (1912), 40 C., 219; *Bombay Co. Ltd. v. National Jute Mills* (1912), 39 C., 669).

By Art. 12, Sch. I of the Stamp Act (II of 1899), it is provided that the stamp-duty upon an award by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of Court in the course of a suit shall be—

(a) where the amount or value of the property to which the award relates as set forth in such award

exceeds Rs.	10 and does not exceed Rs.	50	four annas.
50	100	100	eight annas.
100	200	200	one rupee.
200	300	300	one rupee eight annas.
300	400	400	two rupees.
400	500	500	two rupees eight annas.
500	600	600	three rupees.
600	700	700	three rupees eight annas.
700	800	800	four rupees.
800	900	900	four rupees eight annas.
900	1,000	1,000	five rupees.

(b) In any other case Rs. 5.

Awards, however, under the Bombay District Municipal Act, 1873, s. 81, or the Bombay Hereditary Offices Act, 1874, s. 18, are exempt from stamp-duty.

5. A submission, unless a different intention is expressed therein, shall be irrevocable,

Submission to be irrevocable except by leave of Court. pressed therein, shall be irrevocable, except by leave of the Court.

This is a provision hitherto unknown to the law in India though submissions have been made irrevocable in England for some years past by the English Arbitration Act (52 and 53 Vict., c. 49, s. 1). It is a general rule that if one of the parties to an arbitration dies before award is made, the submission is revoked. The Legislature has purposely remained silent upon the point leaving the parties, when it is intended that this general rule ought not to apply, to state so in their submission.

The framers of this Act have failed to make provision for the event of a sole arbitrator dying before filing his award. See *Hara Krishna v. Ramgopal* [1910], 14 C. W. N., 759.

For the practice as to applications to the Calcutta High Court see the High Court Rules, *post*, Appendix B.

6. A submission, unless a different intention is expressed therein, shall be deemed to include the provisions set forth in the first schedule, in so far as they are applicable to the reference under submission.

Provisions implied in submissions.

This is a reproduction of s. 2 of the English Arbitration Act with the substitution of the word "different" for "contrary" in the first line. It must be read with the clauses of the first schedule which supply all the chief points incidental to arbitration. The parties are, however, at liberty to incorporate any terms of their own in their submission, and these, if not illegal or contrary to law, would override any of the provisions of the schedule which might be antagonistic to them.

The words of this section add something to the submission, for it provides that a submission, unless a different intention is expressed therein, is to be deemed to include the provisions set out in Schedule I, so far as they are applicable to the reference under the submission.

The submission does not, upon the theory of this section, express all the provisions which are in the schedule, and if the submission were construed without reference to the section, it would not contain some of the provisions given in the schedule. The

section, therefore, makes an addition to the terms of the submission, and introduces provisions which might not have been contemplated by the parties.

A submission does not *per se* exclude the right of either party to raise the defence of limitation; but if it be intended to exclude such a defence an express term to that effect must be imported into the submission (*Astley and Tyddesley Coal Co., In re*, 68 L. J. Q. B., 252).

The provision as to arbitrators awarding costs of the reference and award in the schedule is an instance of a subject perhaps not contemplated by the parties and not mentioned in the submission. Under the old law, unless there was an express provision on this subject, the arbitrator had no power to award costs, with the result that the successful party could not get his costs either from the arbitrator or the Court, however large they may have been, and however unsuccessful his opponent may have been (*Williams and Stepney, In re*, 60 L. J. Q. B., 636).

7. The parties to a submission may agree that the reference shall be to an arbitrator or arbitrators to be appointed by a person designated therein.

Reference to arbitrator to be appointed by third person.

Such person may be designated either by name or as the holder for the time being of any office or appointment.

This clause follows the wording of section 1 of the Arbitration (Scotland) Act, 1894 (57 and 58 Vict., c. 13).

Illustration.

The parties to a submission may agree that any dispute arising between them in respect of the subject-matter of the submission shall be referred to an arbitrator to be appointed by the Bengal Chamber of Commerce, or, as the case may be, to an arbitrator to be appointed by the President for the time being of the Bengal Chamber of Commerce.

Where the parties agreed that in case of dispute it should be "referred to the arbitration of the Bengal Chamber of Commerce," a large and fluctuating body of persons who could not sit as a tribunal, it was held that the association had power to appoint individuals to act as arbitrators upon such reference, and the rules of the association were binding on the parties. (*Ganges Mfg. Co. v. Indra Chand* [1906], 33 C., 1169.)

Powers for the Court in certain cases to appoint an arbitrator, umpire or third arbitrator.

8. (1) In any of the following cases:—

- (a) where a submission provides that the reference shall be to a single arbitrator and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator;
- (b) if an appointed arbitrator neglects or refuses to act, or is incapable of acting, or dies or is removed, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy;
- (c) where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;
- (d) where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, or is removed, and the submission does not show that it was intended that the vacancy should not be supplied and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators as the case may be, with a written notice to concur in appointing an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator, umpire or third arbitrator, who shall have the like power to act in the reference and make an award as if he had been appointed by consent of all parties.

The words "written notice to concur in appointing an arbitrator" have been substituted for the words "written notice to appoint an arbitrator," in the corresponding section of the English Act, owing to the interpretation put upon the latter words by the Court (*Eyre, In re* [1892], 1 Q. B., 136, at p. 142). It would not be necessary to name the arbitrator in the notice (*ib.*).

Clause 2.—The word "may" does not give the Court an absolute discretion. Where the conditions exist under which the section is applicable, the Court has no discretion to refuse to appoint an arbitrator (*ib.*).

A Judge has no jurisdiction to appoint an arbitrator under cl. (b) of this section except where the submission is silent, or the parties have provided no machinery for such appointment. A contract contained a clause that in case of differences between the parties, they should be referred to *M*, or failing him, to a person to be named by the President of the Institution of Civil Engineers. Disputes arose, *M* was appointed and made his award on February 16th, 1891, as to what remained to be done by one of the parties to complete certain works under the contract. These parties, on June 8th, stated that they had completed the works and asked for payment. Hereupon further disputes arose as to whether the works were completed in accordance with the award. Subsequently the solicitors to one of the parties

wrote to the other party that they must refer these disputes to arbitration, and that *M*, the previously appointed arbitrator, being in America, they should apply to the President of the Institution of Civil Engineers to appoint an arbitrator according to the agreement between the parties. The President accordingly appointed *S*; but the other party objected, declaring that *M* should be arbitrator, and they refused to appear before *S*. The party at whose request *S* had been appointed then applied to Court under this clause, and an order appointing *S* was obtained. In appeal, however, this order was reversed on the ground that *S* was the standing referee after his appointment by the President of the Institute of Civil Engineers, and that the lower Court had no jurisdiction to interfere (*Wilson and Eastern Counties, &c., In re*, 61 L. J. Q. B., 237).

Where there is a reference to three arbitrators, one to be appointed by each of the parties, and the third to be chosen by the two so appointed, the Court has no power under this section to order a party who has refused to do so to appoint an arbitrator (*Smith & Nelson, In re*, 59 L. J. Q. B., 533; 25 Q.B. D., 545). Where the terms of a reference provide for the appointment of an umpire before the arbitrators enter on the reference, until the umpire is appointed the reference cannot proceed (*Chooni Lal v. Madhoram* (1908), 36 C., 388; 13 C. W. N., 297), but see *Bombay Co. Ltd. v. National Jute Mills* (1912), 39 C., 669).

For the practice as to applications for the appointment of arbitrators or umpire under sub-section 2 of this section, see Appendices.

9. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless a different intention is expressed therein,—

Power for parties in certain cases to supply vacancy.

(a) if either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, or is removed, the party who appointed him may appoint a new arbitrator in his place ;

(b) if, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with a written notice to make the appointment, the party, who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent :

Provided that the Court may set aside any appointment made in pursuance of clause (b) of this section.

For the practice as to applications to set aside, under the proviso, any appointment made in pursuance of cl. (b), see Appendices.

If the submission is to arbitrators of a particular qualification an award by arbitrators not of that qualification will be null and void unless the circumstances are such as to raise an estoppel (*Jungheim v. Foukelmann* (1909), 2 K. B., 948).

Appeal from opinion of Court on case stated.—The Appellate Court would have no jurisdiction to entertain an appeal from an opinion of the High Court of Justice on a question submitted to it by an arbitrator under cl. (b) of this section. Such an opinion is not a judicial decision but consultation, and the arbitrator finally decides it (*Knight and Tabernacle, &c., Society, In re*, 62 L. J. Q. B., 33; (1892) 2 Q. B., 613). But there is an appeal from the order passed upon a special case stated by the arbitrator because it is a judicial proceeding and the opinion of the Court is an effective determination of the rights of the party (*Kirkleathan Local Board, In re*, 62 L. J. Q. B., 180). [See Civil Procedure Code, 1908, s. 104 (1) (b)].

Clause (b) reproduces s. 5 of the English Act. The practice of appointing two arbitrators has been found undesirable for many reasons. (Russell on Arbitration, 8th Ed., p. 215, and cases there cited). In the first place, each of such arbitrators is apt to look upon himself as the advocate of his nominors, and the referee often thinks he is not compelled to interfere until the arbitrators have finally differed. The Indian Legislature aims in cl. (b) to discountenance references of this nature.

10. The arbitrators or umpire acting under a sub-
mission shall, unless a different
Powers of arbitrators. intention is expressed therein,—

- (a) have power to administer oaths to the parties and witnesses appearing;
- (b) have power to state a special case for the opinion of the Court on any question of law involved; and
- (c) have power to correct in an award any clerical mistake or error arising from any accidental slip or omission.

In England the Court can compel the arbitrator to state a case (*Spillers and Leatham, In re*, 66 L. J. Q. B., 326; [1897] 1 Q. B., 312), but the law here gives him the discretion. The arbitrators or umpire can only state a case during the existence of the arbitration, they cannot do so after the award has been made. (*Palmer and Hoskin, In re*, 67 L. J. Q. B., 1).

By the rules framed by the various Courts under the provisions of s. 20 of this Act the arbitrators or umpire under the powers contained in cl. (b) of this section, may, before the conclusion of any reference before them or him or by their or his award, state a special case for the opinion of the Court. As to the mode in which such cases are to be stated, see Appendices.

11. (1) When the arbitrators or umpire have made their award, they shall sign it and shall give notice to the parties of the making and signing thereof and of the amount of the fees and charges payable to the arbitrators or umpire in respect of the arbitration and award.

(2) The arbitrators or umpire shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in the Court; and notice of the filing shall be given to the parties by the arbitrators or umpire.

(3) Where the arbitrators or umpire state a special case under section 10, clause (b), the Court shall deliver its opinion thereon, and such opinion shall be added to, and shall form part of, the award.

The Act is silent as to the course to be adopted in the case of a sole arbitrator refusing to sign his award or to file it, or in the case of his dying after making but before signing it. In the former case there would appear to be no jurisdiction in the Court to compel him to sign it or to file it unless a suit were brought against him. Though the Act, by the use of the word "shall," purports to impose a liability upon the arbitrator, he is under no liability, statutory or contractual, to sign and complete his award. And if he dies after signing and making, but before filing his award, the law is silent as to the steps to be taken. He is the only person by whom the law makes provision that it is to be filed, and there is no liability on the part of his representatives, even if they had the power and capability, to file it. In the case of an arbitrator not subject to the jurisdiction of the Court the

same difficulties occur, the High Courts may, however, frame rules to meet such cases under s. 20 of this Act.

For an instance of an award being upheld where only three out of five arbitrators signed, see *Kamta v. Jodha*, 7 A. L. J., 890.

Cl. 2. The arbitrator or umpire has a lien for his reasonable costs, on the award and submission and on any memoranda or valuation obtained by himself from other persons for his guidance, but not on documents put in as evidence before him by the parties (*Laing v. Todd*, 13 C. B., 276.) If necessary, an arbitrator may employ a solicitor or counsel to draw up the award and he is entitled to claim such expenses as costs of the award (*Threlfall v. Fanshawe*, 19 L. J. Q. B., 334).

12. The time for making an award may, from time to time, be enlarged by order of the Court, whether the time for making the award has expired or not.

Power for Court to enlarge time for making award.

For the practice as to applications in the Courts for enlargement of time under this section and sub-section 2 of s. 13, see Appendices.

13. (1) The Court may, from time to time, remit the award to the reconsideration of the arbitrators or umpire.

Power to remit award.

(2) Where an award is remitted under sub-section (1), the arbitrators or umpire shall, unless the Court otherwise directs, make a fresh award within three months after the date of the order remitting the award.

The Court may remit an award on the ground that fresh evidence has been discovered since the award was made, though the arbitrator does not join in asking the Court to remit it. Such evidence need not be strictly legal evidence, though it must be such as may affect the arbitrator's decisions (*Keighley and Durrant*,

In re, 62 L. J. Q. B., 105; [1893] 1 Q. B., 405; *Barnard v. Wainwright*, 1 L. M. P., 455). The Court may remit even though the arbitrator be *functus officio* (*in re Stringer* [1901], 1 K. B., 105).

An award will not be sent back on the ground that the arbitrator has made a mistake (*Wordsdell v. Holder*, 1 L. T., 14), unless he admits the mistake (*Dinn v. Blake*, 44 L. J. C. P., 276; *Flynn v. Robertson*, 38 L. J. C. P., 240; *Greenwood v. Brownhill*, 44 L. T., 47 C. A.), or unless there has been fraud or corruption on his part (*Hodgkinson v. Fernie*, 3 C. B. N. S., 189). But it would be sent back to correct a clerical error (*Howett v. Clements*, 7 M. & G., 1045; *Davies v. Pratt*, 16 C. B., 586; *Mordue v. Palmer*, 40 L. J., Ch. 8), or if the objection appeared on the face of the award (*Sharman v. Bell*, 5 M. & S., 504; *Hogge v. Burgess*, 3 H. & N., 293. See *Protap v. Toolsey* [1902], 29 C., 793.)

14. Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set aside the award.

Power to set aside award.

The parties cannot by agreement oust the jurisdiction of the Court under this section (*Hurdwary Mull v. Ahmed* (1908), 13 C. W. N., 63. Cf. *Mulji v. Ransi* (1909), 11 Bom. L. R., 273).

A party would always be entitled to move the Court to set aside the award on the ground of the misconduct of the arbitrator. The fact that he was corrupt or partial (*Tittenson v. Peat*, 3 Atk., 529; *Morgan v. Mather*, 2 Ves. Jr., 15; *Bansi v. Sital* 29 A., 13.) or that he had taken a bribe (*Whiteley v. Roberts*, W. N. Eng. [1891] 3) or became indebted to one of the parties (see *Mahomed v. Hakiman*, 29 C., 278) would naturally lead to the Court quashing the award. But there are other cases of misconduct, not of the nature of fraud, where the Court would also interfere, as for instance his refusal to adjourn a meeting to enable a party to engage counsel when the other party had unexpectedly appeared by counsel (*Whitley v. Morland*, 2 Dowl., 249). or where the arbitrators did not appoint a time and place

for the hearing of the reference. (*Hurdwary Mull v. Ahmed* [1908], 13 C. W. N., 63). An arbitrator has discretion to allow an amendment of pleadings delivered by the parties in compliance with his direction to them. (*In re Crichton* [1910], 2 K. B., 738). The Court will set aside the award if the arbitrator has made his award without hearing all the evidence (*Phipp's v. Ingram*, 3 Dowl., 669; *Hurdwary Mull v. Ahmed* [1908], 13 C. W. N., 63); or if he has refused a party a reasonable opportunity to prove his case (*Pepper v. Gorham*, 4 Moore, 148), or if he acts irregularly in the discharge of his quasi-judicial duties. Arbitrators are bound by the rules of evidence no less than Judges. Neither a Judge nor an umpire has any right to call a witness in a civil action without the consent of the parties (*In re Enoch, &c.*, (1910), 1 K. B., 327). An award will not be remitted for the re-consideration of an arbitrator upon the sole ground that he has made a mistake in law. (*Montgomery Jones & Co., In re*, 78 L. T., 406, C. A.), nor on the ground that an arbitrator has delegated to a third person the performance of acts of a purely ministerial character. *Buta v. Municipal Committee of Lahore*, 4 Bom. L. R., 673. An arbitrator is entitled to proceed in the absence of the party if due notice to attend has been given to such party, and the Court will enforce an *ex parte* award made in such circumstances. (*Ram Narain v. Liladgur* [1906], 33 C., 1237). Where arbitrators based their award upon a custom which was found in fact not to exist the award was set aside. *In re N. W. Rubber Co. v. Huttenbach & Co.* (1908), 2 K. B., 907. (See the instances cited in Russell on Arbitration, 8th Ed., p. 354).

An award against a firm, without ascertaining who are the partners, is bad. *Hurdwary v. Ahmed* (1908), 13 C. W. N., 63.

It would be difficult to say whether the Court would hold an arbitrator guilty of misconduct who refused to state a case on the *bonâ fide* application of one of the parties. Probably the Court could not interfere (see *Tabernacle Permanent, etc., Society v. Knight*, 62 L. J. Q. B., at p. 53). Where the arbitrator refused to state a case or to delay his award he was held to be *primâ facie* guilty of misconduct. But it was said that the fact that the Court could compel the arbitrator to state a case gave the parties an implied right to apply to Court for an order

directing the arbitrator to state a case and that the arbitrator was bound to respect this right. (*Palmer and Hoskin, In re* [1898], 1 Q. B. 131). Under the Indian Act the Court would seem to have no power to *compel* an arbitrator to state a special case.

15. (1) An award on a submission, on being filed in the Court in accordance with the Award when filed to be enforceable as a decree. foregoing provisions, shall (unless the Court remits it to the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the Court.

(2) An award may be conditional or in the alternative.

Illustration.

A dispute concerning the ownership of a diamond ring is referred to arbitration. The award may direct that the party in possession shall pay the other party Rs. 1,000, the said sum to be reduced to Rs. 5 if the ring is returned within fourteen days.

But stay of execution cannot be awarded under the Civil Procedure Code. *T. K. Gajjar v. Lallubhai*, 12 Bom. L. R. 860.

16. Where an arbitrator or umpire has misconducted himself, the Court may remove the arbitrator or umpire. him.

This would be by injunction, restraining him from proceeding with the arbitration (*Beddow v. Beddow*, 47 L. J., Ch. 588; 9 Ch. D., 89; *Malmesbury Ry. v. Budd*, 45 L. J., Ch. 271; 2 Ch. D., 113). For some instances of misconduct, see the note to s. 14

17. Any order made by the Court under this Act may be made on such terms as to costs or otherwise as the Court thinks fit.

Costs.

This section deals with the costs of matters before the Court. Apart from the special terms of the submission, Art. IX of Schedule I gives the umpire or arbitrators the sole discretion to award the costs of the reference and award.

The amount of the costs to be paid under that provision must be ascertained and stated in and by the award itself, otherwise the costs of the reference and award, including the arbitrator's fees, are liable to taxation in the ordinary course (*Prebble and Robinson, In re* [1892], 2 Q. B., 602).

18. The forms set forth in the second schedule, or forms similar thereto, with such variations as the circumstances of each case require, may be used for the respective purposes there mentioned, and, if used, shall not be called in question.

Forms.

19. Where any party to a submission to which this Act applies, or any person claiming under him, commences any legal proceedings against any other party to the submission, or any person claiming under him, in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was, at the time when the proceedings were commenced, and still remains, ready and will-

Power to stay proceedings where there is a submission.

ing to do all things necessary to the proper conduct of the arbitration, may make an order staying the proceedings.

For the practice in the Courts as to applications to stay proceedings under this section, see Appendices.

These provisions are an amplification of the proviso to s. 21 of the Specific Relief Act (I of 1877) which by s. 3, *ante*, is rendered inapplicable to any submission or arbitration under this Act.

S. 19 can only apply where the submission to arbitration was before the commencement of legal proceedings. (*Ramjidas v. Howse* [1907], 35 C., 199; *Peruri v. Gullapudi* [1909], 11 Bom. L. R., 1060).

The word 'submission' is defined by s. 4 as a "written agreement to submit present or future differences to arbitration."

The question becomes important, when a person applies to stay proceedings under this section, whether there is an agreement amounting to a submission. In *Baker v. Yorkshire Fire Insurance Co.* (61 L. J. Q. B., 838; [1892] 1 Q. B., 144), see *ante* note under s. 4, cl. (b) it was held that where there was a policy containing a clause referring all differences to arbitration this was a submission, although plaintiff had not signed the policy. In *Aitken v. Bachelor* (62 L. J. Q. B., 193), counsels' endorsements on their briefs that the counter-claim in suit had been referred was held to be a "submission." For submission contained in Bought and Sold Notes, see *Ramnarain v. Liladhur* (1906), 33 C., 1237; *Ganges Mfg. Co. v. Indra Chand* (1906), 33 C., 1169. *Baijnath v. Ahmed* (1912), 40 C., 219; *Bombay Company Ltd. v. Natimal Jute Mills* (1912), 39 C., 669. If there is an agreement to refer the subject-matter of a counter-claim, the counter-claim will be stayed on the application of the plaintiff (*Spartali v. Van Hoorn*, Bitt. Rep. in Chambers, 216; W. N. Eng. [1884], 32). When under articles of partnership it was provided that the partnership was to continue for 21 years, and that if any difference arose between the parties in regard to the construction of any of the articles or to any division, act, or thing to be done in pursuance thereof.

or to any other matter or thing relating to the said partnership or the affairs thereof, such difference should be referred to arbitration. One of the partners brought an action before the expiration of the term of 21 years, for the dissolution of the partnership, on the ground that it could not be carried on at a profit. The other partner said it could be carried on at a profit and moved to stay the proceedings. But the Court held that the question whether the partnership should be dissolved or not, was not a question which could be referred to arbitration under the arbitration clause (*Turnell v. Sanderson*, 60 L. J. Ch., 703). Under similar articles in another partnership agreement where plaintiff sued for dissolution and for the return to him of a premium, it was held, on an application to stay the suit, that the arbitrators had power under the arbitration clause to award a dissolution and the terms on which it was to take place, and, as one of those terms, to award the return of the premium or part of it, and that, therefore, the proceeding should be stayed (*Bilfield v. Bourne*, 63 L. J. Ch., 104; [1894], 1 Ch. 521). Where there is an article in the partnership that any difference must be referred to arbitration, this would be a bar to a suit for dissolution (*Vawdrey v. Simpson* [1896], 1 Ch., 166; *Pini v. Roncoroni*, 61 L. J. Ch., 218; [1892] 1 Ch., 633).

By asking for time to deliver his defence the defendant cannot be said to take a "step in the proceedings" within the words of the section. The Court has power, therefore in such a case to stay proceedings in the action (*Brighton Marine Palace Co. v. Woodhouse*, 62 L. J. Ch., 697; (1893) 2 Ch., 486; see also *Ives and Barker v. Willans* [1894], 2 Ch., 478).

In *Chappell v. North* (60 L. J. Q. B., 554; [1891] 2 Q. B., 252), plaintiff, after commencing his suit, had abandoned it and then applied under this provision to have the defendant's counter-claim stayed or referred to arbitration according to a provision in the contract sued upon. It appeared that since the delivery of the counter-claim the plaintiff had obtained the defendant's consent, several times, to extension of time, that he had obtained an order for particulars of the counter-claim, and an order to deliver interrogatories. The Court held that although the mere obtaining of a consent did not come within the meaning of "steps in the proceedings," yet a summons for particulars was a "step"

as was also an order to deliver interrogatories, although obtained at the hearing of the defendants' summons.

But an action will not be stayed if the party applying has taken out a summons for further time for delivering his defence (*Ford's Hotel Co. v. Bartlet*, 65 L. J. Q. B., 166; [1896] A. C., 1); *Sarat v. Corporation of Calcutta* [1907], 34 C., 443). Attendance by defendants before a master on the usual summons for directions taken out by the plaintiff, which the master proposed to treat as a summons for an account, and giving an undertaking to furnish an account as a term of the summons standing over, is taking a step in the proceedings. (*Ochs v. Ochs Brothers* [1909], 2 Ch., 121 and see *Steven v. Buncl* [1902], W. N., 44).

Though the Court has a discretion to refuse to stay proceedings it would not be justified in staying them on the ground that the arbitrator appointed by both parties would have to decide the question whether his son acted with due skill and competence and that he would consequently be biased in his judgment (*Eckersley v. Mersey Docks and H. B.* [1894], 2 Q. B., 667). Though such a person might be suspected of bias, it must be remembered that he was appointed by both parties. It must be shown that he would be biased or at least that there was a probability that he would be biased (*Jackson v. Barry Ry. Co.* [1893], 1 Ch., 238). On the same principle, the engineer of one party, if appointed by both parties to act as their arbitrator, would not be disqualified from the fact that he would really be a judge in his own case (*Ives and Barker v. Willans*, 63 L. J. Ch., 521; [1894], 2 Ch., 478).

The fact that a small portion of the relief claimed is not within the scope of the arbitration-clause is not in itself sufficient reason for refusing to stay proceedings where the main subject of the action is within the arbitration-clause. So, if the matters, agreed to be referred under this section are mixed up in an action with matters not agreed to be referred, this section would apply to those matters which had been agreed to be referred, leaving the action to go on as to the other matters. But if the matters agreed to be referred were not the main matters in dispute, but were of a subordinate and trifling nature, and if the matters not agreed to be referred were the

main matters in dispute, it would be very inconvenient, to stay the least of it, to refer that small part and go on as to the large part (*Ives and Barker v. Willans*) (1894), 2 Ch., 478; *Turnock v. Sartoris*, 43 Ch. D., 150). The Court will not stay the action if satisfied that plaintiff has substantial and *bonâ fide* causes of action which do not come within the clause or that there are serious and difficult questions of law involved in the action not proper to be submitted to the determination of an arbitrator or that a cause of action based upon fraud is sued upon (*Workman v. Belfast Harbour Commissioners*, 2 Ir. R., 234).

Under s. 19 the High Court has jurisdiction to stay proceedings in any Court in the Presidency-town subordinate to its jurisdiction (*Ralli v. Noor Mahomed* [1906], 31 B. 236; 8 Bom. L. R., 955).

It is doubtful whether the master of a ship can bind the owner to go to arbitration (*City of Calcutta*, 72 L. T., 517).

Power for High Court to make rules.

20. The High Court may make rules consistent with this Act as to—

- (a) the filing of awards and all proceedings consequent thereon or incidental thereto;
- (b) the filing and hearing of special cases and all proceedings consequent thereon or incidental thereto;
- (c) the transfer to Presidency Courts of Small Causes for execution of awards filed, where the sum awarded does not exceed two thousand rupees;
- (d) the staying of any suit or proceeding in contravention of a submission to arbitration; and,
- (e) generally, all proceedings in Court under this Act.

The rules framed by the various Courts under the provisions of this section are set out in Appendices, *post*. Rules of Court framed under this section, if not in accordance with the Act, are in-operative, and no effect can be given to them. *Bajjnath v. Ahmed* (1912), 40 C., 219.

21. In section 21 of the Specific Relief Act, 1877, after the words "Code of Civil Procedure" the words and figures "and the Indian Arbitration Act, 1899," shall be inserted, and for the words "a controversy" the words "present or future differences" shall be substituted.

Section 21 of the Specific Relief Act (as amended by this Act) provides, that as enacted by the Code of Civil Procedure and by this Act no contract to refer *present or future differences* to arbitration shall be specifically enforced.

It was generally held before this Act that the provisions in the Statute law did not apply to *future differences* but only to disputes which had arisen at the time of the agreement to refer, though in a case in Bombay a different view was held by the Court (*Fazulbhoy v. The Bombay and Persia Co.*, 20 B., 232). The amendment introduced on this point by this section makes the law definite and uniform by the enactment of the wider term "present or future differences" for the word "controversy" in s. 21 of the Specific Relief Act (I of 1877).

22. The provisions of this Act shall be binding on the Crown.

23. (1) This Act shall apply within the local limits of the ordinary civil jurisdiction of the Chief Court of Lower Burma, in cases where, if the subject-matter submitted to arbitration were the subject of a

Special provision as to application of Act to Rangoon.

suit, the suit could, whether with leave or otherwise, be instituted within those local limits.

(2) For the purposes of this Act, the local limits aforesaid shall be deemed to be a Presidency-town.

S. 23 was substituted by the Lower Burma Courts Act, 1900 (VI of 1900), s. 47 and Sch. I, Bur. Code.

THE FIRST SCHEDULE.

(See section 6.)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

I. If no other mode of reference is provided, the reference shall be to a single arbitrator.

II. If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

III. The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators by any writing signed by them, may, from time to time, enlarge the time for making the award.

IV. If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

V. The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire, by any writing signed by him, may, from time to time, enlarge the time for making his award.

VI. The parties to the reference, and all persons claiming through them respectively, shall, subject to the provisions of any law for the time being in force, submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute, and shall, subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writing, and documents within their possession or power

respectively, which may be required or called for; and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

VII. The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath.

VIII. The award to be made by the arbitrators or umpire shall be final and binding on the parties and the persons claiming under them respectively.

IX. The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid or any part thereof, and may award costs to be paid as between solicitor and client.

[The costs must be ascertained and definitely stated in the award otherwise they would be liable to taxation in the ordinary way (*Prebble and Robinson, In re* [1892], 2 Q. B., 602).]

THE SECOND SCHEDULE.

(See section 18.)

FORM I.

Submission to single arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between *A. B.* of _____ and *C. D.* of _____ concerning _____ ;

Now we, the said *A. B.* and *C. D.*, do hereby agree to refer the said matters in difference to the award of *X. Y.*

(Signed) *A. B.*

C. D.

Dated the _____ 189 .

FORM II.

Submission of particular dispute to single arbitrator.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas differences have arisen and are still subsisting between *A. B.* of _____ and *C. D.* of _____ concerning _____ ;

Now we, the said *A. B.* and *C. D.*, do hereby agree to refer the said matters in difference to the award of *X. Y.*

(Signed) *A. B.*

Dated the _____ 189 .

C. D.

FORM III.

Appointment of single arbitrator under agreement to refer future differences to arbitration.

In the matter of the Indian Arbitration Act, 1899 :—

Whereas by an agreement in writing, dated the day of 189 , and made between A. B. of and C. D. of , it is provided that differences arising between the parties thereto shall be referred to an arbitrator as therein mentioned ;

And whereas differences within the meaning of the said provision have arisen and are still subsisting between the said parties concerning ;

Now we, the said parties A. B. and C. D., do hereby refer the said matters in difference to the award of X. Y.

(Signed) A. B.

Dated the 189 . C. D.

FORM IV.

Enlargement of time by arbitrator by endorsement on submission.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

I hereby enlarge the time of making my award in respect of the matters in difference referred to me by the within (or above) submission until the day of 189 .

(Signed) X. Y.,

Dated the 189 . Arbitrator.

FORM V.

Special case.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

The following special case is, pursuant to the provisions of section 10, clause (b), of the said Act, stated for the opinion of the * :—

(Here state the facts concisely in numbered paragraphs.)

The questions of law for the opinion of the said Court are :—
First, whether—

Secondly, whether—

Dated the 189 . (Signed) X. Y.,
Arbitrator.

FORM VI.

Award.

In the matter of the Indian Arbitration Act, 1899, and an arbitration between A. B. of and C. D. of :—

Whereas in pursuance of an agreement in writing dated the day of 189 , and made between A. B. of and C. D. of , the said A. B. and C. D. have referred to me, X. Y., the matters in difference between them concerning
(or as the case may be)

* Here specify the Court.

Now I, the said X. Y., having duly considered the matters submitted to me, do hereby make my award as follows:—

I award:—

(1) that _____

(2) that _____

Dated the

189 .

(Signed) X. Y.,

Arbitrator.

APPENDIX A.

The following are the provisions in the Civil Procedure Code (Act V of 1908) relating to arbitrations:

89. (1) Save in so far as is otherwise provided by the Indian Arbitration Act, 1899, or by any other law for the time being in force, all references to arbitration whether by an order in a suit or otherwise, and all proceedings thereunder, shall be governed by the provisions contained in the Second Schedule.

(2) The provisions of the Second Schedule shall not affect any arbitration pending at the commencement of this Code, but shall apply to any arbitration after that date under any agreement or reference made before the commencement of this Code.

THE SECOND SCHEDULE.

ARBITRATION.

Arbitration in Suits.

1. (1) Where in any suit all the parties interested agree that any matter in difference between them shall be referred to arbitration, they may at any time before judgment is pronounced, apply to the Court for an order of reference.

(2) Every such application shall be in writing and shall state the matter sought to be referred.

2. The arbitrator shall be appointed in such manner as may be agreed upon between the parties.

3. (1) The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the making of the award, and shall specify such time in the order.

(2) Where a matter is referred to arbitration, the Court shall not, save in the manner and to the extent provided in this schedule, deal with such matter in the same suit.

Where reference is to two or more, order to provide for difference of opinion.

4. (1) Where the reference is to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators—

- (a) by the appointment of an umpire ; or
- (b) by declaring that, if the majority of the arbitrators agree, the decision of the majority shall prevail ; or
- (c) by empowering the arbitrators to appoint an umpire ; or
- (d) otherwise as may be agreed between the parties or, if they cannot agree, as the Court may determine.

(2) Where an umpire is appointed, the Court shall fix such time as it thinks reasonable for the making of his award in case he is required to act.

Power of Court to appoint arbitrator in certain cases.

5. (1) In any of the following cases, namely :—

- (a) where the parties cannot agree within a reasonable time with respect to the appointment of an arbitrator, or the person appointed refuses to accept the office of arbitrator, or
- (b) where an arbitrator or umpire—
 - (i) dies, or
 - (ii) refuses or neglects to act or becomes incapable of acting, or
 - (iii) leaves British India in circumstances showing that he will probably not return at an early date, or
- (c) where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any party may serve the other party or the arbitrators, as the case may be, with a written notice to appoint an arbitrator or umpire.

(2) If, within seven clear days after such notice has been served or such further time as the Court may in each case allow, no arbitrator or no umpire is appointed, as the case may be, the Court may, on application by the party who gave the notice, and after giving the other party an opportunity of being heard, appoint an arbitrator or umpire or make an order superseding the arbitration and in such case shall proceed with the suit.

6. Every arbitrator or umpire appointed under paragraph 4 or paragraph 5 shall have the like powers as if his name had been inserted in the order of reference.

7. (1) The Court shall issue the same processes to the parties and witness whom the arbitrator or umpire desires to examine, as the Court may issue in suits tried before it.

(2) Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

8. Where the arbitrators or the umpire cannot complete the award within the period specified in the order the Court may, if it thinks fit, either allow further time, and from time to time, either before or after the expiration of the period fixed for the making of the award, enlarge such period ; or may make an order superseding the arbitration, and in such case shall proceed with the suit.

9. Where an umpire has been appointed, he may enter on the reference in the place of the arbitrators,—

Where umpire may arbitrate in lieu of arbitrators.

- (a) if they have allowed the appointed time to expire without making an award, or

(b) if they have delivered to the Court or to the umpire a notice in writing stating that they cannot agree.

10. Where an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in Court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

11. Upon any reference by an order of the Court, the arbitrator, or umpire may, with the leave of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court, and the Court shall deliver its opinion thereon, and shall order such opinion to be added to and to form part of the award.

12. The Court may, by order, modify or correct an award,—

- (a) where it appears that a part of the award is upon a matter not referred to arbitration and such part can be separated from the other part and does not affect the decision on the matter referred; or
- (b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision; or
- (c) where the award contains a clerical mistake or an error arising from an accidental slip or omission.

13. The Court may also make such order as it thinks fit respecting the costs of the arbitration where any question arises respecting such costs and the award contains no sufficient provision concerning them.

14. The Court may remit the award or any matter referred to arbitration to the re-consideration of the same arbitrator or umpire, upon such terms as it thinks fit,—

- (a) where the award has left undetermined any of the matters referred to arbitration, or where it determines

any matter not referred to arbitration, unless such matter can be separated without affecting the determination of the matters referred;

- (b) where the award is so indefinite as to be incapable of execution;
- (c) where an objection to the legality of the award is apparent upon the face of it.

15. (1) An award remitted under paragraph 14 becomes void on failure of the arbitrator or umpire to re-consider it. But no award shall be set aside except on one of the following grounds, namely:—

- (a) corruption or misconduct of the arbitrator or umpire;
- (b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;
- (c) the award having been made after the issue of an order by the Court superseding the arbitration and proceeding with the suit or after the expiration of the period allowed by the Court, or being otherwise invalid.

(2) Where an award becomes void or is set aside under clause (1), the Court shall make an order superseding the arbitration and in such case shall proceed with the suit.

16. (1) Where the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and no application has been made to set aside the award, or the Court has refused such application, the Court shall, after the time for making such application has expired, proceed to pronounce judgment according to the award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

[For cls. 17-21, see pp. 2-4.]

Appendix.

No. 1.

APPLICATION FOR AN ORDER OF REFERENCE.

(Title of suit.)

1. This suit is instituted for *(state nature of claim)*.
2. The matter in difference between the parties is *(state the matter of difference)*.
3. The applicants being all the parties interested have agreed that the matter in difference between them shall be referred to arbitration.
4. The applicants therefore apply for an order of reference.

A. B.

C. D.

Dated the day of 19 .

NOTE.—If the parties are agreed as to the arbitrators it should be so stated.

No. 2.

ORDER OF REFERENCE.

(Title of suit.)

Upon reading the application presented on the day
of 19 it is ordered that the following matter
in difference arising in this suit, namely :—

be referred for determination to X and Y, or in case of their not agreeing then to the determination of Z, who is hereby appointed

to be umpire; and such arbitrators are to make their award in writing on or before the day of 19 , and in case of the said arbitrators not agreeing in an award the said umpire is to make his award in writing within months after the time during which it is within the power of the arbitrators to make an award shall have ceased.

Liberty to apply.

Given under my hand and the seal of the Court, this day
of 19 .

Judge.

No. 3.

ORDER FOR APPOINTMENT OF NEW ARBITRATOR.

(Title of suit.)

Whereas by an order, dated the day of 19
[*state order of reference and death, refusal, etc., of arbitrator*], it is by consent ordered that Z be appointed in the place of X, deceased, or as the case may be to act as arbitrator with Y, the surviving arbitrator, under the said order; and it is ordered that the award of the said arbitrators be made on or before the
day of 19 .

Given under my hand and the seal of the Court, this day
of 19 .

Judge.

No. 4.

SPECIAL CASE.

(Title of suit.)

In the matter of an arbitration between A. B. of and
C. D. of , the following special case is stated for the
opinion of the Court:—

[*Here state the facts concisely in numbered paragraphs.*]

The questions of law for the opinion of the Court are :—

First, whether_____

Secondly, whether_____

Dated the _____ day of _____ 19 . X
Y.

No. 5.

AWARD.

(Title of suit.)

In the matter of an arbitration between A. B. of _____ and
C. D. of _____ :—

WHEREAS in pursuance of an order of reference made by the
Court of _____ and dated the _____ day of
19 _____ the following matter in difference between A. B. and C. D.
namely,_____

has been referred to us for determination ;

Now we, having duly considered the matter referred to us,
do hereby make our award as follows :—

We award—

(1) that_____

(2) that_____

Dated the _____ day of _____ 19 . X
Y.

APPENDIX B.

RULES OF THE HIGH COURT OF CALCUTTA.*

[Awards on references to arbitration in suits.

1. Where an award has been submitted to the Court for the purpose of being filed as contemplated by the second schedule, paragraph 10 of the Code, the Registrar shall give notice of such submission to the parties, that the same will be filed on either party providing the requisite stamps, and that the Court will proceed to pass judgment on such award on a day to be fixed in the notice, which date shall not be less than 10 days from the date of the submission of the said award. (Form No. 1).

2. A person desirous of applying to the Court under the provisions of the second schedule of the Code for judgment in terms of the award may, at least two days before the date fixed for judgment, lodge with the Registrar, for submission to the Court, the draft decree which he considers the award warrants, and shall at the same time serve a copy thereof on any party or parties interested in the said award. At the hearing of the application the Court may adopt, modify or correct such draft, and the decree shall be drawn up accordingly.]

* These rules are new, and come into force from the 15th April 1914, and are to be found in the " Rules of the High Court of Judicature at Fort William in Bengal, Original side," Chapter XXIII. Rules 1 & 2 of that Chapter relate only to awards made in references to arbitration in suits, but it is considered convenient to set out the whole Chapter.

The necessity for some alterations in the former rules, framed by the High Court under s. 20 of the Arbitration Act became apparent from doubts cast upon their validity by the judgment of the Appeal Court in *Batjnath v. Ahmed*, 40 C., 219.

RULES UNDER SECTION 20 OF THE INDIAN ARBITRATION ACT,
IX OF 1899.

3. All applications, affidavits, and proceedings under the Act shall be intitled in the matter of the Act and in the matter of the arbitration.
- Title of applications, etc.
4. All applications under the Act shall, except as hereinafter otherwise provided, be made by petition. The person making any application shall be called the petitioner, and any person served with notice thereof a respondent.
- What applications shall be by petitions.
5. An application under section 12 of the Act may be made to a Judge or to the Registrar or Master upon summons to all parties interested. Every application under rule 11 shall be to a Judge. All other applications shall be to the Court.
- Application under section 12 of the Act may be by summons.
6. Every petition shall be divided into paragraphs numbered consecutively, and shall contain, in a summary form, a statement of the material facts, and the nature of the relief asked for, and shall specify the persons liable to be affected thereby.
- Contents of petitions.
7. Upon any application under the Act, other than an application under section 12, the Court or Judge, as the case may be, shall, except as provided in rule 15, direct notice thereof to be given to all persons specified in the petition, as directed in rule 6, and to such other persons as may seem to the Court or Judge to be liable to be affected by the proceedings requiring, where necessary, such persons to show cause, within the time specified in the notice, why the relief sought should not be granted.
- Upon application other than under section 12 of the Act notice to be given.

8. The arbitrators or umpire may exercise the power conferred by section 10, clause (b) of the Act, to state a special case for the opinion of the Court, either before the conclusion of any reference, or by their or his award.
- Statement of special case for Court's opinion.
9. Every special case stated under rule 8 shall contain and contain only a statement, in a summary form, of the material facts and the points for the opinion of the Court.
- Contents of such special case.
10. Where the arbitrators or umpire state a special case for the opinion of the Court before the conclusion of a reference, they shall transmit the same, or a signed copy thereof, to the Registrar, and shall at the same time give notice of such transmission to the parties.
- Procedure therefor.
11. Any party interested may apply for the opinion of the Court upon such special case. The application shall, in the first instance, be to a Judge. Upon the return of the notice to be issued under rule 7, the special case shall be set down before the Court, on the day fixed by the notice, on the special peremptory list, for the opinion of the Court on the points stated.
- Application for Court's opinion on special case.
- Setting down of special case.
- The opinion of the Court may be filed by any party to the application, and an office copy thereof taken in the usual way for transmission to the arbitrators or umpire. Such office copy shall be added to and shall form part of the award.
- Opinion may be filed. Office copy thereof with award.
12. Where the arbitrators or umpire have been requested to file the award, they shall cause the award or a signed copy thereof to be filed in Court in accordance with section 11 (2) of the Act, by forwarding the same (together with the necessary court-fees for filing), under a sealed cover addressed
- Procedure for submitting award to be filed.

to the Registrar, with a letter requesting that the award be filed.

13. Where the provisions of the Act and of rule 12 appear to have been duly complied with, the Registrar shall forthwith file the award, and give notice thereof to the arbitrators or umpire who shall thereupon notify the parties as required by section 11 (2) of the Act.

14. Where a special case for the opinion of the Court is stated in the award, the Registrar shall, on receipt of the award, place the matter on the special peremptory list before Court No. 1, on the next motion day after the expiry of one week from the receipt of the award, and issue notice thereof to the parties. The Court shall deliver its opinion on such special case, and such opinion shall be added to and form part of the award which shall then be filed.

15. The Court may stay proceedings under section 19 of the Act on such terms as it thinks fit, but not without notice to the opposite party except where it appears that the object of granting a stay would be defeated by the delay occasioned by the notice.

16. The fees in respect of proceedings under the Act shall be according to the table of fees for the Original Side of the Court, as near as the circumstances will permit.

17. The form to which reference is made in this Chapter is in Appendix H.

APPENDIX C.

RULES OF THE BOMBAY HIGH COURT.

75. The following matters may be disposed of by a Judge in Chambers :—* * * (z) Applications in all matters arising under . . . the Indian Arbitration Act.

351. The arbitrators or umpire shall cause the award or a signed copy thereof to be filed in Court in accordance with section 11 (2) of the Indian Arbitration Act, 1899 (in rules 351 to 360 called the Act), by forwarding the same under a sealed cover addressed to the Prothonotary of the High Court with a letter requesting that the same be filed. The arbitrators or umpire shall also send together with the award or copy, the evidence on the reference and the minutes of proceedings and also a copy of the notice given to the parties.

352. Save as aforesaid, all applications under the Act shall be made by petition except as hereinafter otherwise provided, and the person making any application shall be the petitioner, and the person served therewith the respondent.

353. All applications, affidavits and proceedings under the Act shall be intituled in the matter of the arbitration and in the matter of the Act.

354. Every petition and special case shall contain and contain only a statement in a summary form of the material facts, and shall be divided into paragraphs numbered consecutively, and shall state the nature of the relief asked for, or the points for the opinion of the Court as the case may be.

355. There shall be annexed to every petition the submission, Award or special case, if any, to which the same relates or a copy thereof.
- Annexures to petition.
356. Every petition or copy thereof shall specify the persons affected thereby and upon whom notice has to be served as hereinafter provided.
- Persons on whom notice to be served to be specified.
357. Upon any application under the Act the Judge shall direct notice thereof to be given to all persons specified in the petition as directed in Rule 356 and such other persons as may seem to him to be liable to be affected by the proceedings, requiring if necessary such persons to show cause within the time specified in the notice why the relief sought should not be granted, and if no sufficient cause be shown the Judge shall pass such order as the circumstances of the case may require.
- Notice on persons specified and others.
- Where the sum awarded does not exceed Rs. 2,000, the Judge or the Prothonotary as the case may be, may, on the application of the petitioner, transfer a certified copy of the Award for execution to any Presidency Court of Small Causes within the local limits of whose jurisdiction the respondent or any movable property of such respondent may be found.
- Transfer of Award to Presidency Small Cause Court for execution.
- The Judge may stay proceedings under section 19 of the Act on such terms as he thinks fit, but not without notice to the opposite party except where it appears that the object of granting a stay would be defeated by the delay occasioned by the notice.
- Stay of proceedings.
11. The fees shall be according to the Table of fees for the Original Side of the Court as near as the circumstances will permit, the petition for that purpose being deemed a plaint.
- Fees chargeable.

APPENDIX D.

RULES OF THE MADRAS HIGH COURT.

*Rules of the High Court, Original Jurisdiction, 1902,
Order XXXVII.*

PROCEEDINGS UNDER THE INDIAN ARBITRATION ACT, 1899.

517. All proceedings under the Indian Arbitration Act, 1899, shall be headed in the matter of the Act, and of the arbitration.

518. A special case shall formulate the question of law on which the opinion of the Court is required, and shall state, concisely, in consecutive numbered paragraphs, such facts, and refer shortly to such documents, as may be necessary to decide the said question, and shall be signed by the arbitrator or umpire. If it contains more than ten folios, it shall be printed or type-written.

519. A special case shall be presented to the registrar, and shall be accompanied by the documents, or copies of the documents, therein referred to. The registrar shall appoint a day for the hearing, and shall post the case before the Judge sitting for the settlement of issues on that day. Not less than three days' notice of the day so appointed shall be given by the person filing the special case to all parties to the arbitration, who shall, on demand in writing, and on payment of the usual charges, be entitled to a copy thereof.

520. The Judge shall determine which party has the right to begin; and, subject thereto, the case shall be heard and determined in the same manner as a suit which is disposed of finally at the first hearing.

521. Unless the Judge otherwise expressly orders, an arbitrator or umpire shall not be allowed his costs of appearing at the hearing.

522. The person filing a special case, and every party to the arbitration, shall be entitled, on payment of the usual copying charges, to a certified copy of the opinion of the Court thereon.

523. A person desirous of filing an award in Court shall present to the registrar a request to file the same, duly stamped, together with the submission to arbitration, and the award or copies thereof. The said award or copies shall, unless otherwise ordered, be signed by the arbitrator or umpire.

524. An application to set aside an award, or to remit an award to the reconsideration of an arbitrator or umpire, or to remove an arbitrator or umpire, shall be upon notice of motion, and, unless the Court otherwise orders, notice thereof shall be served, not less than two clear days before the return-day, upon all parties to the arbitration. Except where misconduct on the part of an arbitrator or umpire is alleged as a ground for setting aside an award, or for removing an arbitrator or umpire, or unless the Court otherwise orders, it shall not be necessary to serve notice of the application upon an arbitrator or umpire, and he shall not be allowed his costs of appearing thereon.

525. An application for execution of an award, shall be made in manner prescribed for execution of a decree of the High Court.

526. If the sum awarded does not exceed two thousand rupees and application is made to the Court for execution, and, unless the Court otherwise orders, the registrar shall endorse thereon an order for the transfer of the case to the Small Cause Court of Madras, and shall transmit the record to the said Court.

527. Except as hereinbefore provided, all applications under the said Act may be made by summons in chambers; and all proceedings under the said Act shall, so far as practicable, be regulated by the provisions of these rules, with respect to civil suits and matters.

APPENDIX E.

RULES UNDER THE ARBITRATION ACT.

Court of the Judicial Commissioner of Sind, Karachi.

1. All applications under the Indian Arbitration Act, 1899, hereinafter called the Act, shall be made by petition, and for the purposes of these rules, the person making any application shall be the petitioner and the person served therewith the respondent.

Mode of Application.
2. All applications, affidavits and proceedings under the Act shall be intitled in the matter of the Arbitration and in the matter of the Act.

Title of Application, etc.
3. Every petition shall state the names, description and places of residence of the parties, so far as they can be ascertained, and shall contain and contain only a concise statement. divided into paragraphs, numbered consecutively, of the material facts and shall specify the nature of the relief asked for and the section of the Act under which it is sought.

Contents of Petition.
4. There shall be annexed to every petition the submission and other documents, if any, relating to the subject-matter of such petition or a certified copy or copies thereof, unless such document or copy has already been filed in the Court.

Annexures to petition.
5. Every petition shall be signed and verified in the manner in the Code of Civil Procedure provided for signing and verifying plaints and no petition shall be received unless it be so signed and verified.

Signature to and verification of petition.

6. Every petition shall specify the persons affected thereby and upon whom notice has to be served as hereinafter provided. It shall also state whether any notices required by the Act to be served by the parties or arbitrators have been duly served on the parties concerned and the dates of their service.

Persons on whom notice to be served to be specified.

7.(a) Upon any application under the Act the Judge shall, if he do not summarily reject it, direct notice thereof to be given to all persons specified in the petition as directed in

Notice on persons specified and others.

Rule 6 and such other persons as may seem to him to be liable to be affected by the proceedings, requiring such persons to show cause within the time specified in the notice why the relief sought should not be granted and, if no sufficient cause be shown, the Judge shall pass such order as the circumstances of the case may require.

(b) In any application under these rules the Judge may permit the proof of facts by affidavit as provided in the Civil Procedure Code.

8. The Judge may stay proceedings under section 19 of the Act on such terms as he thinks fit but not without notice to the opposite party, except where it appears that the object of granting a stay would be defeated by the delay occasioned by the notice.

Stay of proceedings.

9. All notices issued by the Court under the Act or under these Rules shall be served in the manner provided in the Civil Procedure Code.

Issue of notices.

10. The pleaders' fees shall be calculated at the rate laid down for miscellaneous proceedings.

Fees chargeable.

APPENDIX F.

CHIEF COURT OF LOWER BURMA.

RULES UNDER SECTION 20.

Dated the 25th May, 1904.

In exercise of the power conferred by section 20 of the Indian Arbitration Act, 1899, the Chief Court of Lower Burma has made the following rules :—

RULES.

1. The arbitrators or umpire shall cause the award or a signed copy thereof to be filed in Court in accordance with section 11 (2) of the Indian Arbitration Act, 1899 (in these rules hereafter called the Act), by forwarding it under a sealed cover addressed to the Assistant Registrar, Original Side, Chief Court, Rangoon, with a letter requesting that it may be filed. The arbitrators or umpire shall also send together with the award or copy, the evidence on the reference and the minutes of proceedings and also a copy of the notice given to the parties.

2. Arbitrators or an umpire who may wish to state a special case for the opinion of the Court, under section 10 (b) of the Act, shall send a statement of the case in Form V of the Second Schedule to the Act to the Assistant Registrar.

It shall not be obligatory to send with such case the proceedings, evidence, or copies of notices mentioned in the preceding rule.

3. Save as aforesaid, all applications under the Act shall be by petition in writing.

4. All petitions, affidavits, and proceedings shall be instituted in the matter of the Act and in the matter of the arbitration.

5. All such petitions and all awards and special cases sent to the Assistant Registrar shall be filed, registered, and numbered as miscellaneous proceedings.

6. Every petition and special case shall contain, and contain only, a statement in a summary form of the material facts, and shall be divided into paragraphs numbered consecutively and shall state the nature of the relief sought, or the points for the opinion of the Court as the case may be.

7. Notice shall be served in one or other of the modes prescribed by the Code of Civil Procedure for the service of summonses, upon every person who may appear to the Judge to be affected by or concerned with a petition, special case, or award, stating the day on which the petition or special case will be heard or considered, or, in the case of an award, the day on or before which applications to remit or set aside the award must be presented.

The day to be fixed for presentation of applications to remit or set aside an award shall be the tenth day after receipt of the award by the Assistant Registrar, or if that day is a Court holiday, the next day on which the Court is open for business.

8. A petitioner shall deposit with the Bailiff the necessary process-fees for notice to the other party concerned within three days of the presentation of his petition.

9. No day shall be fixed for the consideration of any special case stated until one of the parties concerned has deposited the process-fees necessary for notice to the other parties concerned.

10. The party who has requested arbitrators or an umpire to cause an award to be filed shall, within three days after the filing of the award, deposit with the Bailiff the process-fees for notice to the other parties concerned.

11. When the sum awarded does not exceed Rs. 2,000 the Judge may transfer a certified copy of the award for execution to any Presidency Court of Small Causes within the local limits of whose jurisdiction the respondent, or any movable property of such respondent, may be found.

12. No proceedings shall be stayed under section 19 of the Act without notice to the opposite party, except where it appears that the object of granting a stay would be defeated by the delay occasioned by the notice

INDEX.

	PAGE.
APPEAL—	
none, from opinion of Court on case stated ..	17
APPENDIX—	
A. Provisions of Civil Procedure Code as to arbitration	37
B. Calcutta rules	45
C. Bombay rules	49
D. Madras rules	51
E. Karachi rules	53
F. Burma rules	55
ARBITRATION ACT—	
binding on Crown	29
Extent	5
to what towns applicable	6
to what subject-matter applicable	6, 7
ARBITRATOR—	
appointment of umpire by	16
bound by rules of evidence	22
delegation by, of ministerial acts	22
discretion of, as to costs	24
fraud of	21
conception of	21
dying before filing award	12
has lien for costs	20
may be designated as holder of an office	13
may be removed for misconduct	23
may examine witness on oath	32

	PAGE.
ARBITRATOR—<i>contd.</i>	
may proceed <i>ex parte</i> , after notice	22
may employ third party to draw up award ..	20
mistake of, ground for remitting	21
power to award costs	24
power of, to administer oaths	18
to state case	18
to correct clerical error	18
procedure of, after signing award	19
refuses to act, procedure where	14
refusing to sign award	19
what amount to legal misconduct of	21, 22
when vacancy may be supplied by parties ..	16
AWARD—	
after filing, enforceable as decree	23
filing of	19
Court may enlarge time for making	20
form of, under Act	35
fresh award to be within 3 months	20
implied term as to time for filing	31
may be remitted	20
may be made <i>ex parte</i> , after notice	22
may be conditional or alternative	23
not to be remitted for mistake in law	22
opinion of Court on case stated to form part of	19
procedure after signing	19
set aside for misconduct	21
BIAS—	
whether a ground for staying proceedings ..	27
BOUGHT AND SOLD NOTES—	
submission by clause in	10, 25
BURMA—	
Act applied to Chief Court of Lower ..	29

	PAGE.
CASE STATED—	
discretion of arbitrator as to	18
no appeal from opinion of Judge upon	17
opinion of Court upon	19
refusal to state case whether misconduct ..	22, 23
CHAMBER OF COMMERCE—	
arbitrator appointed by	13
where reference is to, as arbitrator	14
CIVIL PROCEDURE CODE (V of 1908)—	
arbitration under Sch. II of, where parties not	
before Court	2
arbitration under Sch. II of, where parties not	
in a suit	2, 37
CLERICAL ERROR—	
a cause for remitting award	21
arbitrator has power to correct	18
COMPANY—	
arbitration by	9
CONTRACT ACT—	
agreement for arbitration not void under ..	4
provisions of, relating to agreements to arbitrate	4
CONDITIONAL AWARD	23
CORRECTION—	
of clerical error in award	18
CORRUPTION—	
of arbitrator	21
COSTS—	
amount of, to be stated in award	24, 32
discretion of arbitrator as to	24, 32
discretion of Court as to	24

	PAGE.
COSTS—<i>contd.</i>	
lien of arbitrator for	20
power of arbitrator to award	13
taxation of	24
COURT—	
“The Court” defined	10
discretion of, as to costs	24
discretion of, in appointing arbitrator	15
discretion of, to stay proceedings	24, 27
has power to remit	20
has no power to compel arbitrator to state case	23
may appoint arbitrator or umpire in certain cases	14
may enlarge time for making award	20
may remove arbitrator for misconduct	23
may set aside award for misconduct	21
may stay proceedings in subordinate Court	28
opinion of, on case stated cannot be subject of appeal	17
opinion of, on case stated to form part of award	19
CROWN—	
Arbitration Act binding on	29
CUSTOM—	
award based on, non-existing	22
DELEGATION—	
of ministerial acts, by arbitrator	22
DISCRETION—	
See <i>Court, Arbitrator.</i>	
not always absolute	15
EVIDENCE—	
arbitrator bound by rules of	22
arbitrator must hear all	22
discovery of fresh, a ground for remitting award	20
may be taken on oath	32

	PAGE.
EXECUTION—	
stay of, may not be awarded	23
transfer of award to Small Cause Court for	28
EX PARTE—	
arbitrator may proceed, after notice	22
FEEES—	
chargeable, <i>see</i> Rules.	
FILING—	
award when filed, enforceable as decree	23
High Court may make rules as to, of award	28
of award	19
of award, if arbitrator dies	19
FIRM—	
award against, without ascertaining partners, bad	22
FORMS—	
in second schedule, not to be questioned	24
in Appendix to Sch. II, Civ. Pro. Code	42
under Arbitration Act, Schedule II	33
FRAUD—	
of arbitrator	21
IMPLIED TERM—	
in submission	12, 31
INDIAN COMPANIES ACT—	
provisions of, relating to arbitration	9
restriction of subject-matter removed by	9
INJUNCTION—	
operating to remove arbitrator	23
LIEN—	
of arbitrator, for costs	20
LIMITATION—	
defence of, not excluded by submission	13

	PAGE.
MISCONDUCT—	
a ground for removing arbitrator ..	23
of arbitrator, a cause for setting aside award ..	21
of arbitrator, need not amount to fraud ..	21
refusal to state case ..	22
MISTAKE—	
in law, no ground for remitting award ..	22
of arbitrator no ground for remitting award ..	21
NOTICE—	
when necessary, <i>see</i> Rules.	
OATH—	
arbitrator may examine witnesses upon ..	32
PARTNER—	
<i>See Firm.</i>	
PARTNERSHIP—	
arbitration under articles of ..	26
PLEADINGS—	
before arbitrator ..	22
PRESIDENCY BANKS	
may arbitrate under own Act ..	9
not within Arbitration Act ..	9
PROCEDURE—	
power of High Court to make rules regulating ..	28
<i>See Rules.</i>	
REMITTING AWARD—	
<i>See Arbitrator, Award, Misconduct.</i>	
RULES—	
High Court may make ..	28
must be consistent with Act ..	29

	PAGE.
RULES— <i>contd.</i>	
under s. 20, Calcutta ..	45
Bombay ..	49
" Madras ..	51
" Karachi ..	53
" Burma ..	55
SHIP—	
authority of master to bind owner ..	28
SPECIAL CASE—	
High Court may make rules as to filing and hearing ..	28
contents and procedure, <i>see</i> Rules.	
form of, under Act ..	35
SPECIFIC RELIEF ACT—	
amended by s. 3 of Arbitration Act ..	3, 7
amended by s. 21 ..	29
STAMP—	
contract note need not bear 8-anna stamp, though containing submission ..	11
in case of arbitration, when not necessary ..	11
provisions of Stamp Act as to, on award ..	11
STAMP ACT—	
provisions of, as to stamp on award ..	11
STAY OF PROCEEDINGS—	
discretion of Court ..	27
under s. 19 ..	24
where relief claimed is not within arbitration ..	27
where serious question of law involved ..	28
STEP IN PROCEEDINGS—	
asking for time ..	26
summons for particulars ..	26
M, IAA	

	PAGE.
STEP IN PROCEEDINGS—<i>contd.</i>	
order for interrogatories	26
summons for directions	27
SUBMISSION—	
defined	10
does not exclude defence of limitation ..	13
by clause in bought and sold notes ..	10, 25
by counsel's indorsement on brief ..	10, 25
by writing in policy	10, 25
form of, under Act	33
must be in writing	10
provisions implied in	12
to arbitrators of a particular qualification ..	17
when irrevocable	11
SUBORDINATE COURT—	
High Court may stay proceedings in ..	28
TAXATION—	
of costs	24
TRANSFER—	
to Small Cause Court of awards for execution ..	28
UMPIRE—	
arbitrators may appoint	31
must be appointed before reference can proceed	16
implied term as to time for making award ..	31
WITNESS—	
not to be called by arbitrator without consent	
of parties	22
may be examined on oath	32