

1908.
GOVERNMENT
OF
EASTERN BENGAL & ASSAM.

JUDICIAL DEPARTMENT

LEGISLATIVE—A.

August 1908.

Nos. 145-162.

Extension of the Provincial Insolvency Act, 1907 (III of 1907), to the Scheduled Districts in the Province of Eastern Bengal and Assam.

REFERENCES TO FORMER CASES.

Department, date, and Nos., or File No. and year.	Brief Title of File.
1. Home, A, Sep. 1902, Nos. 295- 301.	Civil Procedure Code Amendment Bill.
2. Ditto, Aug. 1903, Nos. 39-46.	Bill to amend the Code of Civil Pro- cedure.
3. Ditto, Aug. 1904, Nos. 121- 123.	Extension of the Stamp and Court Fees Acts (II of 1899 and VII of 1870), to the Lu- shai Hills.
4. Ditto, Jan. 1905, Nos. 227-233.	Extension of Stamp and Court Fees Act to the Lushai Hills.
5. Judl., B, Feb. 1906, Nos. 641- 647.	Investiture of the Court of the De- puty Commission- er, Cachar, as Sub- Judge with certain powers of a District Court.
6. Ditto, A, Aug. 1906, Nos. 31-76.	Reduction of sta- tus of the Deputy Commissioner and <i>ex-officio</i> District Judge, Cachar, to that of a Sub- Judge.
7. Ditto Jan. 1907, Nos. 1-14.	Bill to consolidate and amend the law relating to insolvency in Bri- tish India.
8. Leg., A, Jan. 1908, Nos. 1-11. (File No. 6-487 6-1908)

F-6.

REFERENCES TO LATER CASES.

Department, date, and Nos.	Brief Title of File.
Int A Jan 1908 = 18-25 (C) Apr A Feb 1908 = 19-25 (A) Leg A Oct 1908 = 41-72 (A) (To be continued on back, if necessary.)	

PAPERS OTHER THAN PROCEEDINGS.

- I.—Printed.
Notes and orders.
- II.—Not printed.

Unimportant papers.

[FILE No. L.—29J. OF 1908.]
1908.

GOVERNMENT OF EASTERN BENGAL AND ASSAM.

JUDICIAL DEPARTMENT.

LEGISLATIVE—A.

AUGUST.

Nos. 145-162.

Extension of the Provincial Insolvency Act, 1907 (III of 1907), to the Scheduled Districts in the Province of Eastern Bengal and Assam.

TABLE OF CONTENTS.

- No. 145.—From the Hon'ble Rai Dulal Chandra Deb Bahadur, Member, Legislative Council, Eastern Bengal and Assam, dated the 25th January 1908.
- No. 146.—To the Judges, Assam Valley Districts, Sylhet, Dinajpur, and Jalpaiguri, Nos. 816-18J., dated the 11th February 1908.
- No. 147.—From the Judge, Assam Valley Districts, No. 515, dated the 15th February 1908.
- No. 148.—From the District Judge, Sylhet, No. 816 dated the 17th March 1908.
- No. 149.—Enclosure.
- No. 150.—From the District Judge of Dinajpur and Jalpaiguri, No. 86C.T., dated the 29th April 1908.
- No. 151.—To the Registrar, High Court, Calcutta, No. 2497J., dated the 2nd June 1908.
- No. 152.—From the Registrar, High Court, Calcutta, No. 2052, dated the 18th June 1908.
- No. 153.—To the Government of India, Home Department, No. 2939J., dated the 1st July 1908.
- No. 154.—Same as No. 159.
- No. 155.—Same as No. 161.
- No. 156.—From the Government of India, Home Department, No. 971, dated the 24th July 1908.
- No. 157.—To the Publisher of the *Gazette of India*, No. 3476J., dated the 4th August 1908.
- No. 158.—Same as No. 162.
- No. 159.—Notification No. 3469J.
- No. 160.—To the District Judges, Sylhet and Cachar, and Assam Valley Districts.
- No. 161.—Notification No. 3468J., dated the 4th August 1908.
- No. 162.—To the District Judges of Sylhet and Cachar, Assam Valley Districts, Dinajpur and Jalpaiguri, Nos. 3770-72J., dated the 22nd August 1908.

NOTES.
LEGISLATIVE, A—AUGUST 1908.

Nos. 145-162.

Extension of the Provincial Insolvency Act, 1907 (III of 1907), to the Scheduled Districts in the Province of Eastern Bengal and Assam.

FROM THE HON'BLE RAI DULAL CHANDRA DEB BAHADUR, MEMBER, LEGISLATIVE COUNCIL, EASTERN BENGAL AND ASSAM, DATED THE 25TH JANUARY 1908.

Under-Secretary,

Chapter XX of the Civil Procedure Code which deals with insolvent judgment debtors does not appear to have been included in the new Bill* to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature. The insolvency provision has been eliminated, perhaps for the reason that the Insolvency Act of 1907 covers the same ground. In this connection, please see clause 4, paragraph 7 of the Statement of Objects and Reasons, relating to the Insolvency Bill, which has since been passed into law. So when the new Bill to amend the Civil Procedure Code (without the insolvency chapter) will be passed into law, there will no longer remain two different procedures in force to deal with insolvent debtors. If this be the case, perhaps it would be necessary to bring the new Insolvency Act into force in the Assam districts of the province and also Jalpaiguri district before the Civil Procedure Bill is passed into law.

For orders.

Tarini—3rd February 1908.

Secretary,

The reminder of the Hon'ble Member of Council appears to be correct, and we should move India to widen Section 5 of the Scheduled Districts Act. Legal Remembrancer may be consulted.

5th February 1908.

G. MILNE.

(1) Acknowledge and say the proposal is receiving the consideration of Government.

(2) Consult the Judges, Assam Valley Districts, and Sylhet and Jalpaiguri, as to the expediency of extending Act, III of 1907, to the scheduled districts.

5th February 1908.

J. E. WEBSTER.

[To the Judge, Assam Valley Districts, District Judge, Sylhet, and District Judge, Dinajpur and Jalpaiguri, Nos. 816-18J., dated the 11th February 1908.]

[To the Hon'ble Rai Dulal Chandra Deb Bahadur, No. 815J., dated the 11th February 1908—(Not printed).]

FROM THE JUDGE, ASSAM VALLEY DISTRICTS, No. 515, DATED THE 15TH FEBRUARY 1908.

FROM THE DISTRICT JUDGE OF SYLHET, No. 816, DATED THE 27TH MARCH 1908.

FROM THE DISTRICT JUDGE OF DINAJPUR AND JALPAIGURI, NOS. 86C.T., DATED THE 29TH APRIL 1908.

FROM THE DISTRICT JUDGE OF DINAJPUR AND JALPAIGURI, No. 87C.T., DATED THE 29TH APRIL 1908.

Under-Secretary,

The replies to our letter No. 816-18J., dated the 11th February 1908, are all now to hand. The officer consulted are all in favour of the extension of the new Insolvency Act, III of 1907, to the scheduled districts.

Please see section 1 of the new Civil Procedure Code * (page 13, Part IV, *India Gazette*, dated the 21st March 1908), from which it will appear that the Code extends to the whole of British India, except the scheduled districts; but will not come into force till the 1st day of January 1909.

* Act V of 1908.

The question as to whether the Insolvency Act should at once be extended to our scheduled districts, or we should wait until the new Civil Procedure Code has been made applicable to those districts, may be considered. In this connection, please see the last paragraph of Mr. Newbould's letter of the 29th April 1908. As regards Jalpaiguri district he recommends that the Insolvency Act should be extended at once and to other districts not till 1st January next. It is not clear to us why the Act should not be extended to all our scheduled districts at one and the same time. } A } B

Under section 350 of the Civil Procedure Code (Act, XIV of 1882), the Deputy Commissioners of the Assam Valley Districts and the Sadr Munsifs of Cachar have powers to dispose of insolvency applications, *vide* Notifications No. 41J., dated the 16th May 1882, and No. 6J., dated the 18th January 1882, reproduced at page 191 of the Assam Local Rules and Orders. These powers will perhaps not be continued under clause (2), Section 56 } C

It has since been found out that the Deputy Commissioner, Cachar, also has the power, *vide* Notification No. 64J., dated the 4th Jan. 1906 (Judl., B, Feb. 1906, Nos. 641-647).

of the new Insolvency Act, in which case the same power will have to be conferred a fresh on those officers under section 3(1) of the Act, after the extension of the Act to those districts.

Under section 5 of the Scheduled Districts Act, XIV of 1874, Local Government may, with the previous sanction of the Governor General in Council, extend the Act to all or any of the scheduled districts in this province. For precedent, please see Home, A, January 1905, Nos. 227-233.

Perhaps Legal Remembrancer may be consulted unofficially.

Tarini—7th May 1908.

Secretary,

A of office note. The 1st January 1909 would seem to be a suitable date, from which the extension of the Act should take effect.

B. There seems to be no particular objection to the extension of the Act to Jalpaiguri district at once, as desired by the District Judge. It would probably be more convenient to him to have both the districts alike.

C. It is a question whether these officers will have to be re-appointed under Section 3(1).

9th May 1908.

P. G. ROGERS.

Please draft a letter to the Government of India, asking sanction to the extension of the Provincial Insolvency Act to the scheduled districts. We need not fix the date in the draft, nor do I see why we should wait until the 1st January 1909. We may also ask the sanction of the Governor General in Council to invest the Courts of the Deputy Commissioners of the scheduled districts, except Sylhet, with the powers of a district court. I observe that when the Sadr Munsif of Cachar was given powers, in insolvency proceedings the Deputy Commissioner had the powers of a District Judge, he has now only the powers of a Sub-Judge and no jurisdiction in insolvency proceedings. There is no apparent reason for treating

Judl., A, Aug. 1906, Nos. 31-76.

Cachar differently to the Assam districts, but Commissioner may be consulted on this point, when the draft is ready.

12th May 1908.

J. E. WEBSTER.

Under-Secretary,

A draft to India put up.

The hills as well as plains districts in Assam are all scheduled districts. As the Civil Procedure Code, 1882, is not in force in any hill districts, or frontier tracts, nor is there any question of extending the new Civil Procedure Code in those districts and tracts, perhaps it is not intended to extend the Insolvency Act thereto.

While the Deputy Commissioner, Cachar, is being given powers of District Court, perhaps it is not necessary to give the same power to the Sadr Munsif of Cachar. Commissioner may be consulted unofficially.

Tarini—15th May 1908.

The draft Notifications attached to the draft letter to India apparently requires the approval of the Legal Remembrancer before they sent to India?

K. D. M.—17th May 1908.

The Notification should follow more closely the wording of the Act, but I think we should first consult the High Court.

18th May 1908.

J. E. WEBSTER.

His Honour,

The Provincial Insolvency Act which came into force on the 1st of January of this year does not apply to the scheduled districts, but the Judges of those districts have been consulted and have advised that the Act should be extended. The District Judge of Jalpaiguri and Dinajpur wants the Act extended at once to Jalpaiguri, and suggests that it need not be extended to other scheduled districts until the 1st January next. On that date, the new Civil Procedure Code comes into force, but it will not supersede the present Code in the scheduled districts until specially extended under the Scheduled Districts Act. I take it that the new Procedure Code is certain to be applied to all areas in this province in which the existing Code is now enforced, and as it contains no provisions regarding insolvency, it will then be necessary to extend the Provincial Insolvency Act to the scheduled districts. At present there is no hurry, and going up to India for sanction to the extension of the Act, we need say nothing as to the date from which it will come into force. It should, however, be considered what Courts beside the District Courts jurisdiction should be given jurisdiction under section 3 of the Act. In the Assam Valley all Deputy Commissioners are Subordinate Judges and have been vested with powers in insolvency under sections 344 to 359, Criminal Procedure Code. Please see page 191 of the Assam Local Rules and Orders.

In Cachar, the Deputy Commissioner was formerly also the District Judge, and at that time the Sadr Munsif was given powers in insolvency to be exercised only during the absence of the Deputy Commissioner from the station. The District Judge of Sylhet is now also the District Judge of Cachar and the powers of the Deputy Commissioner have been reduced to those of a Subordinate Judge, and as such, he has been invested with powers in insolvency. Please see Judicial, B, February 1906, Nos. 641-647, I think that we may certainly invest the Deputy Commissioners of the scheduled districts, except Sylhet and Jalpaiguri, with concurrent jurisdiction with the District Courts under section 3 of the Provincial Insolvency Act, but as to the Sadr Munsif I am doubtful. In the linked file, the High Court have recommended placing the limit of Rs. 5,000 to the jurisdiction of Subordinate Judges in insolvency proceedings, and expressed the opinion that at present Munsifs should not be given powers under the Insolvency Act, I do not think that we are bound to

~~consult~~ the High Court, and it was not consulted in 1905 when powers were given to the Deputy Commissioner of Cachar; but possibly the Hon'ble Judges might like to be consulted, and I should be inclined to ask their advice. If, however, His Honour considers this unnecessary, the draft below to India might, I think issue, and we might consult the District Judge of Cachar, regarding the powers to be given to the Sadr Munsif.

22nd May 1908.

J. E. WEBSTER.

It can do no harm to consult the High Court as suggested.

22nd May 1908.

C. S. BAYLEY.

[To the Registrar, High Court, Calcutta, No. 2497J., dated the 2nd June 1908.]

FROM THE REGISTRAR, HIGH COURT, CALCUTTA, No. 2052, DATED THE 18TH JUNE 1908.

Secretary,

24th June 1908.

P. G. ROGERS.

His Honour,

May the letter to India issue now?

27th June 1908.

J. E. WEBSTER.

Yes.

27th June 1908.

C. S. BAYLEY.

[To the Secretary to the Government of India, Home Department, No. 2939J., dated the 1st July 1908.]

FROM THE DEPUTY SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, No. 971, DATED THE 24TH JULY 1908.

Under-Secretary,

Two draft notifications and a draft forwarding letter to the Publisher, *Gazette of India*, put up. Tarini—3rd August 1908.

Secretary,

3rd August 1908.

P. G. ROGERS.

4th August 1908.

J. E. WEBSTER.

[To the Publisher of the *Gazette of India*, No. 3476J., dated the 4th August 1908].

[Notifications Nos. 3468J. and 3469J., dated the 4th August 1908].

[Memorandum to the District Judges, Sylhet and Cachar and Assam Valley Districts, Nos. 3468-67J., dated the 22nd August 1908.]

[Memorandum to the District Judges of Sylhet and Cachar, Assam Valley Districts, Dinajpur and Jalpaiguri, Nos. 3770-72J., dated the 22nd August 1908.]

[Correction Slips to Assam Local Rules and Orders are being dealt with separately, *vide* File No. 114L of 1908.]

GOVERNMENT OF EASTERN BENGAL AND ASSAM.
JUDICIAL DEPARTMENT

LEGISLATIVE—A.

AUGUST 1908.

Extension of the Provincial Insolvency Act, 1907 (III of 1907), to the Scheduled Districts in the Province of Eastern Bengal and Assam.

No. 145.

Dated Sylhet, the 25th January 1908.

From—The Hon'ble RAI DULAL CHANDRA DEB BAHADUR, Member, Legislative Council, Eastern Bengal and Assam,

To—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department.

I have the honour to inform you that Act, III of 1907 (Provincial Insolvency Act), passed by the Supreme Legislative Council of India extends to the whole of British India, except the scheduled districts. But the Assam Division of this province, including Sylhet and Cachar, is included in the scheduled districts under the provisions of the Scheduled Districts Act XIV of 1874, and so it does not come into operation in these territories, although it has come into force from the 1st day of January 1908. This Act has replaced Article No. 174 of the Second Schedule of the Limitation Act XV, 1877, Section 341, clause (e), and Chapter XX of the Civil Procedure Code, and section 31 of the Civil Procedure Code Amendment Act VII 1888, and for them the provisions embodied in it have been substituted. The procedure laid down in Act III of 1907 materially differs from that embodied in the present Code of Civil Procedure with regard to insolvent debtors, and so two different procedures will henceforth be observed in the Civil Courts in this province, although one and the same procedure has always been followed in them since their establishment in this country. Therefore it is desirable that the same uniformity of procedure should now also be maintained. Under section 5 of the Scheduled Districts Act, the Local Government has the power to extend to any of the scheduled districts any enactment which is in force in any part of British India, and therefore I suggest that it is expedient for the Local Government to exercise the power vested in it under the said section.

No. 146.

No. 816-18J., dated Shillong, the 11th February 1908.

From—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department,

To—The Judge, Assam Valley Districts, Sylhet, Dinaipur and Jalpaiguri.

I am directed to point out that the Provincial Insolvency Act, III of 1907, which in regulation districts has replaced (1) Article 174 of the Second Schedule of the Limitation Act, XV of 1877, (2) Section 341, clause (e), and Chapter XX of the Civil Procedure Code, and (3) Section 31 of the Civil Procedure Code Amendment Act, VII of 1888, does not extend to the scheduled districts, and to request that you will be so good as to favour Government with an expression of your opinion and the expediency of extending the Act to the scheduled districts of this province.

No. 147.

No. 515, dated Gauhati, the 15th February 1908.

From—W. B. BROWN, Esq., B.A., I.C.S., Judge, Assam Valley Districts,

To—The Judicial Secretary to the Government of Eastern Bengal and Assam.

In reply to your letter No. 816-18, dated the 11th February 1908, I have the honour to say that I think that the Provincial Insolvency Act should be extended to the districts of the Assam Valley. I cannot offer any opinion about its extension to other districts. It would be desirable to give insolvency jurisdiction to the Courts of the Deputy Commissioners and Subordinate Judges under section 3 of the Act.

Leg. 148-150.

Extension of the Provincial Insolvency Act, 1907.

No. 148.

No. 816, dated Sylhet, the 27th March 1908.

From—J. E. PHILLIMORE, Esq., B.A., I.C.S., District Judge of Sylhet,

To—The Judicial Secretary to the Government of Eastern Bengal and Assam.

I have the honour in reply to your letter No. 816-18J., dated the 11th February 1908, to say that in my opinion the Provincial Insolvency Act should be extended to this district and to Cachar. I enclose copy of the opinion of the Government Pleader.

No. 149.

District Judge,

The Provincial Insolvency Act (Act, III of 1907), is the reproduction of the main features of the Law of English Bankruptcy, but in a greatly modified form. It is no doubt a great advance on the existing Law of Insolvency in the Assam Division of this Province and certainly an improvement on the elementary provisions in the Code of Civil Procedure which it replaces. The question is whether it is expedient to extend this Act to the Surma and Brahmaputra Valley districts, which are classed as the scheduled districts under Act XIV of 1874. In my opinion its operation should be extended to these territories for the following reasons:—

- (1) While the Act has been deemed to be adaptable to the districts of Eastern Bengal, therefore is no reason why it should not be so adaptable to the Surma and Brahmaputra Valley districts, where the Contract Act, Evidence Act, Indian Succession Act, Probate and Administration Act, Transfer of Property Act and Specific Relief Act are already in force. It seems to me that any system of Law which can be appreciated by the people of Eastern Bengal cannot be less appreciated by the people of Assam who, by their legal intelligence and education, are in a position to hail the present Provincial Insolvency Act.
- (2) The District Courts in the Surma and Brahmaputra Valley districts like the District Courts in Eastern Bengal are presided over by the Members of the Indian Civil Service, who are specially trained for the administration of justice. The Bar attached to these (Surma and Brahmaputra Valley districts) Courts is not less intelligent nor less competent than the Bar in Eastern Bengal, and there seems to be no difficulty for a proper administration of the Act in question in Assam if it can be properly administered in Eastern Bengal.
- (3) There should be an uniformity of procedure in the Courts throughout the whole province. The Civil Court in Sylhet was established under Regulation, III of 1793, in common with the Civil Courts in Bengal and the same Law under the same procedure was administered in Sylhet as in Bengal. The Code of Civil Procedure in the Regulation Districts has been the Code of Procedure for the Courts in the Brahmaputra Valley districts, and the district of Cachar since 1859 when Act VIII of 1859 was passed, and so the Code of Procedure in all the Civil Courts in the province of Eastern Bengal and Assam has been the one and the same Code for the last 48 years, and therefore it is desirable that the same uniformity of procedure should be preserved and maintained.

DULAL CHANDRA DEB,

Government Pleader.

No. 150.

No. 87C.T., dated Jalpaiguri, the 29th April 1908.

From—B. B. NEWBOULD, Esq., District Judge of Dinajpur and Jalpaiguri,

To—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department.

In reply to your letter No. 816-18J., dated the 11th February 1908, asking for an expression of my opinion on the expediency of extending the Provincial Insolvency Act, III of 1907, to the scheduled districts of this province, I have the honour to state as follows:—

The Act should, in my opinion, be extended to the Jalpaiguri district at once. In actual practice in the cases which occur in these districts, the new Act differs very

little from the old Law under Chapter XX of the Civil procedure Code. It is, however, inconvenient and likely to cause confusion to have two Acts differing in minor points of detail in force in two districts under the same District Judge.

As regards the other scheduled districts of this province, my opinion is that the new Insolvency Act should be extended to those districts to which it has been decided to make the new Code of Civil Procedure applicable, and should not be extended until the 1st January next, when that amended Code will come into force.

No. 151.

No. 2497J., dated Shillong, the 2nd June 1908.

From—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department,

To—The Registrar, High Court, Calcutta.

I am directed to address you on the subject of a proposal to extend the Provincial Insolvency Act, 1907 (III of 1907), to the scheduled districts in this province, and to invest the Deputy Commissioners of some of them with jurisdiction in cases arising under that Act.

2. All Assam districts and the district of Jalpaiguri in Eastern Bengal are classed as scheduled districts under the provisions of the Scheduled Districts Act XIV of 1874. The Civil Procedure Code, 1882, is in force in all these districts, with the exception of certain tracts inhabited by tribes of ruder civilization, and the Deputy Commissioners of Cachar and of the districts of the Assam Valley districts, who have the powers of Subordinate Judges within their several charges, and also the Sadr Munsif of Cachar have been invested under section 360 of that Code with the powers conferred on District Courts by section 344 to 359. The new Civil Procedure Code which comes into force from the 1st January 1909 and will in all probability be extended to those parts of the scheduled districts to which the existing Code applies, contains no provisions regarding insolvency, and the Lieutenant-Governor is of opinion that there is no reason to defer the extension of the new Provincial Insolvency Act to those districts. If this view be accepted, it will be expedient to vest the Deputy Commissioners of the Assam Valley Districts and of Cachar with concurrent jurisdiction with the District Court. As to Cachar, the orders conferring powers in insolvency proceedings on the Sadr Munsif, date from a time when the Deputy Commissioner had the powers of a District Judge. Now that the Deputy Commissioner's position is that of a Subordinate Judge it seems to His Honour doubtful whether the Sadr Munsif should have jurisdiction in insolvency cases. The Deputy Commissioners of the scheduled districts referred to have powers of a District Judge in insolvency matters under sections 344 to 359 of the Civil Procedure Code, 1882, without any limit as to the amount of debt, and in sanctioning the extension of the new Insolvency Act to these districts, the Lieutenant-Governor proposes to confer on the Deputy Commissioners the same powers without any limit as to amount of debt.

I am now to request that this Government may be favoured with an expression of the opinion of the Hon'ble Judges on this proposal.

No. 152.

No. 2052, dated Calcutta, the 18th June 1908.

From—A. P. MUDDIMAN, Esq., Registrar of the High Court of Judicature at Fort William in Bengal, Appellate Side,

To—The Judicial Secretary to the Government of Eastern Bengal and Assam.

I am directed to acknowledge the receipt of your letter No. 2497J., dated the 2nd June 1908, regarding a proposal to extend the Provincial Insolvency Act, III of 1907, to the scheduled districts of Eastern Bengal and Assam, and to invest the Deputy Commissioners of some of them with jurisdiction in cases arising under that Act.

HIGH COURT, ENGLISH DEPARTMENT.

[CIVIL.]

PRESENT.

The Hon'ble the Acting Chief Justice.

" " Mr. Justice Brett.

" " Stephen.

" " Mitra.

" " Woodroffe.

2. In reply, I am to say that the Chief Justice and Judges agree with the Lieutenant-Governor in the opinion that there is no reason to defer the extension of the new Provincial Insolvency Act to the scheduled districts of the province. They also approve of His Honour's proposal that with the previous sanction of the Governor General in Council the

Leg. 152-156.

Extension of the Provincial Insolvency Act, 1907.

Deputy Commissioners of the districts in the Assam Valley should be vested by the Local Government of Eastern Bengal and Assam under section 3 of the Provincial Insolvency Act with concurrent jurisdiction with the District Court, without any limit as to the amount of debt.

3. In the case of Cachar, the Chief Justice and Judges are of opinion that the powers in question should be conferred on the Deputy Commissioner and not on the Sadr Munsif of that district.

No. 153.

No. 2939J., dated Shillong, the 1st July 1908.

From—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department,

To—The Secretary to the Government of India, Home Department.

I am directed to submit, for the consideration and orders of the Government of India, a proposal to extend the Provincial Insolvency Act, 1907 (III of 1907), to the scheduled districts in this province, and to invest the Deputy Commissioners of some of them with jurisdiction in cases arising under that Act.

2. All Assam districts and the district of Jalpaiguri in Eastern Bengal are classed as scheduled districts under the provisions of the Scheduled Districts Act (XIV of 1874). The Civil Procedure Code of 1882 is in force in all these districts with the exception of certain tracts inhabited by tribes of ruder civilization, and the Deputy Commissioners of Cachar and of the districts of the Assam Valley Districts, who have the powers of Subordinate Judges within their several charges and also the Sadr Munsif of Cachar have been invested under section 360 of that Act with the powers conferred on District Courts by sections 344 to 359. The new Civil Procedure Code which comes into force from the 1st January 1909 and will in all probability be extended to those parts of the scheduled districts to which the existing Code applies, contains no provisions regarding insolvency; and the Lieutenant-Governor is of opinion that there is no reason to defer the extension of the new Provincial Insolvency Act to those areas. If this view be accepted, it will be expedient to vest the Deputy Commissioners of the Assam Valley districts and of Cachar with concurrent jurisdiction with the District Court. The orders conferring powers in insolvency proceedings on the Sadr Munsif of Cachar, date from a time when the Deputy Commissioner had the powers of a District Judge, and now that the Deputy Commissioner's position is that of a Subordinate Judge it seems to His Honour unnecessary that the Sadr Munsif should exercise jurisdiction in insolvency cases.

The Hon'ble Judges of the High Court have been consulted and expressed their

concurrence in these opinions, and I am accordingly to

* Same as Nos. 159 and 161.

request that the Governor General in Council may be pleased to sanction the issue of the 2 notifications,* of which drafts are annexed :—

[No. 154 same as No. 159.]

[No. 155 same as No. 161.]

No. 156.

No. 971, dated Simla, the 24th July 1908.

From—G. B. H. FELL, Esq., Deputy Secretary to the Government of India, Home Department,

To—The Secretary to the Government of Eastern Bengal and Assam, Judicial Department.

In reply to your letter No. 2939J., dated the 1st July 1908, I am directed to say that the Governor General in Council sanctions the issue of the two draft notifications forwarded therewith relating, respectively, to (1) the extension under section 5 of the Scheduled Districts Act 1874 (XIV of 1874) of the Provincial Insolvency Act, 1907 (III of 1907), to the scheduled districts mentioned in the notification; and (2) the

Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur.

investment of the Deputy Commissioners of the marginally noted districts with jurisdiction under Act, III of 1907, subject

to the substitution in the second of these draft notifications, of the words "section 3, sub-section (1)" for the words 'proviso to clause 1, section 3.'

2. I am to request that, with the Lieutenant-Governor's permission, the draft-notification under the Scheduled Districts Act, 1874, may be published in the local gazette and also in the *Gazette of India*, as a notification made with the previous sanction of the Governor General in Council.

No. 157.

No. 3476J., dated Shillong, the 4th August 1908.

From—The Under-Secretary to the Government of Eastern Bengal and Assam, Judicial Department,

To—The Publisher of the *Gazette of India*.

Under the instructions contained in letter No. 971, dated the 24th July 1908, from the Deputy Secretary to the Government of India in the Home Department, I am

* Same as No. 161.

directed to forward a copy of Notification No. 3468J.,* dated the 4th August 1908, and to request that it may be published in Part I of the next issue of the *Gazette of India*.

[No. 158 same as No. 162.]

No. 159.

No. 3469J., dated Shillong, the 4th August 1908.

Notification by—The Government of Eastern Bengal and Assam.

In exercise of the powers conferred by Section 3, sub-section (1) of the Provincial Insolvency Act, 1907 (III of 1907), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Eastern Bengal and Assam is pleased to invest the Deputy Commissioners of Cachar, Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur, with jurisdiction in all proceedings under the said Act within their respective districts.

No. 160.

No. 3466-67J., dated Shillong, the 22nd August 1908.

Memo. by—The Under-Secretary to the Government of Eastern Bengal and Assam, Judicial Department.

Copy of Notification No. 3469J., dated the 4th August 1908, forwarded to the District Judge of Sylhet and Cachar, Judge, Assam Valley Districts, for information.

No. 161.

No. 3468J., dated Shillong, the 4th August 1908.

Notification by—The Government of Eastern Bengal and Assam.

In exercise of the powers conferred by Section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council, the Lieutenant-Governor of Eastern Bengal and Assam is pleased to extend the Provincial Insolvency Act, 1907 (III of 1907), to the scheduled districts noted below:—

Cachar (excluding the North Cachar Hills), Sylhet, Goalpara (excluding the Eastern Duars), Kamrup, Darrang, Nowgong (excluding the Nowgong, Mikir Hills Tract), Sibsagar (excluding the Sibsagar Mikir Hills Tract), Lakhimpur (excluding the Dibrugarh Frontier Tract), and Jalpaiguri.

No. 162.

No. 3770-72J., dated Shillong, the 22nd August 1908.

Memo. by—The Under-Secretary to the Government of Eastern Bengal and Assam, Judicial Department.

Copy of Notification No. 3468J., dated the 4th August 1908, forwarded to the District Judge of Sylhet and Cachar, Judge, Assam Valley Districts, District Judge of Dinajpur and Jalpaiguri, for information.