

(d) any person who signs a document as an executant in token of his assent to the transaction and not merely as a witness, even though he may not be described as an executant in the body of the document.

(2) In the case of a document purporting to be executed by an attorney, or by a guardian of a minor, or by a legal curator of an idiot or lunatic, such attorney or guardian or curator shall be held to be person executing the document for the purpose of sections 32, 34, 35 and 58 of the Act; but for the purposes of section 55, the principal or minor or idiot or lunatic as well as the attorney or guardian or curator shall be considered to be the executing parties.

(3) Meaning of execution.-The legal meaning of the phrase 'execution of a document' is 'signing a document as a consenting party thereto' and the word 'signing' includes the affixing of a mark. Before signing a document a man is supposed to take every reasonable means of satisfying himself as to its terms and if he signs it without due care and attention unless his signature was obtained by illegal compulsion or fraud he must take the consequences, at the least so far as registration of the document is concerned. The registering officer has no option but to accept the document as actually signed and all he can do for the executor in such cases is to record a note of his refusal to endorse the document.

113. Refusal to register to be made with caution.-Orders refusing to register should be made only after due care and consideration, and if the impediment to registration is a mere informality or defect capable of remedy, opportunity should always be given to the parties to correct the flaw. In such cases registration shall be deferred, and no final order of refusal shall be made until the document concerned becomes time-barred.

114. Denial of receipt of consideration.-If any person admits the execution of a document presented for registration, denies the receipt in whole or part the consideration recited therein, registration shall not be refused because of such denial, but a note of the denial shall be made in the endorsement required by section 58.

115. Documents not duly stamped.-The fact that a document is not duly stamped under the Indian Stamp Act, 1899, is not of itself a sufficient reason for recording an order refusing to register it. The proper course is for the registering officer to impound the document and send it to the Collector, as prescribed in that Act; and if the document is received back from the Collector, cured of the defect of stamp, and it is otherwise admissible, the registering officer shall register it. If, however, the executant of a document, who is in doubt as to the proper stamp to be affixed, consults a registering officer on the subject before formal presentation, the required information may be given to him without impounding the document.

116. When registration is admitted qua some, but refused qua other parties.-(1) When under section 35 of the Act, registration is admitted as to some of the parties to a document, but is refused as to the rest, the registering officer shall endorse thereon an order in this form:-"registration refused as to A.B., and C.D." and shall record the reason for this partial refusal in his Book 2; but in all other respects he shall proceed with the registration of the document in the ordinary manner.

(2) If a document of which registration was refused qua some of the executants is subsequently registered against them under an order of the Registrar or a decree of a civil court it is not necessary to re-copy the deed in the registration book concerned, but the new endorsement and certificate recorded on the deed should be copied under the certificate previously copied in the book or if there is not sufficient blank space in the book for that purpose the new endorsement and certificate should be copied in column 1 of the book under the last deed copied therein on the date of the registration. In the latter case the number of the page and volume of the book where the copy of the deed will be found should be noted in column 3 against the new endorsement and certificate.

117. Procedure on denial of execution.-If the person by whom the document purports to be executed denies its execution or if he appears to the registering officer to be a minor* an idiot or a lunatic, or if he is dead and his representative or assign denies its execution, the registering officer, if a Sub-Registrar, is bound to record an order of refusal to register. A Sub-Registrar on any such denial

* Note:-The Government of India has decided that in accordance with second paragraph of section 3 of the Indian Majority Act, 1875, the age at which British subjects domiciled in India attain majority for purposes of the Registration Act is 18 years.

has no authority except when specially empowered under section 35 of the Act to enquire into the fact of execution, but a Registrar may do so either on appeal from the order of the Sub-Registrar under section 73, or when the denial is made before him under section 74 of the Act.

118. **Refusal to admit execution is a denial of execution.**-Refusal to admit execution of a document is a denial of execution within the meaning of the Act, as also is a wilful refusal or neglect to attend for the purpose of admitting execution when a summons has been served for such purpose and when such refusal or neglect occurs, a suit will be under section 77 of the Act, for the purpose of having the document registered. It should be noted that there must be something to show that there was wilful neglect to appear or a wilful evasion of service. Mere non-appearance is not sufficient.

119. **Refund of registration fees on refusal to register.**-In cases in which registration is refused the registration fees received shall be refunded. *upto 3 years see Rule 163*

120. **Copies of reasons of refusal should be stamped with court fee stamps.**-The words without payment in section 71 of the Act must be taken as referring to copying fees and not to the stamp, and copies of reasons for refusal should be stamped, with court-fee stamps according to article 9 of schedule I to the Court-Fees Act, 1870.

PROCEDURE ON ADMISSION TO REGISTRATION

121. **Copying of document into register.**-When a document has been admitted to registration and the necessary endorsement have been recorded it should be made over to the registration muharrir to be copied into its appropriate book, and the registering officer should see that no unnecessary delay occurs, and that documents are always entered in the books in the order of their admission. In the first column of the register should be entered the value of the stamp (if any) and the number of stamps used; and if they are court-fee stamps, this should be noted. Thereafter, the several endorsements made in the office (including the certificate of registration presecribed by section 60 of the Act), the several signatures of the registering officer, presenter, executant and witnesses examined, shall all be copied in their proper places. In the second column will be noted the serial number of the entry, a brief abstract of the contents of the document (e.g. "mortgage of agricultural land for Rs.500, with possession"), and the amount of fees and fines levied. The third column will contain an exact copy of the document registered and should show all interlineations, blanks, erasures, and alterations which appear in the original. All such entries must be authenticated by the registering officer daily, in the manner prescribed in paragraph 79.

122. **Certificate of registration.**-After the document has been copied the certificate required by section 60 of the Act shall be endorsed on it. It shall be signed by the registering officer and sealed with the seal of his ofice. This certificate shall contain the serial number of the entry, and the book, volume and page, wherein the document has been registered, as well as date of registration, which is the date on which the instrument is copied into the register, and not the date on which it was presented for registration. The endorsement shall then be copied into the register as required by section 61 of the Act.

123. **Return of registered documents by hand.**-The registering officier shall retain the registered documents in his possession upto the time appointed for returning them, and shall then cause each to be delivered in his own presence to the proper party, the receipt given for it under paragraph 72 being at the same time taken back. If the party to whom the receipt was granted represents that he has lost or mislaid it, the document may be returned to him, on his written acknowledgement of its return. The document shall in no case, except as provided in the instructions regarding the return of document by post, be returned to any one but the person who presented it for registration, or to his representative or agent, unless the person claiming to receive it produces the original receipt with a nomination in writing thereon as contemplated in section 61 of the Act.

124. **Documents to be promptly returned.**-The registering officer should see that documents are promptly returned after registration to the presenters or other persons authorised to receive them; and the accumulation in the registry office of registered documents should be avoided as much as possible. If the documents are at once copied in the registers, and a fixed house is appointed for their daily return, it will generally be found that people will attend at that hour to receive them; but if delay is allowed to take place in registration, and the time at which the documents will be available for return is uncertain, the parties will probably proceed to their homes. and will not, until summoned,

call again for their instruments, which will accumulate in the registry office. When a month clapses after the registration of a document without the party calling to receive it back, he should be summoned through the post by the registering officer to come and receive it.

125. **Return of registered documents by post.**-(1) In all registration office, however, where the convenience of the public is likely to be served thereby, the system of returning documents after registration through the post may be adopted, in accordance with the following instructions.

(2) **Procedure for presenter.**-Any person presenting a document for registration and wishing to have it returned through the post must conform to the following regulations:-

- (a) he must hand in thereceipt for the document to the Sub-Registrar with the name and address of the person to whom the document is to be forwarded plainly endorsed thereon;
- (b) the receipt so endorsed must be accompanied by a large registration envelope on which the applicant has inscribed the address to which the document is to be sent. The address must be the same as that endorsed on the receipt for the document;
- (c) the envelope must also bear postage stamps to cover postage for its despatch and acknowledge receipt of the addressee.

(3) **Procedure for Sub-Registrar.**-The Sub-Registrar on receiving a receipt for a document on which an address has been endorsed shall retain it, along with its accompanying envelope, in his possession until the document has been copied and shall give to the presenter a slip stating that the document in question will be returned by post within such and such a time.

(4) As soon as document has been copied the Sub-Registrar shall enclose it in its proper envelope, and after signing the receipt for the document shall hand the receipt and the envelope over to the muharrir.

(5) When the envelope has been posted the muharrir shall complete the entries on the back of the receipt for the document, adding thereto the number and date of the postal receipt and shall then paste the receipt for the document on to its proper counterfoil. He shall also enter the despatch of the document in the despatch book mentioned in paragraph 72.

(6) The postal receipt shall be pasted into a book provided for the purpose, and the addressee's acknowledgement, on arrival, shall be pasted on to the same page. Should the addressee's acknowledgement not be received within 15 days, enquiries about it should be made from the local post office.

(7) Sub-Registrar should apply to the Registrar for a file-book to enable the instructions contained in clause(6) to be complied with and the local postmaster should be asked to keep a sufficient stock of large registration envelopes in hand for sale.

126. **Control to be maintained over muharrir.**-Registering officers shall maintain a vigilant control over their muharrirs, and not place them in closer contact with the public than is unavoidable. The receiving of documents or of money, the recording of endorsements, and the returning of the documents shall not be left to the muharrirs to do whether in the presence or in the absence of registering officer.

127. **Endorsement.**-Endorsement shall always be written by or in the presence of the registering officer and, except in the case of endorsement recorded under section 60 of the Act, of the parties concerned. All endorsements on English documents should be written in English and on Hindi documents in Hindi except the endorsement recorded under sub-section(2) of section 62 of the Act, which should be written in Hindi. All Sub-Registrars shall record the endorsement required by sections 52 and 58 of the Act with their own hands, unless they are unavoidably prevented from so doing, in which case the reason of the inability shall invariably be noted with the endorsements on any document thus registered. Suitable forms for endorsements are given in appendix IV and should be adhered to so far as the circumstances of each case permit.

128. **Endorsements may be written or contained on orders.**-When there is no sufficient vacant space on the back of a document for the necessary endorsements, they may be written or continued on a separate piece of paper attached to the document (vide definition of "endorsement" in clause (5) of the section 2 of the Act) but in such case both the document and its rider must bear the seal and signature of the registering officer.

129. Endorsements in the case of authenticated documents.-When a document is both registered and authenticated (paragraph 58), the endorsement of authentication under section 33 of the Act should be recorded on it in addition to the ordinary endorsements required under sections 52, 58 and 160, but only the latter endorsements should be copied in Book 4, the particulars required by paragraph 57 being entered in Book 6. A certificate under section 60 of the Act is not required on a power-of-attorney authenticated under section 33 of that Act, but a certificate of authentication showing the number of entry, page and volume of Book VI should be recorded on such power in the form prescribed in paragraph (19) of appendix to the Registration Manual.

MEMORANDA OF DOCUMENTS

130. Memorandum of documents, how to be prepared.-(1) The memoranda of documents registered, required to be made under section 64, 65, 66 and 67 of the Act, shall be prepared upon printed forms, containing the following headings:-

1. date of execution;
2. name and address of executant;
3. name and address of person in whose favour executed;
4. nature and value of transaction;
5. description of immoveable property concerned;
6. particulars of registration;

(2) The "addition" of the persons concerned to be entered under headings (2) and (3) is the "Addition" as defined in section 2 of the Act, and the word is to have the same meaning when similarly used throughout this Manual. Under heading (4) the transaction should be described briefly, as "sale of agricultural land", or as the case may be. The description of the property under heading (5) should contain, as nearly as possible, the particulars mentioned in section 21 of the Act; and should always be sufficient for its identification; and only that portion of the property which is situated in the sub-district to which the memorandum is sent should be entered. Under heading (6) should be shown the date and office of registration, the registry number, and the book, volume and page where it has been registered.

131. Sending of memoranda to be noted in Book 1.-(1) When a Sub-Registrar registers a document relating to immoveable property, not wholly situate in his own sub-district, he shall note in his Book 1, opposite the entry, in the column provided for remarks the date on which he sends memoranda or copies thereof, under section 64 or 65 of the Act (as the case may be), to the other registering officers concerned.

(2) Similarly, when a Registrar registers documents relating to immoveable property, he shall note in his Book 1, opposite the entry, in the column provided for remarks, the date on which he sends memoranda or copies thereof, under section 66 or 67 of the Act (as the case may be), to the registering officers concerned.

(3) Lastly when a Registrar receives a copy of a document relating to immoveable property under section 65 or 66 or 67 of the Act (as the case may be), he shall, when filing it in his supplementary Book, endorse on such copy the date on which he sends memoranda thereof to the Sub-Registrar concerned.

(4) Registering officers should see that there is no unnecessary delay in sending memoranda or copies under this rule to the other registering officer concerned, and should take severe notice of any neglect or delay on the part of registration muharrirs in the matter.

132. Memoranda of alienations of agricultural land.-All registering officer shall cause their muharrirs to enter up a memorandum of every alienation of agricultural land and of land assessed to land revenue within the limits of towns and cities, registered before them including hypothecations without transfer of possession but excluding cases in which the mortgage money on an existing mortgage has been merely increased (izādi-zarrah). The memorandum shall be written up immediately after the deed admitted to registration has been copied into Book 1, and shall be attested by the registering officer. A similar memorandum shall be prepared in regard to every document of which a memorandum or a copy has been received under sections 64 to 66 and section 67 respectively of the Act, as soon as the memorandum or the copy has been filed in Supplementary Book 1. At the close of each month all memoranda prepared under this paragraph during the month, shall, together with an invoice, be despatched to

the Tehsildar of the tehsil in which the land registered is situate. A note shall at the same time be made in the remarks column of Index-II against each deed relating to agricultural land that necessary memorandum has been prepared and sent to the Tehsildar concerned. A Sub-Registrar, before whom no alienations of agricultural land have been attested for registration during the month, should send a blank invoice for the information to the Tehsildar of the tehsil in which the Sub-Registrar's office lies. Forms of the memorandum and invoice will be found in appendix III.

133. Re-registration for error of description.-Re-registration of a document may take place in the following three cases:-

(a) the first is where a deed is altered, after registration, by consent of parties, to correct an error of description and in furtherance of their original intention. Such alteration, in effect, makes the document a new one, difference from the one already registered; and if it is a document covered by section 17 of the Act, re-registration becomes obligatory. Another mode of correcting such a misdescription is to draw up of supplementary document, reciting the error in the former one and the correction now intended to be made, and to register this document also. Such supplementary document will however has to be treated in every respect in the same way as the original, and will be liable to the same fees. Moreover, it should be properly stamped and unless section 4 of the Indian Stamp Act, 1899, operates to reduce the stamp duty, it will generally be found preferable to draw up an entirely new instrument and have it registered;

(b) Re-registration when a document has been executed by several persons of different times.- In the second place a document may have to be registered more than once when it purports to be executed by several persons, but at the time of first registration had in fact been executed by some only of those persons. If after registration, the other persons also execute the document, it must be registered afresh, but in the latter case, limitation will run, under the proviso to section 23 of the Act not from the date of the document, but from the date of the last execution;

(c) in the third place it may be necessary to re-register a document which was presented at the time of its first registration by a person not duly empowered to present it. In such a case any person claiming under the document may present it for re-registration as provided in section 23-A of the Act.

134. Procedure on re-registration.-Whenever a document is re-registered, it will be treated in all respects as if it were an entirely new document, and must be re-copied in its altered form in the proper register and the full fees levied. If there is no sufficient room on the back of the document for the new set of endorsements required, owing to its being already occupied with the endorsements recorded at the first registration, they may be written or continued on separate piece of paper, as provided for in paragraph 128.

SPECIAL REGISTRATION UNDER SECTION 89

135. Effect of provisions of section 89.-
(1) The provisions of section 89 of the Act have the following effect:-

- (a) they render obligatory the registration of all documents of the classes mentioned therein without regard to value;
- (b) the obligation to register is imposed upon the officer granting the loan, or the court or officer granting the certificate (as the case may be), and not upon the person to whom the loan or certificate has been granted, or the person claiming thereunder;
- (c) a particular mode of registration is prescribed-the revenue officer is to send a copy of his order, or of the instrument securing repayment of the loan, to the registering officer having jurisdiction; and in similar manner, the court or officer is to send the registering officer a copy of his certificate, the registering officer will then file such copy in his supplementary Book I-and this is sufficient registration for all legal purposes.

(2) Though the law requires that documents of the kinds in question shall be registered by revenue officers or courts, and not by the parties, there is nothing to prevent the holder of such a document, or any person claiming thereunder, from taking it, within four months from its date, to a registering officer, having jurisdiction, for registration in the usual way, irrespective of any separate registration effected by the revenue officer or court (as the case may be); but every such second registration is

entirely voluntary, and in all such cases the registration is to be treated as optional (fees being regulated accordingly), and classed as such in the periodical returns.

APPEALS TO THE REGISTRAR

136. Procedure on appeal.-
(1) When application is made to a Registrar to reverse the order of a Sub-Registrar refusing to admit a document to registration, the Registrar should examine it so as to see, first, whether it was made within time (i.e. 30 days after the date of the order), and, secondly, whether it was of the nature of an appeal under section 72 or of an application under section 73 of the Act.

(2) If the application is brought within time, and is of the nature of an appeal under section 72 of the Act, the Registrar shall pass such order thereon as seems to him proper under the circumstances. If it is made within time, and is of the nature of an application under section 73 of the Act (i.e., an application to establish a right to have a document registered which the Sub-Registrar has refused to register on account of denial of execution), the Registrar must make the enquiries prescribed in section 74 of the Act, and pass an order accordingly. This is an obligation imposed upon him by law, which he is not at liberty to evade by referring the applicant to a civil court.

(3) When the Registrar, after enquiry, directs registration of the document, he should inform the Sub-Registrar concerned thereof. The order directing registration should be endorsed on the document, thus—"Registration ordered", and the document should then be handed back to the applicant with a view to his presenting it for registration at the proper officer within the time allowed by law.

APPLICATIONS FOR COPIES

137. Procedure on receipt of applications for copies.-
(1) On an application for a copy of a registered document being received the muharrir should be called upon to see whether there was such a document registered on the date given in the application. If there was, the muharrir should at once ascertain the amount of copying fee realisable and report to the registering officer, who will collect the fee and credit it in the accounts that day.

(2) If the document is not found on the date specified, or if the particulars referred to in the first proviso to article II of the table of fees given in Appendix I are not stated in the application, the applicant should be called on to deposit a search fee as prescribed which should be credited at once, and directed to await the result of the search. If the search through the index register extends beyond a year's entries the fee to be levied will be according to article II of appendix I.

(3) When the document is discovered, the muharrir should at once report the amount of copying fee to the registering officer, who will call upon the applicant to deposit this fee.

(4) If the copy cannot be completed on the date on which the application is made, the registering officer on realising the fees should intimate to the applicant a specific date on which he should attend and receive his copy.

CHAPTER VI PERIODICAL RETURNS

MONTHLY

138. Monthly returns of Sub-Registrars.-
(1) Every Sub-Registrar shall submit to the Registrar of his district the following monthly returns, which should reach the Registrar's office not later than the second day of the month following that to which they appertain:-

Return No. I—an abstract statement showing the transactions of the month;

Return No. II—a statement showing the income and expenditure of the month;

Return No. III—a detailed daily record of transaction.

Commission bill.

(2) Returns Nos. I, II and III shall be prepared in the vernacular on printed forms to be supplied by the office of the Registrar; the commission bill may be in either English or the vernacular.

(3) The orders in paragraphs 62, 70 and 74, prescribing the maintenance of only one set of registers, books and files where the Sub-Registrar and Joint Sub-Registrar are located in the same building and use the same muharrir do not apply to the returns referred to above which must be prepared separately for Sub-Registrars and joint Sub-Registrars.

139. Return No. I.-Return No. I will contain the headings given in form A, appendix II, and will exhibit in an abstract form the business done during the month. The necessary particulars for columns 2 to 19 will be obtained merely by transferring thereto the monthly (red ink) totals of the fees book. Columns 8, 9, 10 and 14, which relate to the procedure of Registrars only, will, of course, be left blank in the Sub-Registrar's return. In column 20 will be entered the number of copies and memoranda received during the month under section 64 to 67 and 89 of the Act, and filed in Supplementary Book I; but it should not include copies of plans and maps filed under section 21 (3), nor the translations and copies of documents in foreign languages filed under section 19 of the Act. Column 21 will show the number of refusals to register (if any) made during the month. In column 22 will be entered the number of registered documents remaining undelivered at the close of the month; and Sub-Registrars should always check this entry by comparison with the documents themselves. A note of any travelling allowance levied for visits paid or commissions issued during the month, under Article V of the table of fees, should be made at the foot of the return. It is not necessary for Sub-Registrars to retain office copies of this return.

140. Return No. II.-Return No. II will contain the headings given in Form B, appendix II, and will exhibit, in juxtaposition, the income and expenditure of the office for the month. The total in column 3 should correspond with that in column 19 of Return No. I. Column 6 as sub-divided will show pay and percentage drawn by the Sub-Registrar in the establishment pay bill and commission bill respectively, to be described hereafter; as well as the share of fees (if any) levied under Article V of the Table of Fees and paid to the person by whom a commission issued under section 33 or 38 of the Act is executed, as provided in paragraph 10; and column 7 will show the pay of the office establishment. Column 9 for contingencies will be blank in the case of Sub-Registrars who are remunerated by a percentage of the fees collected; and in the case of offices presided over by a Tehsildar or Naib-Tehsildar, the only entry in this column will be the annual advance for contingencies made in the month of April under paragraph 22. A copy of this return should be retained for record in the Sub-Registrar's office.

141. Return No. III.-Return No. III will contain the headings given in Form C, appendix II, and will form a detailed register of the transactions of the office, one line being given to each transaction. It must be written up daily, and such work should on no account be allowed to fall into arrears; the return so written up will retain as a record of the office, and a copy of it will be sent at the end of the month with the other returns, to the Registrar of the district. This is a very important return, and great care must be taken in its preparation. By means of it the Registrar is enabled to a great extent to exercise the superintendence and control vested in him by section 68 of the Act and to maintain uniformity and correctness of procedure throughout the district. Instructions for its preparation are therefore given below in some detail.

142. Transactions to be recorded in return No. III.-The transactions to be recorded in return No. III are the following:-

- (a) registration of documents in Books I, 3 and 4;
- (b) filing copies and memoranda received from other offices under sections 64 to 67 and 89 of the Act, in Supplementary Book I;
- (c) refusal to register, recorded in Book 2;
- (d) authentication of powers of attorney under section 33 of the Act, recorded in Book 6;
- (e) searches and grants of copies under section 57 of the Act.

143. Particulars entered in return No. III when a document is registered.-When a document is registered, the following particulars will be entered in return No. III.-

Col. 1-number of book in which registered (i.e. 1, 3 or 4 as the case may be);

Col. 2-date on which the document was executed;

Col. 3-date on which it was presented for registration;

Col. 4-date on which it was registered-and here it must be borne in mind that the date of registration is not necessarily the same as the date of presentation; the date to be entered in this column is the date given to the certificate of registration, vide section 60 of the Act, which should be the date on which the document is copied into the register;

Col. 5-date on which the document was returned after registration-and note that when the document is not returned in the same month in which it is registered this column must remain blank in the copy of the return which is sent to the Registrar, but when the document is at length returned, the date of return should be entered in its proper place in the office copy, and a note of

such return, showing book, serial number, and date of return, should be entered on the back of the Registrar's copy of the current month's return;

Col. 6-serial number of the Registrar;

Col. 7-nature of the document; this should be a transcript of the entry in column 2 of the register, and should briefly describe the document, e.g., "conveyance of a house", "mortgage of agricultural land with possession"; "will", "bond", and etc., in the case of a sale or mortgage of land, it should be stated whether the land is agricultural or non-agricultural, and if the instrument deals with property of both kinds, it should be classified as "agricultural", but in the abstract (to be hereafter described) the value of the agricultural property sold or pledged should be shown separately from that of the non-agricultural property where these values can be so distinguished; in the case of mortgage, it should be stated whether it was with or without possession; a power of attorney should always be described sufficiently to admit of the scrutinizing officer seeing that the instrument was properly stamped; a document should never be described in this column merely as an "agreement", a description too vague to be of any use, but the nature of the agreement should be briefly stated;

Col. 8-amount of consideration set forth in the document;

Col. 9-stamp (if any) on the document-not only should the value be shown, but in a case where more than one stamp has been used, the number of such stamps, and where the stamp is a judicial (court-fee) one, as, for instance, on a power of attorney for the conduct of a case in court, this fact should also be noted; if a document, ordinarily requiring a stamp, is admitted on plain paper, the reason for its exemption from stamp duty should be stated;

Col. 10-registration fee levied under article I of the table of fees;

Col. 11-fee for filing translation (where the document is in a foreign language) levied under article VI;

Col. 12-fines levied for delay in registering, under the Registrar's authority;

Col. 13-fees levied under article V (if any) for domiciliary visits or commissions issued;

Col. 15-total fees and fines levied (other than copying fees);

Col. 16-copying fees levied under article III.

144. When a copy or memorandum is filed.-When a copy of memorandum, received from another officer under sections 64 to 67 and 89 of the Act is filed in supplementary Book I, the following particulars will be entered in return No. III:-

Col. 1-number of book (i.e., supplementary Book 1);

Col. 2-date of execution of document of which a copy or memorandum has been filed;

Col. 3-date of receipt of copy or memorandum;

Col. 4-date of filing in supplementary Book 1;

Col. 6-serial number;

Col. 7-nature of document;

Col. 8-amount of consideration.

145. When registration is refused.-When the Sub-Registrar refuses to register a document, and records his reasons in Book 2, the following particulars will be entered in return No. III.-

Col. 1-number of Book (i.e., 2);

Col. 2-date of execution of document;

Col. 3-date of presentation;

Col. 4-date of refusal;

Col. 5-date of return of document;

Col. 6-serial number;

Col. 7-nature of document;

Col. 8-amount of consideration;

Col. 17-reasons (briefly stated) for refusing to register.

146. When a power of attorney is authenticated.-When a power of attorney is authenticated by a Sub-Registrar under clause (a) of sub-section (1) of section 33 of the Act, the following particulars will be entered in return No. III:-

Col. 1-number of book (i.e., 6);

Col. 3-date of application for authentication;

Col. 4-date of authenticating;

Col. 5-date of return;
Col. 6-serial number;
Col. 7-description of power (i.e., general or special);
Col. 9-value and other particulars of stamp;
Col. 10 and 15-fee levied under Article VIII of appendix I.*

147. In cases of searches and grant of copies.-In the case of a search and grant of copy under section 57 of the Act, the following particulars will be entered in return No. III:-
Col. 1-number of book searched, or from which a copy is granted;
Col. 2-date of execution of document of which copy is granted;
Col. 3-date of application for search or copy;
Col. 4-date of search;
Col. 5-date of grant of copy;
Col. 6-serial registry number of entry of which copy is granted;
Col. 7-nature of entry of which copy is granted;
Col. 9-stamp on copy granted;
Cols. 14 and 15-fees for searching levied under article II of Appendix I;
Col. 16-copying fees levied.

148. Abstract of return No. III.-Return No. III will be accompanied by a monthly abstract prepared according to Form D, appendix II, in the preparation of which care must be taken to distinguish in the case of registrations in Book I, between compulsory and optional registrations, and in the case of sales and mortgages, between agricultural land and other immovable property; also that the figures given in this abstract not only correspond with the details of return No. III, but with the statistics given in return No. 1. The figures for the column headed "value of transactions" should be worked out with care.

149. Monthly returns to be prepared according to month of account.-The monthly returns described above will be prepared, not according to the calendar month, but according to the month of account. Thus the accounts for January must be closed on the 27th of that month, the accounts for February on the 25th, those for March on the 31st, and those for the remaining months of the year on the 27th day of the month; the returns for February will therefore comprise the transactions occurring between the 28th January and 25th February (both days inclusive), those for March will include the transactions from 26th February to 31st March, those for April from 1st to 27th of that month, those for May from 28th April to 27th May, and so on. By this expedient the total collections of registration and other fees shown in the monthly return should correspond with the cash credits under this head in the monthly treasury accounts.

150. Scrutiny of Sub-Registrar's returns in Registrar's office.-When the Registrar of the district receives the monthly returns of his Sub-Registrars as described above, he will with the aid of his muharrir, carefully examine them to see that they have been correctly prepared, that the figures in the several returns are not discordant, that the amount returned as income from fees, etc., corresponds with the treasury credits, and that the proper amount has been drawn in the commission bill. He will especially scrutinize return No. III, and issue to the Sub-Registrars concerned such orders in regard to faulty procedure or otherwise as this scrutiny may suggest, noting the purport of such orders, and any other remarks that occur to him either in column 18 of the statement opposite the entry concerned, or on the back, or on a separate piece of paper attached.

151. Return No. III in Registrar's office.-
(1) A return No. III will be written up from day to day in the Registrar's office in the manner prescribed in paragraph 141 for Sub-Registrars; and the detailed instruction given in paragraph 142 to 148 with the following modifications and additions are applicable to its preparation:-

- (a) when a document is registered in book 1 or 3 or 4, the additional fee (if any) levied under Article IV of appendix I will be entered in column 10, as well as the ordinary fee under Article 1;

* Note:- No fee, beyond that prescribed in article VIII, should be levied for authenticating a power of attorney under section 38(1) (a) of the Act no copying fee should be levied under article III.

- (b) when a sealed Will is deposited under section 43 of the Act, the following particulars will be entered:-
Col. 1-Number of book (i.e., 5);
Col. 3-date of presentation;
Col. 4-date of deposit;
Col. 6-serial number of entry;
Col. 7-nature of document (i.e., sealed Will);
Cols. 10 and 15-fees levied under Article VII of appendix I.
- (c) When a deposited Will is withdrawn under section 44 of the Act, the following particulars will be entered:-
Col. 1-number of book (i.e., 5);
Col. 3-date of application for withdrawal;
Col. 4-date of original deposit;
Col. 5-date of return;
Col. 6-serial number of entry;
Col. 7-nature of document (i.e., deposited Will);
Col. 10 and 15-fees levied under Article VII of appendix I;
- (d) When a sealed Will is opened under section 45 or 46 of the Act, the following particulars will be entered:-
Col. 1-number of Book (i.e., 5);
Col. 2-date of Will;
Col. 3-date of application to open the envelope containing the Will.
Col. 4-date of opening of the envelope containing the Will;
Col. 5-serial number of entry;
Col. 7-nature of document (i.e., opened Will);
Col. 10 and 15-fees levied under Article VII of appendix I;
- (e) when an opened Will is copied into Book 3, the following particulars will be entered:-
Col. 1-number of Book.(i.e., 3);
Col. 2-date of will;
Col. 4-date of copying into Book 3;
Col. 6-serial number of entry in Book 3;
Col. 7-nature of document (i.e., opened Will);
Col. 16-copying fee;
- (f) when a copy of an opened Will is granted on application, the particulars given in paragraph 147 will be entered.
(2) The return thus prepared will remain as an office record.

152. **Monthly returns of Registrars.**-Every Registrar should submit in English to the office of the Inspector-General of Registration a monthly statement of receipts under the head "IX-Registration". This statement should be submitted not later than the eighth day of the month following that to which it relates.

153. **Statement of receipts.**-It should be borne in mind that in paragraph 2 of Punjab Government, Finance Department, Resolution No. 299, dated the 5th February 1876, the duty of the collecting officer is declared to be "to see that all income claimable is duly claimed, and that all realisations are duly credited," and that of the controlling authority "to check and supervise the proceedings of officers primarily responsible, and to see that the amounts reported as collected have been duly credited in the accounts". Registrars can best perform the duty thus imposed on them as "collecting officers", by examining the monthly return No. III submitted by Sub-Registrars, with a view to seeing that the full amount of fees, etc., has been levied on each transaction, and by comparing the total of such fees, etc. with the treasury accounts. The stamp duty leviable on all such transactions should also engage the Registrar's attention. The statement of receipts has been prescribed for the purpose of enabling the Inspector-General to perform, in part, the duty of "controlling authority" over registration income imposed on him by the resolution. It enables him to watch the receipts, and to compare them not only with those of the corresponding periods of the previous year, but also with budget anticipations

154. **District returns to accord with each other and with treasury accounts, and causes of fluctuations of business to be noted.**-The Registrar should especially see that the total income of the district

for the month under report, as entered in his statement of receipts corresponds with the total registration income credited in the treasury accounts. If all the registry offices of the district are situate at places where there is a Government Treasury, and the daily collections of fees, etc., are paid into it according to the standing orders of Government, there cannot be any discrepancy if the accounts have been correctly prepared. But in cases where a registration office is at a distance from the sadar or a tehsil, and the collections of the month are transmitted to the nearest treasury by the registering officer in a lump sum it may sometimes happen that such amounts are not received at the treasury in time for inclusion in the accounts of the current month; this should never happen in the month of March, and with proper care should very rarely occur at other times, but in the event of its happening, the entire statistics of the office in question should with a view to preventing a disagreement between the accounts of the Registration Department and the treasury, be omitted from the current month's accounts, an explanatory note being made in the column for remarks; the following month's return will therefore contain the statistics of two months for the office in question, but each should be shown separately, thus:-

Sub-Registrar, Nadaun

.. December, 1909

Sub-Registrar, Nadaun

.. January 1910

ANNUAL

155. Annual statistical statements.-(1) Five statistical statements have been prescribed by the Government of India for submission by the Inspector General with his annual notes and triennial reports on the administration of the department and the forms of these statements will be found in appendix II. They are to be prepared according to the calendar year and will be compiled from returns furnished by Registrars. Blank printed forms of each of the statements in English or Hindi will be supplied by the Controller, Printing and Stationery, Himachal Pradesh before the close of the calendar year to each Registrar, who will retain two Forms for his own office, and distribute the remaining Forms to all Sub-Registrars in his district, two forms being sent to each Sub-Registrar. As soon as possible after the close of the year, each Sub-Registrar will collect the necessary figures and fill up the several columns of the blank statements. One set of the statements will be sent to the Registrar of the district, so as to reach him not later than the 20th January, and the other set retained as part of the records of the Sub-Registrar's office.

(2) Each Registrar will, in like manner, fill into the Forms the statistics of his own office, and thereafter transcribe into them, in proper order, the figures furnished by Sub-Registrars, and make a total for the whole district; all these figures are to be written with black ink. For purposes of comparison the corresponding figures of totals for the previous year will be added in red ink at the foot of the statements. Every third year when the triennial report described in the following paragraph is submitted the corresponding figures of totals of each of the preceding two years will be given at foot of the statements. Registrars should be careful to check these annual returns by the monthly ones, to see that the figures in the former exactly coincide with the aggregate of those of the latter; also that the red ink figures exactly correspond with the statistics given in the previous year, or years, as the case may be, and all discrepancies should be fully explained. Inattention to these matters will only lead to unnecessary delay, trouble and correspondence. One set of the forms will remain in the Registrar's office, the other set should be despatched so as to reach the office of the Inspector-General not later than the 10th of February.

156. Triennial report and annual note.-(1) The annual statements which Registrars are required to submit should be accompanied every third year by a report prepared for the calendar year, reviewing in a clear, concise and narrative form the operations of the triennium, commenting on or explaining any noticeable details in each statement in turn, and containing such further remarks as the statistics, or the Registrar's inspections during the triennium may suggest. To facilitate the preparation of the report Registrars will be furnished alongwith the annual circular of instructions issued by the Inspector-General with printed subjects-sheets indicating the special heads under which the Registrar's remarks and criticisms are more particularly invited.

(2) Under the orders of the Government of India the length of the provincial triennial report is limited to eight pages, and it will therefore be necessary for Registrars to keep their reports within proportionately circumscribed limits, the insertion of statements of figures in the body of the report being, so far as possible avoided.

(3) For the years intervening between the triennial reports only a brief note, prepared according to the calendar year, should accompany the annual statements. These notes should be prepared in narrative form, each statement being taken in turn, and any remarkable variations exhibited by the figures in them being noticed. This done, any noteworthy features of the year's administration should be added in a final paragraph.

CHAPTER VII MISCELLANEOUS LANGUAGE

157. **Languages.**-With reference to section 19 of the Act, it has been declared that the languages deemed to be commonly in use in Himachal Pradesh are English and Hindi but documents presented for registration may be written in any language. In case, however, of the language being other than Hindi, they must be accompanied by a true Hindi translation, and also by a true copy; provided that documents written in English need not be accompanied by translations or copies when presented at the office of a Registrar, or of a Sub-Registrar when he and his muharrir know English. (Also see Not. No. 17-1/67-Rev. I., dt. 8-1-1970, appended).

158. **Transliteration.**-In all English endorsements and entries, proper oriental names of places shall be spelled according to the "modified Jonesian system" prescribed in Punjab Government Circular No. 64, dated 3rd October, 1873, published in the Punjab Government Gazette of 9th idem. Provided that where the spelling of any place has been authoritatively fixed by Government, that authorised spelling shall be followed. The same rule applies to the spelling of proper names of persons subject to the qualifications laid down in Punjab Government Circular No. 3, dated 18th June, 1906, where it is stated that the main principle to be observed in such transliterations is that each name should be spelt as commonly written and pronounced by an educated person and detailed instructions as to the method to be followed are given.

TERRITORIAL DIVISIONS

159. **Territorial divisions.**-The territorial divisions to be recognised under section 21 of the Act are usually the "district" and the "tehsil" as existing for revenue purposes. But in some cases a cantonment or a portion of a tehsil may constitute a division. A list of the divisions is given in appendix V. The name of the division shall be entered in all documents relating to houses (other than those situate in towns) and lands, in addition to the name of the village and the boundaries of the property.

FINES

160. **Fines for delay in presenting or in appearance.**-(1) Fines for delay in presenting documents for registration shall be levied, under section 25 of the Act, according to the following scale. No registration fees shall be levied in addition to these fines:-

where the delay has not been more than one month,

an amount equal to twice the prescribed registration fee;

where the delay has been more than one month, but not more than two,

an amount equal to three times the prescribed registration fee;

where the delay has been more than two months, but not more than three

an amount equal to six times the prescribed registration fee;

where the delay has been more than three months,

an amount equal to ten times the prescribed registration fee.

(2) Additional fines for delay in appearance shall be levied, under the proviso to section 34 of the Act, according to the same scale.

(3) When a document has been executed by more than one person and such persons appear before the registering officer on different dates the amount of fine recovered under section 34 of the Act shall be according to the delay in the appearance of the executant who appears last and only one fine shall be recovered in such a case. (See paragraph 109 ante).

161. **When a fine should be levied for delay in appearance.**-(1) When a document has been presented under section 23 of the Act, i.e., within four months from the date of its execution-the presenter must take action under section 36 of the Act to secure the presence of the executant before the lapse

of the full period of four months. At the end of the four months the case should be reported to the Registrar who may under section 34 of the Act, allow the deed to be registered upto a date not more than eight months from the date of execution subject to the payment of a fine. If the executant appears within eight months the deed should be registered, but otherwise not. If, however, a document has been presented under section 25 of the Act, that is, if the Registrar has on payment of a fine permitted its presentation up to eight months, then the executant must appear within eight months, or the presenter must, within the period of eight months take action under section 36 of the Act to secure his appearance. On the expiration of eight months from the date of execution the Sub-Registrar must report the case to the Registrar who may order under section 34 of the Act, that on payment of a fine the deed may be registered upto twelve months from the date of execution.

(2) The period on which the amount of fine under section 34 of the Act, will be calculated will, in the former case, be from the beginning of the fifth month and in the latter case from the beginning of the ninth month upto the date of appearance of the executant.

162. Remission of fine.-Applications to the Inspector-General for remission in whole or in part, under section 70 of the Act, of any fine levied in accordance with the foregoing rules, shall be in writing, and shall be forwarded by the Registrar of the district, who shall record his opinion thereon. No such application shall be received or forwarded unless the document has been registered, and the fine or fines paid.

163. Refunds of registration and copying fees.-The State Government has delegated to Registrars power to sanction refunds of registration and copying fees on account of excess collections and refunds rendered necessary by an order which Registrars are themselves competent to pass:

"Provided that sanction shall not be granted when a period of three years has elapsed since the deposit of the fees or when the document has been destroyed under section 85 of the Act." Such refunds no longer require the countersignature of the Inspector-General of Registration.

PROSECUTIONS

164. Reports of Prosecutions.-Full reports of all prosecutions instituted under Part XIV of the Act shall be made to the Inspector-General as soon as possible after decision, and shall be accompanied by a copy of the judgment of the court.

OATHS

165. Oaths to be administered cautiously.-The discretion vested in registering officers by section 63 of the Act, should be used with reserve, and oaths should be administered only in exceptional cases. For the purposes of this section an oath includes an affirmation under section 6 of the Indian Oaths Act, 1873.

166. Statements on oath how to be recorded.-Statements made on oath under section 63 of the Act, shall not be recorded on the document to which they relate, but on separate sheets of paper, which shall be filed in the office. A note, however, to the effect that recorded evidence has been taken, shall in such case be endorsed on the document, and entered in the book in which it is registered, in the column provided for copies of endorsements.

HOLIDAYS

167. Holidays.-The holidays to be observed in registration offices shall be those authorised by the State Government.

SEALS

168. Use of seals.-Every Registrar and Sub-Registrar is provided with a seal, as required by section 15 of the Act bearing an inscription in English and Hindi of the authorised designation of his office. This seal shall always remain in the personal custody of the registering officer, and shall be used for the authentication of the following documents:-

- (a) all powers of attorney under sub-section (1) of section 33;
- (b) all commissions issued under sections 33 and 38;
- (c) all applications for the issue of summons to witnesses under section 36;
- (d) all copies of entries in register books and indexes granted under section 57;
- (e) all certificates of registration made under section 60;
- (f) all copies of reasons for refusal to register granted under section 71 or 76;

- (g) all orders issued by Registrars under section 72 or 75 directing documents to be registered;
(h) all summons issued by Registrars under section 75.

169. Supply and renewal of seals.—When a seal which has become unfit for use is replaced by a new one, the former shall be forwarded to the office of the Inspector-General of Registration for destruction. The seals of offices permanently closed shall be dealt with in the same manner; those of offices temporarily closed shall remain in the personal custody of the Registrar of the district. All new seals required for newly created offices, or for the purpose of replacing others which have become unfit for use, shall be supplied from the office of the Inspector-General.

STOCK BOOKS

170. Stock book of stores.—(1) Punjab Government consolidated Circular No. 29 prescribes for each registration office the maintenance of (a) a stock book of stores (paragraph 22) and (b) a stock register of office furniture (paragraph 26). This latter register is dealt with in paragraph 171 below. The only stores to be found in a registration office which could be included in the stock book are the iron safe for Wills, duplicate keys of locks of strong boxes kept by the Registrar and approved locks in the various registration offices.

(2) In the circumstances all that is required for complying with paragraph 22 of Punjab Government Consolidated Circular No. 29 is that each registration office should keep a list of whatever of the articles, iron safe, approved locks and their duplicate keys are held by the officer-in-charge. This list in the Registrars office will be kept in the iron safe.

(3) About April each year there shall be an annual verification of the stock in hand with that entered in the list, and the result shall be noted on the list by the registering officer.

171. Stock book of office furniture.—The stock book of office furniture shall be in form 5 given in appendix III. Having once been written up with reference to the stock in hand, it should be written up again concurrently with each purchase or strike off of furniture. About April each year there shall be an annual stock-taking and the result of the verification of the stock in hand with that shown in this record and the condition of the articles in stock shall be duly noted in the column provided for the purpose. To facilitate identification each article should be marked with a label.

OFFICIAL CORRESPONDENCE

172. Correspondence of Sub-Registrars with Inspector-General.—Save in emergent and exceptional cases, Sub-Registrars should not correspond with the Inspector-General, except through their respective Registrars.

173. Correspondence between Registrars and Sub-Registrars.—Official correspondence between Registrars and Sub-Registrars should ordinarily be in Hindi.

174. Transmission of references from Sub-Registrars to Inspector-General.—When a Registrar receives a communication from a Sub-Registrar which requires a reference to the Inspector-General, he should, in ordinary cases, transmit it in original, accompanied by such remarks as he thinks necessary, and the reply will be communicated in the same way. But where a point of law, or of procedure not already provided for is raised, or where the question is one of general application, the Registrar should refer it for orders by means of a letter or memorandum, which should fully state the case and the Registrar's opinion thereon.

175. Registrars to dispose so far as possible of references from Sub-Registrars.—Registrars should, so far as possible, themselves dispose of references from Sub-Registrars, and should not transmit them to the Inspector-General unless his orders are really required. This caution is necessary because a great proportion of the references that reach the Inspector General's Office are on points which have already been distinctly provided for, and should have been disposed of in the Registrar's office. At the same time as it is very desirable that uniformity of practice should be maintained throughout the State, all instructions of general applicability or involving general principles issued by Registrars to Sub-Registrars, should be communicated to the Inspector-General without delay.

176. Speculative references to be discouraged.—Some registering officers, and especially some muharrirs, are prone to raise hypothetical questions on points of law or procedure in imaginary cases. This practice should be discouraged; no such question should be permitted, unless it has actually arisen in practice, and a decision on the point is necessary.

177. Correspondence between Registrars and Inspector-General.-The office correspondence between Registrars and Inspector-General shall be in Hindi and in the conduct of such correspondence Registrars will be guided by the general rules.

178. Inspector General's requisition to be promptly attended to.-Registrars should see that no unnecessary delay takes place, either in their own offices, or in the offices of their Sub-Registrars in replying to references from the Inspector-General. Ordinarily, a Sub-Registrar should not delay replying to a requisition either from the Inspector-General or from his Registrar for more than two days. A reply to a reference from the central office should, except in exceptional circumstances, always be returned within 15 days.

INSPECTION OF OFFICES

179. Registrars to inspect offices of Sub-Registrars at least once a year.-(1) Superintendence and control over Sub-Registrars was conferred upon the Registrar of the district by section 68 of the Act and in order to enable the Registrar to exercise such supervision and control in an efficient manner, it is essential that he should visit the several sub-offices and examine the registers and other records therein as often as possible. Every Sub-Registrar's office should be inspected by the Registrar at least once a year, including the office at headquarters, which is usually the largest and most important in the district, but which is in some districts the least looked after by the Registrar, although from its position it can be examined at any time most convenient to him, and with the least trouble. If, from any cause, the Registrar is unable himself to inspect any sub-office during the year, he should depute an experienced Assistant or Extra Assistant Commissioner for such duty. The sending out of muharrirs on this duty is absolutely forbidden; it is distasteful to the registering officers concerned, and offers a temptation to extortion which should be avoided.

(2) The number of inspections made of the offices of Sub-Registrars should always be noticed in the annual reports, any Registrar who may have been unable during any particular year to inspect, at least once, the offices of the registering officers who are subordinate to him should explain his reasons for the omission.

180. Inspection reports-what to contain.-(1) When Registrar has completed his inspection of an office, he should send a report thereof to the Inspector-General, giving the following particulars:

- (a) office inspected, with names of registering officer and muharrir;
- (b) dates of present and last inspection; the object being to show how long the office remained without an inspection, and the period over which the report extends;
- (c) statistics of the business done during that period;
- (d) remarks (if any) on the registers;
- (e) remarks on the indexes and subsidiary books;
- (f) general remarks.

(2) This report may be written either in Hindi or English as the reporting officer finds most convenient. The form adopted by the Inspector-General for recording the results of his inspections is given in appendix II, form F, and Registrars are recommended to adopt that form. A supply of the forms can be obtained, on application, from the office of the Controller, Printing and Stationery, Himachal Pradesh. A note of the result of the inspection should also be recorded in the registration office minute book.

181. Points to be noted.-Inspecting officers should of course, note in their reports all errors of procedure and other defects which their inspection may bring to light, both for the Inspector-General's information and for avoidance in future by the registering officer; they should also note any other point which appears noteworthy, e.g., abnormal increase or decrease of business with the causes thereof, the general state of the work of the office, the qualifications of the muharrir, and similar matters and they should check the stock registers maintained under paragraphs 170 and 171. Reports should be as brief as is compatible with clearness. For example, if the examination of the registers discloses no errors or faults, nor any other matter calling for special remarks, it will suffice to write the single word "nil" under the heading of "remarks on the registers". A set of questions to be used as guides in such inspections will be found in appendix VI. They must not be taken as exhaustive.

182. Issue of necessary orders to registering officer concerned at end of inspection.-When the examination of a book has been completed, the inspecting officer should write the word "examined" after the last entry in it, together with his signature and the date. When the inspection has been conducted

by the Registrar in person, he will issue such orders as he deems necessary at once to the registering officer concerned, briefly noting the purport of such orders in his report under the heading "general remarks". When the inspection has been conducted by an Assistant or Extra Assistant Commissioner, the latter officer will prepare the report in the manner prescribed above and send it to the Registrar, who will issue necessary orders thereon, as before, to the registering officer concerned, note the purport of such orders on the inspecting officer's report and transmit the latter for the Inspector-General's information.

183. Stamp duty on applications.—Applications mentioned in the following list should bear a stamp of the value if any, shown against each:-

LIST SHOWING THE STAMP DUTY, IF ANY, CHARGEABLE ON CERTAIN APPLICATIONS WHICH ARE FREQUENTLY PRESENTED BEFORE REGISTERING OFFICERS

Submitted to Registrar or Sub-Registrar	Nature of application or appeal	Exempt or amount of court fee stamp to be affixed.
		Rs. P
With	Application for inspection or search	.. -
With	Application for copies	.. 0.40
With	Application for attendance at a private residence	.. -
With	Applications under section 36 of the Act	.. -
Registrar	Applications under section 73 of the Act	.. -
With	Appeal under section 72 of the Act	.. 1.00
With	Applications for return of documents filed	.. -
With	Applications objecting to registration of documents	.. -
With	Applications agreeing to registration of documents	.. 1.00
With	Other miscellaneous applications	.. 1.00

TABLE OF REGISTRATION FEE
GOVERNMENT OF HIMACHAL PRADESH
REVENUE DEPARTMENT

NOTIFICATION
Simla-2, the 14th April, 1969

No. 17-13/66-Rev. I.-In supersession of this Government Notification No. R. 97-21/48, dated the 19th July, 1951 as in force in the areas comprised in Himachal Pradesh, immediately before 1-11-1966 and the Punjab Government Notification No. S.O/C.A. 16/1908/SS-78-69/66, dated the 4th February, 1966, in its application to the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and in exercise of the powers conferred by sections 78 and 79 of the Indian Registration Act (XVI of 1908) as in force in Himachal Pradesh and all other powers enabling him in this behalf, the Lieutenant Governor, Himachal Pradesh, is pleased to prescribe for the whole of Himachal Pradesh, the following table of fees for the purposes of section 78 of the said Act, namely:-

HIMACHAL PRADESH TABLE OF REGISTRATION FEES
(Sections 78 and 79 of the Act)

Article-I.-For the registration of documents;

1. In Book I, the registrar of non-testamentary documents relating to immovable property,

(a) For all optionally registerable documents except leases

Rs. 5.00¹

(b) For all compulsorily registrable documents (other than leases of immovable property)

At the rate of two percent of the value or consideration subject to a minimum of Rs. 5.00¹ and maximum of Rs. 1,000.

If the value or consideration be only partly expressed (in addition to the advalorem fee as above on the value or consideration money expressed).

Rs. 10.00

If the value or consideration be not at all expressed a fixed fee of

Rs. 40.00

(c) For lease of immovable property and surrender of lease.

At the rates given in clause (b) above on the amount of rent on which stamp duty has been assessed under article 35 of Schedule-IA to the Indian Stamp Act, 1899, and in the lease be exempt from stamp duty, rupees fees.

Note 1.-Such fee in the case of duplicates, if presented with the original shall be Rs. 2 only. Duplicate, if not presented alongwith their original shall be treated like the originals.

Note 2.-The registration fee to be paid on partition deeds shall be calculated on the value of the share or shares on which stamp duty has been assessed under article 45, Schedule IA, to the Indian Stamp Act, 1899.

(2) In Book No. 3, register of wills and authorities to adopt-

i) When Authorities to adopt 40.00

ii) For the registration of Wills:

(a) When the valuation of the property being quenched does not exceed Rs. 1,000 12.00

(b) When the valuation exceeds Rs. 1,000, Advalorem fee prescribed in this article

- Amended vide H.P. Govt. Revenue Department Notification No. Rev. I-9 (Stamp) 3/79 dated 29.1.1966 Published in R.H.P. Ex-ordy. dated 22.2.1966 pages 272-273.
- Rate of fee increased from 1% to 2% vide H.P. Govt. Revenue Deptt. notification No. Rev. I-9 (Stamp) 3/79 dated 9th April, 1991 published in R.H.P. Extraordinary dated 12.4.91 pages 741-751.

(c) When the value of the property bequeathed is not expressed	shall be levied subject to a maximum of Rs. 40.
(3) In Book No. 4(i) Miscellaneous register for documents under clause (e) and (f) of section 18.	50.00
ii) For the registration of a special Power of Attorney.	5.00
iii) For the registration of a general Power of Attorney	15.00
iv) For the registration of an Adoption Deed.	30.00
v) For the registration of any other document which cannot be brought under the advance scale prescribed by the proceeding clauses of this Table, i.e. which is incapable of valuation.	10.00

Under section 80 of the Indian Registration Act, 1908, all fees for the registration of documents shall be payable on the presentation of such documents; provided that no fee shall be levied for the registration of security bonds furnished by Court Inspectors and Assistant Court Inspectors under the provisions of paragraph 5, Chapter 27 of the Punjab Police Rules, Volume-III (1934).

1. Provided also that under the notification of Government of India, Home Department No. 376, dated 24th April, 1914, all fees payable:-

- (a) by or on behalf of Co-operative Society for the time being registered under the Co-operative Societies Act, 1912 (11 of 1912), Punjab Co-operative Societies Act, 1961 (No. 25 of 1961) and the Himachal Pradesh Co-operative Societies Act, 1956 (13 of 1956); and
- (b) in respect of any instrument executed by any officer or member of such a society and relating to the business thereof, are remitted:

2. Provided further that no registration fee shall be charged in respect of any document relating to the transfer of any property out of the compensation poor, under the provision of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 and the Rules made thereunder:

3. Provided further that no registration fee shall be charged in respect of loan agreements and mortgagee deeds executed by the Cottage and Small Scale Industrialists in connection with the loans advanced under the Punjab State Aid to Industries Act, 1935, as in force in Himachal Pradesh:

4. Provided further that no registration fees shall be charged in respect of the documents to be executed by the Industrialists in connection with the loans advanced to them by the Himachal Pradesh Financial Corporation. This proviso shall remain in force for a period till the end of the Fourth Five Year Plan:

5. Provided further that no registration fee shall be chargeable on a document executed in favour of or on behalf of Government where registration fee is payable by the Govt.:

6. Provided further that no registration fee shall be chargeable in respect of the loan agreements to be executed by the Himachal Pradesh Khadi and Village Industries Board in favour of the Khadi and Village Industries Commission:

7. Provided further that no registration fee shall be chargeable on a document relating to a gift of Bhutan land:

8. Provided further that no registration fee shall be chargeable on a mortgage deed executed by a borrower for securing the repayment of the loan advanced to him under the Village Housing Project Scheme:

9. (Provided further that no registration fee shall be chargeable on any instrument, executed in respect of mortgage deed by the Small Marginal Farmers/Agricultural labourers for loans borrowed

1. Added vide No. 4/86-Rev. I, dated 28.2.1972, Published in R.H.P. Extra, dt. 9.3.1972, P.-234.

from the Commercial Banks provided such loans are recommended by the Small Farmers Development Agency and Marginal Farmers and Agricultural Labourers Agency:

10. ²(Provided further that no registration fee shall be chargeable on instruments of mortgage deeds executed in favour of the Life Insurance Corporation of India, for the loans granted upto Rs. 50,000 (Rupees fifty thousand only) for the construction of houses or extension or purchase thereof under the 'Own Your Home' Scheme with immediate effect):

11. ³(Provided further that no registration fee shall be chargeable on any instrument that may be presented to the Registrar/Sub-Registrar, Simla in connection with the re-construction of registration records, burnt in fire which broke out in December, 1972, in the office of the Deputy Commissioner, Simla, provided that the Registrar/Sub-Registrar is satisfied that the documents when originally presented for registration have paid the requisite registration fee):

12. ⁴(Provided further that no registration fee shall be chargeable on any instrument executed by the persons, who have been selected by the Government of H.P. under the Antyodaya Scheme in connection with the loans granted to them by the Commercial/Co-operative Banks, H.. Khadi and Village Industries Board and Department of Industries, H.P.).

Note 1.-No registration fee shall be leviable upon a mortgage deed executed by an officer of Government in Civil or Military employ for securing the repayment of an advance received by him from the Government for the purpose of construction or purchasing a dwelling house for his own.

Note 2.-^(a) The fee on any instrument comprising or relating to several distinct matters shall be the aggregate of the fees with which separate instruments each comprising or relating to one of such matters, would be chargeable.

^(b) An instrument so framed as to come within two or more descriptions of the documents related shall, when the fees chargeable thereunder are different, be charged with the highest of such fees.

13. ⁵(Provided further that no registration fee shall be chargeable on a document executed in favour of or on behalf of Government where registration fee is payable by the Govt.

14. ⁶(Provided further that no registration fee shall be chargeable on the instruments executed by or in favour of the persons who are given legal aid under the Himachal Pradesh State Legal Aid to the Poor Rules, 1980.

15. ⁷(Provided further that no registration fee shall be chargeable on any instruments executed by the persons who have received loans, assistance, subsidies etc. from the Himachal Pradesh Khadi and Village Industries Board upto Rs. 5,000/- in each case.

This amendment will come into force with immediate effect.

16. ⁸(Provided further that no registration fee shall be chargeable on the instruments executed by the Members of Legislative Assembly Himachal Pradesh in respect of loans/advances granted to them for house building and purchase of cars/conveyance.

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2. Added vide Not. No. 5-7/70-Rev. 1., dt. 24.4.1973.
 3. Added vide Not. No. 5-6/73-Rev. 1., dt. 6.7.1973, Published in R.H.P. dt. 25.8.1973, P. 1252.
 4. Added vide Not. No. Rev. 1-5 (stamp) 1/78 dt. 5.3.1979, Published in R.H.P. extra. dt. 10.3.1979, p. 959 issued in supersession of Not. Rev. 1-5 (stamp) 1/78 dt. 9/13th Nov. 1978. Published in R.H.P. extra dt. 20.11.1978, p. (1457-1458).
 5. Added vide Notification No. 17-1/64-Rev. -I dated 21.12.1964. Published in R.H.P., E.O. dated 23.1.1965 Page 35.
 6. Added vide Notification No. Rev. 1-6(Stamp) 1-81 dated 25.7.1981, Published in R.H.P., E.O. dated 8.8.1981, page-697.
 7. Added vide Notification No. 5-10/74-Rev.-I-dated 3.11.1982., Published in R.H.P., E.O. dated 13.11.82 page-1085.
 - 8.-Added vide Notification No. Rev. 1-3(Stamp) 6/79 dated 27.3.86, Published in R.H.P., E.O. dated 8.4.86 page-633.

17. ⁹ (Provided further that no registration fee shall be chargeable on any instruments executed by those persons who are living below the poverty line and the persons whose cases are recommended for loan by the Himachal Pradesh Scheduled Castes and Scheduled Tribes Development Corporation, Himachal Pradesh Ex-Servicemen Corporation and the Himachal Pradesh Khadi and Village Industries Board upto the limit of Rs. 25,000/- (Rupees Twenty Five Thousand).

18. ¹⁰ (Provided further that no registration fee shall be chargeable on any instruments executed by the Earthquake Victims in favour of the banks pertaining to loans to be advanced to such victims.

19. ¹¹ (Provided further that no registration fee shall be chargeable on any instruments executed by the agriculturists in favour of any commercial bank for securing loan upto an amount of Rs. 1,00,000- (Rupees One Lac) for the purchase of tractor with its accessories, tractor trolley, thresher, installation of tubewell based on diesel engine, boring and electrification of tubewell, laying of underground pipes, lining of water sources, levelling and reclamation of land and development of horticulture and upto an amount of Rs. 60,000/- (Rupees Sixty Thousand) only for purchase of pumping sets, cane crushers, bullocks or ploughs, spray equipments, sprinkler irrigation for agricultural purposes, dairy, piggery, poultry and crop loans or any other allied purposes.

20. ¹² (Provided further that no registration fee shall be chargeable on the instruments executed by the D.A.V. Centenary College, Kotkhai, Distt. Shimla in connection with the purchase of land in Kotkhai, Distt. Shimla for the construction of college building and other infrastructure required for the college.

21. ¹³ (Provided further that no registration fee shall be chargeable on the instruments executed by or on behalf of Cooperative Society or by any Officer or member thereof and relating to the business of such society or any class of such instruments or in respect of any award or order made under the H.P. Cooperative Societies Act, 1968 (Act No. 3 of 1969).

22. ¹⁴ (Provided further that no registration fee shall be chargeable on any instruments executed by the agriculturists in favour of Himachal Gramin Bank for securing loan upto an amount of Rs. 1,00,000/- (Rupees One Lac) for the purchase of tractor with its accessories, tractor trolley, thresher, installation of tubewell based on diesel engine, boring and electrification of tubewell, laying of underground pipes, lining of water sources, levelling and reclamation of land and development of horticulture and upto an amount of Rs. 60,000/- (Rupees Sixty Thousand) for purchase of pumping sets, cane crushers, bullocks or ploughs, spray equipments, sprinkler irrigation for agricultural purposes, dairy, piggery, poultry and crop loans or any other allied purposes.

23. ¹⁵ (Provided further that no registration fee shall be chargeable on any instruments executed by the persons whose houses have been damaged/destroyed in the excessive rains and floods during September, 1988 in favour of the Himachal Pradesh Housing Board/any commercial banks for the loans granted to them for the construction/repair of the houses under the following schemes:-

- i) HUDCO ASSISTED HOUSING LOAN SCHEME:
- ii) BANK ASSISTED HOUSING LOAN SCHEME.

24. ¹⁶ (Provided further that no registration fees shall be chargeable on mortgage instruments executed by the employees of the Himachal Pradesh Govt. Public Sector undertakings and Autonomous Bodies

9. Added vide Notification No. 17-2/65, Rev. I dated 1.5.86. Published in R.H.P., E.O. dated 18.6.86, page-1058.

10. Added vide Notification No. 17-2/65-Rev. I dt. 17.5.86. Published in R.H.P., E.O. dt. 22.5.86, page-927.

11. Added vide Notification No. Rev.I-6 (Stamp) 2-80, dt. 8.7.87.

12. Added vide Notification No. I-6 (Stamp) 2-80 (Vol.-II) dated 14.1.1988. Published in R.H.P., E.O. dt. 4.5.88. page-6/2.

13. Added vide Notification No. Rev.I-C(15) 1/76(Vol.-I) dated 11.3.1988.

14. Added vide Notification No. Rev.I-6 (Stamp) 2/80 dt. 2.6.1988 pub., in R.H.P., E.O. dt. 5.6.88, page-2126.

15. Added vide Notification No. 17-2/65-Rev.I dated 20.12.1988.

16. Added vide Notification No. Rev. I-3(Stamp)6/80 dated 10.4.1989.

in favour of such undertakings or bodies for securing the repaying of house building advance granted to them for the purpose of constructing or purchasing a dwelling house for their own.

Article-II. For inspection or searches under section 57- General Search for inspection of any number or entries or documents relating to one and the same property or executed by or in favour of one and the same individual:-

	Rs.	P.
(a) for the first year in the books of which search is made.	2.00	
(b) for every other year in the book of which search is continued	1.00	
(c) maximum	50.00	

Provided that no search fees shall be charged in respect of document of which a copy is applied for when the names of claiming and executing parties, the nature of the document and the date of registration, are shown in the application for the copy.

Note:-The date of registration of document is the date on which it is copied in the relevant book and the endorsement under section 60 of the Indian Registration Act, 1908, is recorded on it.

Explanation I-If a search is made at the request of a civil Court for the purpose of ascertaining whether a specified property is encumbered or not the fee to be levied in each case shall be at the rates prescribed above.

¹ (Explanation II-If a search is made at the request of Managers Branch Managers of Co-operative/Commercial Banks in respect of persons applying for loans to the said Banks, for the purpose of ascertaining whether a specified property is encumbered or not, the fee to be levied in each case shall be at the rates prescribed in this clause, and a certificate under the signature of the Registrar or Sub-Registrar as the case may be, shall be granted to show the result of search thus made).

Article-III.-For making or granting of copies of reasons, entries of documents (in English, Urdu, Punjabi or Hindi) before or after registrations-

- (a) When the number of words does not exceed 600.....Rs.1.50 For every 300 words or part thereof in excess of 600 words.....Rs. 0.75.
- (b) If the applicant requires copy to be furnished on the day of application or in preference to other applications, an urgent fee of Rs. 2.00 shall be levied over and above the prescribed fee.

Note (a).-When registration is refused neither registration fee nor copying fee is to be levied. Copies of reasons granted before registration are those which in case of refused registration are given on the applications made by any person, executing or claiming under the document as provided in section 76 of the Act.

Note (b).-When application for a copy under section 57 necessitate search, the fee prescribed under Article-II is to be levied in addition to that chargeable under Article-III.

Note (c).-Government Officers who want to search the register or take copies of entries in registers for bona fide public purposes, will be exempted from the payment of the fees under Articles I and III on a certificate being granted by the Registrar of the district that information is required solely in the interest of Government.

Note (d).-

The fees for copying maps and plans of estates or houses, etc., such as are filed in supplementary book I, shall be determined by the Head of the office.

Note (e).-No additional charges should be levied in respect of the copying into the registration books of endorsements made in accordance with section 52, 58 or 60 of the Act.

EXTRA OR ADDITIONAL FEES

Article-iv.-For discretionary registration under section 30:-

-
- (1) By the Registrar of the District under sub-section (1);Rs.10.00
(2) By the Registrar whose jurisdiction is extended to the whole of India.....Rs.10.00
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1. Added vide Notification No. 5-4/71-Rev. I., dt. 22.3.1974, Published in R.H.P. Extra., dt. 25.3.1974, page-562.

-Note.-The additional fee under this Article is not payable on the registration of Wills and authorities to adopt. Nor is it to be levied in cases where the Sub-Registrar, owing to his being pecuniarily interested in the transaction or to his being unacquainted with the language, in which deed is written or for any other sufficient reasons, is unable to register himself.

Article V.—For the issue of commission and for attending at private residences—

- | | |
|--|-----------|
| (1) When a satisfactory certificate is produced as to sickness or infirmity..... | Rs. 14.00 |
| When the person to be examined is in Jail..... | Rs. 7.00 |
| (2) In all other cases..... | Rs. 14.00 |

Note-1.-In addition to the above fee travelling allowance at the following rates is to be levied for the actual distance travelled over; provided that the place visited is more than one mile from the registration office.

Note-2.-In addition to the above fee the person, on whose behalf the journeys referred to in paragraph 10 of the Registration Manual are performed shall pay to the Government such additional sum as may be necessary to cover the cost of travelling allowance of registering officer or person appointed to execute a commission at the following rates:-

- (a) In the case of whole time government officials at the rates prescribed in the posts and Telegraphs Compilation of the Fundamental and Supplementary Rules.

(b) In the case of persons appointed to execute a commission under section 33 or section 38 of the Act, at the rates prescribed for Govt. servants of the III grade in the Posts and Telegraphs Compilation of the Fundamental and Supplementary Rules provided that halting allowance, if admissible, shall be limited to Rs. 20 per diem.

Article VI.-For filing transactions Rs. 2.00

Article-VII.-For deposit, withdrawal and opening of sealed Wills:

- | | |
|---|-----------|
| (1) When deposited in sealed cover under section 42 | Rs. 10.00 |
| (2) When withdrawn under section 44 | Rs. 10.00 |
| (3) When opened under section 45 | Rs. 10.00 |

Note.-No fee beyond the copying fee under Article-III shall be levied for copying into Book No. 3 of wills opened under section 45.

Article-VIII.-For the authentication of a power of attorney under section 33:-

Article-IX.-When under section 36 application is made to issue and to serve a summon , process fee and remuneration of the person summoned, at the rates prescribed for the civil courts of the state are to be levied from the person at whose instance of the State are to be levied from the person at whose instance or on whose behalf the application is made. When, however, the person summoned is the person who has executed the document, the remuneration is not to be allowed to him.

Article-X.--For the safe custody of documents remaining unclaimed after registration is refused:-

When application for return of registered document or of a document the registration of which has been refused is made more than one month from the date of such registration or refusal and for delay in applying for return of such document beyond one month for each fortnight or fraction thereof:

Rs. P.

Provided that the maximum fee leviable under this article in the case of single document shall not exceed- Rs. 10.00

Note (1).-A Registrar is empowered in his discretion to remit, in whole or in part fee leviable under this Article by himself or by Registration Officers subordinate to him in cases in which it appears to him that levy of such fee would lead to injustice or hardship.

Note (2).-It must be understood that no custody fee is leviable when application for the return of a document is made within one month of the date of registration. Thus, if the document be registered on the 1st April and if the application made after 30th April, fees are leviable as follows:-

Instruments of the fourth class must be treated in every respect as those of the first, but care must be taken to distinguish between instruments conferring authority to adopt a son (ijazat-nama tabniyat) and adoption-deeds executed in pursuance of such authority as to which, as well as to the definition of a "Will" paragraph 53, may be consulted. The registration of an authority to adopt is compulsory, while that of an adoption-deed is optional; the former must be registered in Book 3 the latter in Book 4; the registration-fee for the former and for the latter is as may be prescribed, both instruments are, however, alike chargeable with a stamp duty as prescribed under Article 3 of Schedule I-A of the Indian Stamp Act, 1890.

Adoption-deeds not uncommonly contain stipulations on the part of the adoptive father for the maintenance of the adopted son, and provisions for his marriage expenses. Such stipulations are to be regarded only as a record of the duties which are imposed by the law itself, without express mention, upon the adoptive father, and do not bring the deeds which contain them within the definition of "agreements" given in section 2 of the Indian Contract Act, 1872.

61. Distinction between leases and mortgages.—Care should be taken to distinguish between deeds of lease and deeds of mortgage for a limited period and the classification adopted by the deed-writer should not always be followed. Generally speaking, it may be said that if land is transferred in order to secure the repayment of a lump-sum of money advanced to, or due from the owner of the land, the deed is usually a mortgage deed, whereas in the case of a lease the land is transferred on account of a future recurring annual payment. If registering officers hold that a so-called lease presented to them for registration is really a deed of mortgage, they should treat it as such for the assessment of stamp duty and registration fees, and if it is under-stamped should impound it. The real nature of the deed should of course be shown in column 2 of Book-I.

Note.—In this connection reference may be made to clause(b) of article 35 of Schedule I-A of the Stamp Act. Documents falling under this clause are to be treated as "conveyance" for the purposes of stamp duty.

62. Indexes to be prepared on printed forms.—(1) The current indexes, required by sections 54 and 55 of the Act to be kept up in every registration office, should be prepared on printed forms containing the particulars hereinafter set forth. The forms shall ordinarily be in the vernacular, but in special cases English forms may be supplied.

(2) For the purposes of this paragraph the offices of a Sub-Registrar and Joint Sub-Registrar located in the same building and using the same muharrir should be deemed to be one office.

63. Index No.1.—(1) Index No.1 is that in which section 55 of the Act requires that the names and additions of all persons executing, and of all persons claiming under every document entered or memorandum filed in Book 1, shall be entered. It shall contain the following headings:—

1. name of person;
2. father's name;
3. residence;
4. profession, trade;
5. interest in the transaction (e.g., purchaser, mortgagee, etc.);
6. number of volume in which document is registered;
7. page of volume in which document is registered;
8. references (i.e. to initial letters of other index entries relating to the same transaction).

(2) This index shall contain the names and additions not only of the parties concerned in the documents copied into Book 1, but also of those concerned in the copies or memoranda of documents received from other registration offices and filed under sections 64, 65, 66 and 67 of the Act as well as those concerned in the copies of orders by revenue officers granting loans under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, and of certificates of sale granted by civil courts under the Code of Civil Procedure or by Revenue officers in regard to immovable property sold by public auction which are filed under section 89 of the Act. In the case of such sale certificates the only names of persons that need be indexed are those of the judgement-debtor as vendor and the auction purchaser as vendee.

64. Index No.II.—(1) Index No.II is that in which, under section 55 of the Act, the particulars

mentioned in section 21, relating to every document entered or memorandum filed in Book 1, are to be entered. It shall contain the following headings:-

1. name of city, town or village with tahsil and district;
2. Name of parties:-
 - (a) alienors.
 - (b) alinees.
3. No. Khasra and area with land revenue if the property has been surveyed;
4. nature of transaction (e.g. sale of land, lease of house, mortgage of land or house) with the amount of consideration;
5. number of volume in which document is registered;
6. page of volume in which document is registered;
7. Remarks;

(2) A Sub-Registrar, on registering a document of the nature mentioned in section 64 or 65 of the Act, shall enter in this index particulars of only that portion of the property which is situate in his own sub-district. A Registrar, on receiving a copy of a document under section 65, 66 or 67 of the Act, shall enter particulars only of the property situate in his own district. A Sub-Registrar, on receiving a memorandum of a document under section 64, 65, 66 or 67 of the Act, or a copy of an order or certificate under section 89 of the Act, shall enter the particulars of the property concerned in this index.

65. Index No.III-Index No.III is that in which section 55 of the Act requires the names and additions of all persons executing every Will and authority to adopt, copied into Book 3, and of the executors and persons, respectively, appointed thereunder, and after the death of the testator or donor (but not before) the names and additions of all person claiming under the same, to be entered. It shall contain the same headings as index No.1.

66. Index No.IV.-Index No.IV is that in which section 55 of the Act requires the names and additions of all persons executing, and of all persons claiming under, every document; copied into Book 4, to be entered. It shall contain the headings prescribed for index No.1.

67. Preparation of Indexes.-Index entries shall be made on the same day on which the document to which they relate is copied or filed in its proper register and shall on no account be allowed to fall into arrears. They shall be made alphabetically in Hindi in the first instance on loose forms, a separate form being used for each letter of the alphabet.

68. Index sheets to be bound annually.-At the close of each calendar year, the loose index sheets in every office shall be bound into volumes of convenient size, care being taken that they are arranged in correct alphabetical order, and that the entries which under section 57 of the Act are open to public inspection (indexes No. I and II) are bound separately from those which are not (indexes Nos.III and IV).

69. Initial letters.-In the case of Indians the first letter of the person's name and not of his title shall be the guide to the letter under which the index entry is to be made. In the case of others, the initial letter of the surname shall be the guide. In the case of documents in which the Government is concerned, an index shall be made (amongst others) under the letter ('S') as the initial letter of Sarkar. Entries regarding companies, banks, etc., shall be made under the initial letter of the first word omitting the article.

SUBSIDIARY BOOKS AND MISCELLANEOUS RECORDS

70. Name of subsidiary books.-The following subsidiary books must also be maintained in the office of every Sub-Registrar:-

- (a) Fees Book;
- (b) Receipt books A and B;
- (c) Order file;

Provided that in the circumstances referred to in paragraph 39 only one copy of these books should be maintained for both offices of the Sub-Registrar and of the Joint Sub-Registrar.

71. Fees book.- (1) The Fees book shall be kept in the vernacular printed bound volumes containing

100 or 200 pages each being supplied from the Registrar's office. This book must be written up daily, the registration fees realised on each document (distinguished by its registration number and the number of the book in which it is entered) being shown separately, and the total collections of the day entered in the appropriate column, copying fees being shown separately from other fees. This daily total must be verified by the registering officer who shall affix his signature in token of such verification. On the last account day of each month the several columns of the fees book shall be totalled, the totals being written in red ink, and signed by the registering officer, the entries for the remaining days of the month being carried forward to, and included in the totals for the following month. Thus, if in July, the book is totalled on the 27th, the entries from the 28th July to the 27th August should be treated as pertaining to the month of August, and so on.

(2) Where there is a Government treasury or sub-treasury at the same place as the registration office, the fees realised shall be paid into the treasury or sub-treasury daily, the signature of the treasurer at headquarters and of pottadars at tahsil sub-treasuries being taken in the Fees book in acknowledgement of the receipt of the amounts entered. All sum received subsequently to the closing of the treasury or sub-treasury accounts for the day shall be credited the next day along with receipts up to the hour of closing of the treasury or sub-treasury accounts for that day, and so on. All sum taken on any day on which the treasury or sub-treasury is closed owing to a holiday shall be credited on the day on which the treasury or sub-treasury reopens. The words "treasury closed" should, however, be written in the Fees book against the fees of the day no credited for this reason. When a registration office is situated at a place where there is no Government treasury or sub-treasury the collections of the registering officers may be transmitted by him fortnightly to the nearest treasury, in time to admit of their being included in the current month's accounts; or, should such a course appear more convenient to the Registrar of the district, the fees may be remitted by money-orders under the rules for "Government dues money-orders" the expenditure incurred on commission being charged to registration contingencies.

(3) Registering officers should be careful to see that the correct amount of fees is levied in each case. It must be remembered that when under section 65, 66 or 67 of the Act, several copies of a document have to be made, owing to the property concerned being situate in more than one districts, a copying fee under Article III of the table of fees should be charged upon each copy; but no copying-fees should be levied for memoranda sent to other offices under those sections, no provision being made in the existing Table of fees for levying copying fees on such memoranda.

Note:-The table of registration fees will be found in Appd.I.

(4) Registering officers are also personally responsible that all fees, including fees for copies, are correctly shown in the accounts, and are properly credited in the treasury. Copying fees must be credited at the same time as other registration fees, each day or each month, according to the practice of the particular office.

(5) (a) The Registrar/Sub-Registrar shall cause the leaves counted and shall then record a certificate of count on the first page of the Fees-Book.

(b) The daily/monthly totals of the Fees-Book should be verified by the Registrar/Sub-Registrar who shall then initial the same in token of the correctness thereof.

(c) When a daily income is credited into the Treasury/Sub-Treasury/Bank, the entry should be compared with the Treasury/Sub-Treasury/Bank receipt by the Registrar/Sub-Registrar who shall certify that the amount has been actually credited into the Government account.

(d) Any erasure/over-writing of the entry once made in the Fees-Book is strictly prohibited. If a mistake is discovered it shall be corrected by drawing the pen through the incorrect entry and inserting the correct one in red ink above it. Every correction so made shall be initialled with date, by the Registrar/Sub-Registrar.

(e) No Peon should ever be allowed to handle the Government money for being credited into the Government Treasury, etc. or otherwise.

(f) The Registrar who has Gazetted Officers working under him, may delegate his functions here to any such officer.

(6) The rules framed by the Inspector-General of Registration Himachal Pradesh under section (69)(1)(4) of the Indian Registration Act, 1908 with prior approval of the Government of the Hiamchal Pradesh, regarding the maintenance of Fees, Accounts and Registers are contained in Appendix-VIII.

72. Receipt books.- (1) Receipt books are supplied from the Registrar's office. The forms of the three kinds of receipts are given at the end of Appendix II to this Manual. Each volume of Receipt Book (A) contains 100 blank printed (vernacular) forms, and each form is divided into three parts, viz:-

- (a) containing particulars for identifying the document presented for registration, and an acknowledgement of the receipt of the prescribed registration fees-this part is to be filled-up, torn off, and given to the presenter on realization of the fees;
- (b) containing a brief description of the document, and an acknowledgement of its receipt for registration-this part is the "receipt" mentioned in section 52 of the Act, and it should be filled up, torn off, and given to the person presenting the document, at the same time as the receipt for the fees;
- (c) the count erfoils which remain permanently in the book.

(2) These receipts are to be numbered consecutively, a fresh series being commenced for each calendar year; registering officers should see that they are given in the order in which documents are presented for registration, that all prescribed particulars are filled in, that in the place for description of property it is stated whether such property is immovable or movable, and, in the case of a mortgage, whether it is with or without possession, and lastly, that the name of the executant, and not (as is sometimes erroneously done) the name of the scribe, is noted in the place provided for this purpose.

(3) When the document is about to be returned after registration to the party who presented it, or to such other person as he may have nominated to receive it in the manner described in section 61 of the Act, the receipt granted under section 52 should be taken back from him and pasted on its proper counterfoil in the receipt book after noting on it the day and hour on which the document was returned. Where the original receipt is not forthcoming, the written acknowledgement allowed by paragraph 123 should be pasted on to the counterfoil of the original receipt. Receipts for documents returned by post should be dealt with as prescribed in paragraph 125.

(4) When all the receipt forms in a volume have been used and repasted as described above the Sub-Registrar should forward it to the Registrar of the district who shall cause it to be carefully examined so as to see, in each case what the fees have been correctly levied, that the document was duly stamped, and that there has been no undue delay in returning it; and he will take such action thereon as may seem to him to be necessary. Thereafter, he will retain the book in his office until sanction is given, in due course, for its destruction.

(5) Receipt Book 'B' is for receipts for all fees, etc., which are paid at times other than those on which a document is presented.

(6) Receipt Book 'C' in English containing 20 pages is for receipts to be granted by the Registrars in acknowledgement of the receipt of fees recovered for sealed Wills deposited under section 42 of the Act. It has been found necessary specially to prescribe this form so as to comply with the requirements of the last sentence of paragraph 27.

73. Order file.-The order file is a paste-Book, in which should be filed all orders of a permanent kind received in the Sub-Registrar's office, whether emanating from the Inspector-General, or the Registrar of the district, or any other authority. All orders of this character should be pasted in as soon as received, and should not be allowed to lie about in a loose condition; a list should be prepared for each year and pasted into the order file, containing a brief description of all orders so filed; this list should not be made up at the end of the year but written up from time to time as orders are filed.

74. Miscellaneous Recorders.- (1) Besides the foregoing books, the offices of Sub-Registrars should maintain the following records, in addition to such others as the Registrar of the district may direct or the Inspector-General of Registration may from time to time prescribe-

- (a) powers-of-attorney authenticated under section 33 of the Act, presented by agents bringing documents for registration (paragraph 99)-to be kept in annual bundles;

- (b) copies of decrees of court ordering cancellation of registered documents, received under section 39 of the Specific Relief Act, 1877 (paragraph 77); and copies of decrees of civil courts directing registration of documents under section 77 of the Act-to be kept in annual bundles;
- (c) Cancelled;
- (d) depositions of witnesses examined by the registering officer (paragraphs 109 and 166)-to be kept in annual bundles;
- (e) miscellaneous papers of an ephemeral character to be kept in bundles of convenient size until authority is given for their destruction;
- (f) a copy (in Hindi) of the current Table of Fees-to be pasted on a board and exhibited, during office hours, in a public manner;
- (g) a copy each (in Hindi) of the Indian Stamp Act, 1899 and the Registration Manual;
- (h) (i) a despatch book for all papers issued, including registered documents returned through the post, and a file book of postal receipts for such registered documents (see paragraph 125);
 (ii) The despatch book will be in the following form:-

Column 1. serial No;
 Column 2. date of despatch;
 Column 3. subject of paper despatched;
 Column 4. address;
 Column 5. signature of receiver or number and date of postal receipt;

Note:-When a registered deed is returned by post the registration number and date should also be given in column 3.

- (i) a minute book in which inspecting officers should record their remarks. The remarks should be written in English only, but if the registering officer is unacquainted with English a translation should be attached.
- (2) in the circumstances referred to in paragraph 39 only one set of the records mentioned above should be maintained for both offices.
- (3) A 'misband' register in the following form should be kept in all registration offices and all papters including so far as possible those mentioned above should be entered in the register-

Column 1. file No.;
 Column 2. date of institution;
 Column 3. subject;
 Column 4. names of parties;
 Column 5. kind of deed and amount of consideration money;
 Column 6. particulars of the property involved;
 Column 7. date of completion of file;
 Column 8. abstract of order;
 Column 9. date of destruction.

Note:-Columns 4,5,6 and 8 need not be filled in case of annual files.

- (4) Each kind of file should be entered on a separate page and sufficient number of pages should be allotted to each kind of file to last for several years.

75. Files of applications for copies.-(1) Application for copies of registered documents shall be kept in an annual bundle, apart from other miscellaneous papers.

(2) An index shall be attached to this bundle, giving (a) serial number for the year, (b) date of application, (c) amount of fees realised, (d) date of grant of copy, and (c) name of applicant.

(3) On receipt of an application for a copy spaces (a), (b) and (c) will be filled up, and the serial number endorsed on the application; after the copy has been given to the applicant, space (c) and (d) will be filled in, and the application filed in its proper place.

76. Use of English numerals.-(1) The English numerals should be used in all the registers, endorsements on deeds, receipt books 'A' and 'B' and all other registration records.

(2) In all registers and papers English figures must be used.

CANCELLATION AND RECOPYING OF REGISTERED DOCUMENTS

✓ 77. **Cancellation of registered documents by order of a court.**-When under the provisions of section 39 of the Specific Relief Act, 1877 any registered documents is cancelled by order of a court, and a copy of the decree is sent to the office in which it was registered a note as to the cancellation signed by the registering officer of the day, shall be made in red ink in the column of remarks of the book in which the document was registered, opposite the copy of the document, specifying the court ordering cancellation and the number and date of its decree. All copies of decrees received under this rule shall be filed in annual bundles.

78. **Re-copying of deeds entered in the wrong book.**-When a deed has been copied into a wrong book, it should be recopied into the proper register and a note as to transfer made against the original entry. Care should also be taken to correct the entries in the indexes. A mistake of this kind does not invalidate registration (section 87 of the Act) and fresh fees should not be levied for the re-copying.

AUTHENTICATION OF REGISTER BOOKS

79. **Authentication of entries in register books.**-Every entry made in Book 1,3, or 4 shall be an exact counterpart of the original and shall be carefully compared with it; all interlineations, blanks, crasures or alterations which appear in the original shall be shown in the copy entered in the register. The registering officer shall satisfy himself that this has been done, verifying by his signature or initials any corrections rendered necessary by mere errors of transcription. Such corrections should in all cases be made in red ink and never by crasure. The registering officer shall also see that the entry has been made in the book to which it properly belongs, that the number affixed to it is that which it ought to bear in order to maintain the consecutive series required by section 53 of the Act, and that the book, the volume, and the page entered in the certificate of registration are correctly stated; after which he shall authenticate the entry by legibly affixing his signature in full, together with his official designation, at the end of the copy of the document registered. Copies of endorsements shall also be initialled or signed by the registering officer. All signatures must be copied into the register books in their proper places, whether such signatures occur in the original documents or in the endorsement made in the registry office. The entries in all the books prescribed by these rules shall be authenticated daily.

80. **Errors in consecutive numbering.**-When an error has been made in the consecutive numbering of documents registered, as prescribed in section 53 of the Act, and the error is not discovered in time to admit of its correction before the document is given back to the presenter or the party authorised by him to receive it, the erroneous number must be allowed to stand, and no subsequent alteration is permitted; but a note of the error shall be made in the proper column of the register, and signed by the registering officer.

81. **Entries in registers to be made with permanent black ink.**-It should be borne in mind that the registers are permanent records; care should accordingly be taken that all entries made in them are written in permanent black ink. The use of fancy-coloured aniline and other evanescent inks is absolutely forbidden. The same rule applies to documents filed in Supplementary Book 1, and a registering officer receiving a document to be so filed, written with evanescent ink, should not file it, but return it to the sender with a view to its being re-written with permanent ink.

SUPPLY OF BLANK REGISTERS, ETC.

✓ 82. **Application for blank books and forms.**-Applications should be made by Sub-Registrars to the Registrar's office for such blank registers and receipt books as may be required; the application may conveniently be in the form shown on the margin, and should be made in ample time to admit of the arrival of the books before they are actually required. The name of the applying officer, the description of book required and (in the case of registers) the number of the volume, should be stated in the application. A similar procedure should be followed in applying for indexes and other printed forms supplied from the Registrar's office. Registering officers on receipt of register books will, at once, make the examination and record the certificate required by paragraph 40.

MARGIN :

Application for blank books and forms

Office of Sub-Registrar of.....
Volume.....Book.....being nearly
filled, Volume.....is required.

Date _____ Signature _____

Office of Registrar

Volume.....Book.....is this day
forwarded. Its receipt should be acknowledged.

Date _____ Signature _____

Office of Sub-Registrar of.....

Volume.....Book.....has this day
been received.

Date _____ Signature. _____

CHAPTER V
"PROCEDURE"

PROCEDURE PRIOR TO ACCEPTANCE

83. **Place of presentation.**-Documents must ordinarily be presented and registered at the registration office at the headquarters of each district or sub-district, as the case may be, but, as provided by the Act, on special cause being shown registering officers may proceed to the private residence of any person desiring to present a document and accept it there for registration. This permission, however, must not be interpreted as extending to the acceptance of documents for registration at the private residence of the registering officer.

84. **Payment of visits and issue of commissions.**-Section 38 of the Act exempts from personal appearance at a registration office, persons unable from bodily infirmity to attend without risk or serious inconvenience, persons in jail, and persons exempt by law from personal appearance in court. In every such case the law requires that the registering officer shall either himself go to the house of such person, or to the jail in which he is confined, and examine him, or issue a commission for his examination. Whenever he issues a commission, the Sub-Registrar should report to the Registrar the name and position of the person to whom it was issued, and the reason why he did not himself proceed to the spot. As a rule, where the General Assistant to Deputy Commissioner is the Sub-Registrar, the Sadar Tahsildar, or in his absence the Naib-Tahsildar, should be entrusted with the execution of a commission; and where the Tehsildar is the Sub-Registrar, the Naib-Tehsildar should be employed on this duty. The issue of commissions to a registration muharrir is absolutely prohibited.

85. **Allowances to Commissioners.**-Paragraph 84 applies to commissions issued under section 33 and section 38 of the Act. The person executing the commission will be entitled to the allowances mentioned in paragraph 10. Where several instruments executed by the same person are presented for registration together, and it is necessary to issue a commission to examine that person in respect to the execution thereof, one commission fee only should be levied. Where also two or more persons are examined in respect of one document by a person executing a commission, or by a registering officer attending at a jail or private residence, one fee only should be levied if the person examined reside or at the time of examination are actually present, in the same jail or in the same town or village. If, however, the person executing a commission, or registering officer, if obliged to visit more than one place for the purpose of the examination, a separate fee should be charged for each journey, if a single journey is made to register documents belonging to different executants the commission-fee shall be charged from each person or group of persons registering a document or documents but only one travelling allowance should be charged and the amount should be distributed in equal shares amongst these persons or group of person and levied from them accordingly. Travelling allowances shall in each case be charged according to the actual distance travelled.

86. **Hours allotted to registration work to be notified.**-Where registering officers have other duties to perform, a certain portion of each day shall be allotted exclusively to registration work. The time so set apart shall be made generally known, and a written notice of it shall be exhibited in a conspicuous and accessible part of the building in which the registry office is located. The notice shall state the hours at which documents will be received and returned daily. Similar notices shall be posted outside the offices of wholetime registering officers. The latter should usually attend at their offices during the ordinary hours of business fixed for the district offices.

87. **Receipt of documents for registration.**-At the hours appointed in the notice, the registering officer shall personally receive all documents for which registration is sought and have them examined in his own presence.

88. **Examination as to stamp.**-When a document is presented for registration the first duty of the registering officer is to examine it so as to see that it is duly stamped; this is an obligation imposed by law, which must take precedence of all other procedure. special powers-of-attorney for the conduct of cases in courts should be stamped, with court-fee labels according to the scale in Article 10, Schedule II, of the Court-fees Act, 1870; but all other powers-of-attorney including those for

1. This does not apply to General Assistant to Deputy Commissioner performing registration duties, who are not required or expected to make personal visits to private residences of jails.

the conduct of cases in foreign courts, whether special or general, must be stamped with non-judicial stamps according to Article 48, Schedule I-A of the Indian Stamp Act, 1899,-

Cancellation of court fee stamps.-When a document bearing a court fee label is presented for registration the registering officer, before returning it after registration, will cancel the label by writing the word "registered" with his signature and the date of registration across it

89. Exemption from stamp duty of instruments to which Government is a party.-(1) When an instrument executed on unstamped paper is presented for registration and exemption from stamp duty is claimed under the general exemption in favour of Government contained in proviso (1) to section 3 of the Indian Stamp Act, 1899 it will be the duty of the registering officer, before accepting the instrument for registration, to satisfy himself-

- (a) that it was executed by, or on behalf of, or in favour of Government; and
- (b) that, but for the exemption, Government would be liable to pay the stamp duty.

(2) On the second point difficulty will seldom, if ever arise, distinct provision being made in section 29 of the Indian Stamp Act, 1899, as to the party liable for duty; and as to the first point, the instrument itself will ordinarily disclose on its face whether it was executed by, or on behalf of, or in favour of Government. Occasionally, however, such instruments are drawn so as to disclose that they have been executed by, or on behalf, or in favour, not of Government, but of an officer of Government described by name and official designation; and in such case reasonable doubt may arise as to whether the officer concerned acted in a private or public capacity and, if the latter, whether as representing the Government or some other public body (such as a municipal committee) not exempted by proviso (1) to section 3 of the Indian Stamp Act, 1899. In cases of this kind the registering officer must satisfy himself that Government is a party to the transaction. To this end, he should, where a Government officer is the executant, apply to that officer direct for the necessary information under section 88 of the Act; and in other cases he may take evidence under the provisions of sections 35, 36 and 66 of the Act. Should the enquiry prove satisfactory, he will accept the document for registration (if admissible in other respects), endorsing thereon that after enquiry he has satisfied himself that it is exempt from stamp duty under proviso (1) to section 3 of the Indian Stamp Act, 1899.

90. Stamp duty chargeable on bai-bil-wafa deed.-(1) The class of instruments known as "bai-bil-wafa" or conditional sales, must for the purposes of stamp duty be treated as mortgage deeds chargeable under clause (a) or clause (b) of Article 40, Schedule I, of the Indian Stamp Act, 1899, according as at the time of execution, possession of the property or any part of the property comprised in the deed is given by the executant, or agreed to be given, or not.

(2) Deeds of mortgage without possession containing a condition that possession will be given if the terms of mortgage are not complied with by the mortgagors are chargeable with stamp duty under clause (b), and not under clause (a) of Article 40, Schedule I, of the Indian Stamp Act, 1899.

91. Impounding of documents not duly stamped. If the registering officer is of opinion that a document presented to him is not duly stamped, he shall impound it under section 33 of the Indian Stamp Act, 1899, and send it to the Collector to be dealt with under section 40 of that Act.

92. Examination as to jurisdiction.-(1) When the registering officer is satisfied that the document presented to him for registration is duly stamped, he will examine it to see whether he has authority to register it, and in this connection parts V and VII of the Act should be consulted. For the purposes of jurisdiction, documents may be grouped into four classes:-

- (a) non-testamentary documents relating to immovable property, mentioned in clauses (a) to (e) of section 17, and clauses (a) to (c) of section 18 of the Act;
- (b) wills and authorities to adopt;
- (c) copies of decrees and orders of court;
- (d) all other documents.

(2) Instruments of the first class may be accepted for registration by any Sub-Registrar within whose sub-district any portion of the property concerned is situated. Instruments of the second class may be registered in any office. A copy of a decree or order may be registered in the office of the Sub-Registrar in whose sub-district the decree or order was made, or (if it does not affect immovable

property) in the office of any other Sub-Registrar under the State Government at which all the persons claiming under the decree or order desire the copy to be registered. A document of the fourth class may be registered either at the office of the Sub-Registrar at the place of execution, or, at the instance of the executants and persons claiming under it, in the office of any other Sub-Registrar under the State-Government.

93. **Jurisdiction of Registrars.**-A Registrar may accept for registration any document which might be accepted by any Sub-Registrar subordinate to him.

"Documents relating to immovable property are registrable under clause(f) of section 18 of the Indian Registration Act, 1908, but a copy of the documents so registered should be sent to the officer concerned."

It should be noted also that entries of transfers of immovable property made in the registrars of cantonment authorities and municipal committees are no evidence of title, and cannot take the place of registration under the Act. Deeds of sale of immovable property executed by local bodies required to be registered when the value is Rs.100 or more.

94. **Discretionary registration by Registrars.**-Registrars should exercise the discretion referred to in the preceding paragraph with due regard to public convenience. When the document is a Will or authority to adopt, or when it relates to a transaction in which the Sub-Registrar having jurisdiction is pecuniarily interested, or when it is written in English, and the Sub-Registrar having jurisdiction is unacquainted with that language, the Registrar should never refuse to accept it for registration, except for very cogent reasons. When a Registrar decides that a document presented to him under section 30 of the Act ought to be registered in the office of Sub-Registrar, he shall return it to the person presenting it without recording an order of refusal either on the document or in his Book No.2

95. **Procedure when registering officer has no jurisdiction.**-If the registering officer finds he has no jurisdiction to register a document presented to him, he shall return it to the presenter without recording any order of refusal, and inform the presenter at what office he can obtain registration.

96. **Examination as to time.**-When the registering officer finds he has jurisdiction, he shall examine the document to see that it has been presented within the time allowed by part IV of the Indian Registration Act, 1908. Wills may be presented at any time; other documents executed should ordinarily be presented within four months from the date of execution; but the Registrar of the district may, on urgent necessity or unavoidable accident being shown, direct documents presented more than four months after execution to be accepted for registration on payment of the fine prescribed in paragraph 160, provided that the delay in presenting the document does not exceed four months. A Sub-Registrar has no authority to register a document (other than a Will) executed more than four month before the date of presentation without a direction to that effect from his Registrar, but an application for such a direction may be lodged with the Sub-Registrar, and should be sent on to the Registrar at once for orders. If the period of limitation for presentation or for appearance to admit execution of a document prescribed by the Act or extended by the Registrar expires on a day on which the registration office is closed, the presentation or appearance shall be considered to have been made in due time if it is made on the first day of the opening of the office thereafter, vide section 10 of the General Clauses Act, 1897.

97. **Examination as to unverified interpolations, etc.**-(a) If the document is brought for registration within the time allowed by law, the registering officer will see whether it contains any unverified interlineations, blanks, erasures or alterations of the kind mentioned in section 20 of the Act; and, in the case of documents relating to immovable property, whether the description of the property is sufficient for identification. If he is not satisfied on either of these points, he may hand the document back to the presenter for remedy of the defect. Foreign documents should not be accepted unless accompanied by the translations and copies required by section 19, and documents of the kind mentioned in sub-section (4) of section 21 of the Act unless accompanied by the required copy or copies of the map or plan.

(b) In a town for which a Government map has been prepared, houses shall, for the purposes of section 21 of the Indian Registration Act, 1908, be described by reference to such a map; and no document affecting house property or potential building sites in a town shall be accepted for registration unless the property or the site has been so described in the document, and a copy of the map showing the khasra number or numbers in question and the adjoining Khasra numbers has been attached to the application.

98. Parties entitled to present for registration.-If the document is not open to any of the objections set forth in paragraph 97, the registering officer, before finally accepting it for registration, shall satisfy himself that the person presenting it has legal authority to do so. The persons who may present a document for registration are the following-

- (a) in the case of a Will, the testator, and after his death, any person claiming under it as executor or otherwise;
- (b) in the case of an authority to adopt, the donor, and, after his death, the donee or the adopted son;
- (c) in the case of a copy of a decree or order, any person claiming under the decree or order;
- (d) in any other case, any person executing or claiming under the document;
- (e) the representative, assigner agent of any of the foregoing persons.

99. Presentation by representatives, assigns and agents.-(1) If the document is presented by a representative* or assign, he must satisfy the registering officer of his status; if by an agent, he must produce a power-of-attorney** authenticated in the manner prescribed in section 33 of the Act; but care must be taken to distinguish between deeds executed by agents in pursuance of power in that behalf conferred upon them by their principals, and deeds executed by principals presented for registration by agents empowered in that behalf. It is not the duty of the registering officer to satisfy himself of the power of an agent, who is the actual executant of an instrument, to execute it, i.e. to deal with the property forming the subject matter of the deed. His duty is confined to the question whether the persons purporting to have executed the instrument have in fact done so or not. These are three possible cases-

- (a) where the actual executant, or person claiming under the instrument, appears;
- (b) where a representative or an assign of such person, appears;
- (c) where an agent of either of the above persons appears.

(2) In the first case, the officer has simply to ascertain whether the person so appearing does or does not admit execution, and his identity. In the second case, the officer has further to satisfy himself as to the right of the representative or the assign to appear in that capacity and to admit execute. In the third case, the officer has simply to see whether the person appearing is an agent duly empowered as prescribed by section 33 of the Act to appear and bind his principal, viz, the executant, person claiming under the instrument, representative or assign-with an admission of execution.

100. Officials exempt from appearance.-It must be borne in mind that officers of Government, and the other officials mentioned in section 88 of the Act, are not required to appear at registration offices in their official capacity either in person or by agent. Consequently, if any such officer is entitled to present a document for registration, he may transmit it to the proper registering officer by post.

PROCEDURE ON ACCEPTANCE

101. Payment of fees on acceptance.-When a document is accepted for registration, each party shall be informed of the amount of fees he has to pay and, as soon as such fees are paid, the record prescribed in section 52 of the Act shall be given to him. At the same time, he shall be informed at about what hour the document will be returned to him, if it can be returned the same day, and the hour in question shall be written on the receipt. If the document can not be returned the same day, he shall be told on what date and at what time he should appear to claim it, and the date and time aforesaid shall be endorsed on the receipt, but, in offices where the system of return of documents by post is in force (paragraph 123), he shall be given the option of having the document returned by post or of appearing in person to claim it, the procedure necessary being clearly explained to him. If in payment of the fees any party pays more than the exact amount due, the excess shall be returned to him at once. The endorsement required by section 52 of the Act shall then be recorded and shall be signed by the registering officer and the presenter.

* It must be remembered that for the purposes of the Registration Act "representative" includes the guardian of a minor and the committee or other legal curator of lunatic or idiot

** Attention is invited to the N.B. to article 48 schedule I, of the Indian Stamp Acc, 1899 which says that the term registration as used in article 48(a) includes every operation incidental to registration under the Indian Registration Act, 1908.

102. Enquiry as to execution, identity, etc.-The registering officer shall then, with as little delay as possible, enquire whether the document was executed by the alleged executant, and satisfy himself as to the identity of the person appearing before him to admit execution. In cases of alienation, he shall satisfy himself of the identity not only of the alienor, but also of the alienee, if the latter is present. If the presenter is the executant, or his representative, assign or agent, or if such executant, representative, assign or agent is present, the registering officer shall make the necessary enquiry at once. He should also require the presenter, if an agent, to produce a power-of-attorney authenticated in the manner prescribed in section 33 of the Act, and, if a representative or assign, to produce evidence of his status.

103. Identification of parties.-When the registering officer is not personally acquainted with the executant, he shall require them to produce persons to testify to their identity who are personally known to him or to some other person whom he personally knows or of whose identity and reliability he is otherwise fully satisfied. Stamp-vendors and petition-writers should never be allowed to identify executants whose deeds they have written, and in any case as a rule the registering officer should not accept persons of this class as witnesses of identity, nor should they have recourse to their own peons for this purpose. Preference should be given where possible to witnesses living in the executant's neighbourhood and of his class of life. An interested party to a deed should not be allowed to identify the executants of the deed.

104. Documents to be scrutinized and explained to executants.-Every deed shall be subjected to a thorough scrutiny with a view to ascertaining whether it correctly represents the intentions of the parties and the registering officer shall make sure that the person incurring liability knows the extent to which his rights are affected, as for instance in regard to his share in the shamilat or as to the question of cultivating possession. Documents executed by persons who are unable to read shall be read out and if necessary explained to them, and the registering officer shall ascertain that they clearly understand their purport. Documents written in a language which the executants do not understand shall in like manner be interpreted and explained.

105. Recording of endorsement under section 58.-If execution by the alleged executant is admitted, and the registering officer is satisfied on the point of identity, he shall record on the instrument the endorsement required by section 58 of the Act and such endorsement shall be signed by the registering officer, the executant and all the witnesses examined; but no such endorsement is necessary on a copy of a decree or order or of a certificate sent under section 89 of the Act.

106. Taking of thumb impressions.-Registering officers should have the thumb-mark of any person who presents a document for registration taken under the endorsement prescribed in section 52 of the Act and that of any person who admits the execution of a document taken under the endorsement prescribed by clause (a) of sub-section (1) of section 58 of the Act. The left thumb should generally be used by the person making the impression, unless the registering officer thinks fit for any reason to have an impression of the right thumb taken. All impressions should be taken in the presence of the officer registering the deed affected after the parties have been duly identified, and he should note in the certificate prescribed under section 60 of the Act that this was done. When the registering officer, who has recorded the endorsement required by section 58 of the Act, on the original deed, has to leave the station before the deed can be copied in the appropriate book and the section 60 certificate recorded, he should record the following certificate after the section 58 endorsement-

"Certified that the left (or right as the case may be) hand thumb-impression of the executant has been affixed in my presence."

The certificate should be dated and signed by the departing registering officer. It will not then be necessary to record any note as to thumb-impressions in the certificate prescribed by section 60 of the Act which will be signed by the succeeding registering officer. Instructions as to the method of taking impressions are placed in the boxes of appliances, one box being supplied for each registration office. The ink and other apparatus should be purchased by Registrars and charged to registration contingencies in the usual way. They may be obtained from any source that may be convenient. Printer's ink alone should be used.

(2) Registering officers may in their discretion relax this rule in the case of any person who is fully literate and of good standing and take such person's signature only.

107. Enquiry as to consideration.-As prescribed by section 58 of the Act, the endorsement referred to in paragraph 105 should mention, amongst other particulars, "any payment of money or delivery of goods made in the presence of the registering officer in reference to the execution of the document, and any admission of receipt of consideration, in whole or in part, made in his presence in reference to such execution." Parties executing documents admitting the receipt of valuable consideration should be asked by the registration officer whether they have received such consideration, and warned of the penal consequences of a false statement. Where registration officers suspect that there has been deliberate swindling, they should report the circumstances to the district officer, who will take measures, if necessary, to enforce the law.

108. Summons for appearance of executants or witnesses.-If the alleged executant or his representative, assign or agent is not present and it is necessary to summon such person, or any other person, whose presence or testimony is necessary, the registering officer shall apply to the Deputy Commissioner of the district in which the person is residing, for the issue of the necessary summons under sections 36 and 37 of the Act, provided that when the registering officer is a Sub-Registration and the person to be summoned resides in a tehsil of the district in which the registration office is situate, the summons may be sent direct to the Tehsildar of that tehsil for service. The appearance by the executant before the registering officer must be within the time prescribed by section 34 of the Act.

109. Procedure when there are several executants.-When a document purports to have been executed by more than one person, the process described in the preceding paragraphs must be observed in the case of each; but it is not essential that all alleged executants should appear before the registering officer simultaneously; the identification and admission of as many executants as are present should at once be recorded, and registration of the document should be postponed until the appearance, subsequently, of the others. In such a case a single fee will be charged, and not a separate fee for each executant or appearance.

110. Sub-Registrars not to register documents relating to transactions in which they are interested.-(1) Sub-Registrars should avoid registering documents referring to transactions in which they have a personal interest, direct or indirect. On such documents being presented to them for registration they should forward them to the Registrar of the district, who will deal with them under the discretion allowed by section 30 of the Act.

(2) There is, however, no objection to a Joint Sub-Registrar registering a document in which the Sub-Registrar of the same sub-district, is personally interested and vice versa, and if a document in which either of these officers is personally interested is presented for registration to the officer so interested he should direct the person presenting it to present it to the other officer.

111. Registering officers not concerned with validity of documents.-Registering officers should bear in mind that they are in no way concerned* with the validity of documents brought to them for registration, and that it would be wrong for them to refuse to register on any such grounds as the following e.g., that the executant was dealing with property not belonging to him, or that the instrument infringed the rights of third persons not parties to the transaction, or that the transaction was fraudulent or opposed to public policy. These and similar matters are for decision, if necessary, by competent courts of law and registering officers, as such, have nothing to do with them. If the document is presented in a proper manner by a competent person at the proper office within the time allowed by law, and if the registering officer is satisfied that the alleged executant is the person he represents himself to be, and if such person admits execution, the registering officer is bound to register the document without regard to its possible effects.

112. What persons are to be considered to be executors of documents.-(1) The expression "A person executing a document" shall be held to include-

- (a) any person who becomes surety for the repayment of a loan or the fulfilment of a contract and in that capacity affixes his signature to a document;
- (b) any person who endorses a negotiable document;
- (c) any person who signs a receipt or a discharge endorsed on a document;

REGISTRATION MANUAL

CHAPTER 1

APPOINTMENT, REMUNERATION AND RETIREMENT OF REGISTERING OFFICERS
APPOINTMENT

1. **Permanent appointments.**-Under section 6 of the Indian Registration Act, 1908 (hereinafter referred to as the Act) all permanent appointments to the office of Registrar, Sub-Register, or Joint Sub-Registrar, are made by the State Government. In some cases the persons appointed are public officers who perform registration duties by virtue of their office in addition to their other duties; in other cases persons specially selected are nominated to the office.

2. **Classes of registering officers.**-The following are the classes of registering officers employed in the Himachal Pradesh:-

(a) registering officers who are required to perform their duties without any additional remuneration.-

the ex-officio Registrar of each district, that is, the Deputy Commissioner, in administrative charge of the district for the time being, or any officer appointed to act temporarily as Registrar in his place under the provisions of paragraph 11. He is required to perform this duties without remuneration.

(b) Registering officers who are public officers but are entitled to additional remuneration for performing their duties.

(i) civil officers of and above the rank of Naib-Tehsildar, holding office either as Sub-Registrars or Joint Sub-Registrar. They are paid an extra allowance as may be prescribed from time to time.

(ii) The Tehsildars and Naid-Tehsildars, shall be paid honorarium at the rate as may be prescribed from time to time for doing Registration work, in addition to their normal duties.

3. **Sub-Registrars at headquarters, sub-districts and elsewhere.**-(1) In a headquarters sub-district, the Tehsildar or Naib-Tehsildar is ordinarily Joint Sub-Registrar, and the Sub-Registrar may be the General Assistant to the Deputy Commissioner deputed by the Registrar to act for the time being or another officer of Government deputed by the Registrar to act for the time being.

(2) In a Sub-district which is not a headquarters sub-district, the Tehsildar is ordinarily sub-registrar until a departmental sub-Registrar is appointed at the headquarters of the tehsil, and, upon such appointment occurring, the Tehsildar becomes joint Sub-Registrar.

(3) When it is proposed to appoint a second sub-Registrar in one sub-district, it is desirable that the incumbent, who holds, or is to hold, office at the headquarters of the sub-district, should be Sub-Registrar and the other incumbent should be Joint Sub-Registrar, the two incumbents working with concurrent jurisdiction, throughout the sub-district. This is desirable, because experience has shown that administrative difficulty generally arises from the creation of separate sub-districts within one tehsil.

4. **Amalgamation of office of Sub-Registrar with that of Registrar.**-Section 7 of the Act allows the Local Government to amalgamate the office of a Sub-Registrar, and to authorise the Sub-Registrar to exercise and perform, in addition to his own powers and duties, all or any of the powers of the Registrar. The Sub-Registrar, at the headquarters of certain districts have accordingly been authorised exercise and perform such powers and duties, with the exception of those specified in sections 68 and 72 of the Act. The Local Government may also declare that a Sub-Registrar shall be deemed to be Registrar for the purpose of sub-section (3) of section 35 and o fpart XII of the Act.

5. **Temporary appointments.**-Provision is made in section 11 and 12 of the Act for temporary appointments in cases where the registering officer is absent from his office for a short time only; and here it is necessary to remind registering officers that the "office" contemplated in sub-section(1) of section 7 is a fixed place, and not a movable establishment; that except in the cases otherwise specially provided for in the Act, all registrations must be made at such office; and that consequently when a registering officer proceeds into the interior of his district or sub-district, he cannot take his office with him. In such cases it becomes necessary for the Registrar to provide a substitute, in doing which he will be guided by the following general instructions.

6. When a Registrar is absent.-Section 11 of the Act provides that when a Registrar is absent from his office on duty in his district, he may appoint any Sub-Registrar or other person in his district to perform during such absence, all the duties of a Registrar, except those mentioned in sections 68 and 72. In such cases, the person so appointed may, in the discretion of the district officer, be either the General Assistant to the Deputy Commissioner or any other civil officer at the headquarters of the district.

7. When a Sub-Registrar is absent.-Section 12 of the Act provides for temporary vacancies in the office of Sub-Registrar. When a subordinate registering officer proceeds on leave of absence, or is otherwise temporarily away from his office, the Registrar will provide for the performance of his duties during his absence in the following manner:-

- (a) when the absent officer is General Assistant to the Deputy Commissioner, the Officer who succeeds him should take over his registration duties also, except where the Deputy Commissioner himself takes charge of his General Assistant in which case the registration duties should be made over to some civil officer at headquarters. It is incompatible with the provisions of the Act for a Registrar to perform the duties of a Sub-Registrar, except where the two offices have been amalgamated under section 7 of the Act; moreover, such an arrangement might be productive of inconvenience in cases where a party wished to appeal against an order issued by the Deputy Commissioner in capacity of Sub-Registrar;
- (b) save as provided above, where there are two subordinate registering officers at the same place, during the temporary absence of one the other should ordinarily be required to perform the duties of both offices;
- (c) save as provided above, when the absent officer is a Tehsildar, the Naib-Tehsildar, if available, should be placed in charge of the registration duties;
- (d) in all other cases, the Registrar should make such arrangements as appear to him to be most suitable in the circumstances for maintaining the continuity of the business of the office.

8. One Sub-Registrar cannot be appointed to two sub-districts at the same time.-It must be borne in mind that although the Act permits the appointment of two or more Joint Sub-Registrars in the same sub-districts, it now however allows one Sub-Registrar being in charge of two separate sub-districts at the same time. This can only be affected by a separate notification under section 5 of the Act, directing the temporary amalgamation of the two sub-districts concerned.

9. Reports of changes of incumbency.-Section 13 of the Act requires that temporary appointments of the nature treated of in paragraphs 11 and 12 shall be reported by the Inspector-General to the Local Government and such report may be either special or general. Changes of incumbency in ex-officio appointments made in accordance with ordinary rule may be deemed to have been made under the order of Government, and no special report therof is necessary, but all exceptional arrangements, and all changes in offices filled by Joint Sub-Registrars, must be communicated to the Inspector-General's office, for report to Government under section 13 of the Act, in quarterly schedules in the form given in Appendix III, which should be submitted with the other monthly returns. At the foot of the return for 31st March and 30th September will be entered a certificate of the dates on which the iron safe, for deposit of scaled wills, etc., was opened and its contents examined during the half-year, as required by paragraph 26. If no such examination has been made, the certificate should set this forth and state the reason.

10. Payment of commission.-When a commission is issued under section 33 or 33 of the Act, half of the fee prescribed in Article V of Appendix I is payable to the person by whom the commission is executed. When a registering officer himself proceeds to a private residence or a jail, under sections 31, 33 or 38 of the Act, he is entitled to half the fee prescribed in article V of Appendix I in addition to any other registration fee to which he may be entitled; but this rule does not apply to the officers mentioned in paragraph 2(a) and (b) who will be entitled only to the travelling allowance admissible under ordinary rules.

CHAPTER II ESTABLISHMENTS AND CONTIGENCIES

11. Budget provision for temporary establishment.-The Inspector-General will provide in his

budget a sum over and above the cost of the permanent district establishment as a reserve from which to meet the cost of temporary establishment. This reserve will not be distributed over districts but allotted by the Inspector-General as occasion arises. The Inspection-General has full authority to regulate and sanction charges on account of the temporary establishment of registering officers, so long as the annual allotment for these charges is not exceeded.

Provided that the pay of a temporary muharrir and of a peon shall not exceed the minimum of the time scale of pay of a permanent clerk and a permanent peon, respectively, admissible from time to time and the period of employment of such temporary staff shall not extend beyond the current financial year without the express sanction of Government.

12. **Cost of permanent muharrirs.**-All permanent Registration muharrirs are members of the ordinary district office establishment and their pay is regulated according to the scale of the grade to which they belong as members of that establishment.

13. **Establishment for Registrars.**-To each Registrar, a muharrir will be allowed either separately or in connection with the establishment of the Sub-Registrar at the headquarters of the district according to locality and the amount of work in the district.

14. **Establishment for Sub-Registrars.**(1) The strength of the establishments of Sub-Registrars will vary according to the amount of work to be performed in each office. As a general rule (which however will not be rigidly enforced, liberal allowance being made for special circumstances and localities) these establishment will be regulated according to the following scale:-

- (a) Where the number of registrations does not exceed 1,000 per annum a single muharrir should suffice;
- (b) where the number exceeds 1,000 but does not exceed 3,000 per annum one head muharrir and from 1 to 3 muharrir may be employed;
- (c) where the number exceeds 3,000 per annum special arrangements will be made in each case.

(2) In the case of small offices where the number of registrations does not exceed 400 per annum the registration muharrir's work may be made over with the previous sanction of the Inspector-General of Registration to a muharrir employed on any other work in addition to his own, if the muharrir to whom the registration muharrir's work is made over in addition to his own is a member of the district office establishment no allowance will be given to him for that work.

15. **Temporary establishment.**-When, in any office owing to special or temporary causes, it is beyond the power of the permanent staff to cope with the number of registrations in any one month, the Registrar of the district may appoint an additional muharrir at the pay not exceeding the minimum of the time scale of pay of a permanent clerk admissible from time to time to that officer, as a temporary arrangement, reporting it at once for the confirmation of the Inspector-General. This additional muharrir shall be retained only so long as may be absolutely necessary.

16. **Registration muharrirs to be employed solely on registration work.**-Registration muharris' are not to be employed on other work without the approval of the Inspector-General of Registration, Himachal Pradesh, which should be obtained by the Deputy Commissioner before they are given any such work. Registration muharrirs are also strictly prohibited from drawing up or engrossing instrument in the registration of which they may subsequently be required to take part.

17. **Appointments, Transfers and Dismissals.**-The power of appointment, transferring and dismissing Registration Muaharris is vested in the Registrar of the district, subject however, in the case of appointment and transfers, to the general control of Inspector-General of Registration who has authority for sufficient reasons, to disallow any arrangement which is made by Registrar. This power of interference by the Inspector-General will, however, be cautiously exercised and must not be taken as limiting, in any way, the responsibility of the Registrar for the employment of fit and proper persons as Registration Muaharris. Appeals against punishments or dismissals ordered by the Registrar lie to the Commissioner of the Division.

18. **Qualifications of muharrirs.**-Registrars in appointing clerks to their own offices and the offices subordinate to them should select men who have knowledge of both the regional languages and qualified the departmental examination of Registration clerks, held by the Inspector General of Registrars, H.P. once a year.

19. Chaprasi for Sub-Registrars.-As a general rule and if funds permit one chaprasi should be allowed for each Sub-Registrar. But where such officer is also an ex-officio Sub-Registrar, before sanction to the entertainment of a chaprasi is applied for, it should be ascertained whether a chaprasi is not already entertained, as there is no need that more than one should be employed.

CONTIGENCIES

20. Registrar's contingencies.-(1) The contingencies of the Registration Department have been declared to be contract contingencies and Registrar have been given fixed grants for this purpose.

(2) The powers of Registrars to incur expenditure from these grants are given in the H.P. General Financial Rules, Vol.I.

(3) The contract contingent grant does not cover expenditure on the purchase of strong boxes, padlocks and seals which are supplied by the Inspector General and paid for out of his office contingencies.

21. Postage charges.-Service labels and post cards should be supplied by the Registrar to Sub-Registrars from time to time as required. An account of them should be kept in columns added for the purpose in the despatch register of each sub-registration office, the balance being struck in red ink at the close of each month. Registrars should see that economy is used in the transmission of papers by post; and when extra postage has to be paid owing to the omission on the part of any Sub-Registrar to affix his signature to a cover, or by an irregularity in its subscription, such extra payment and the postage entailed by consequent correspondence should be recovered from the officer concerned, and should not be allowed to appear in the Registrar's contingent accounts.

22/ Sub-Registrars contingencies.-All the contingent expenses of the offices of Sub-Registrars, excepting stationery, hot and cold weather charges and other charges incurred for their personal convenience, should be defrayed from provincial funds. Expenditure chargeable to Government should be defrayed by the Sub-Registrars in the first instance and recouped by contingent bills. It is not necessary to make a separate advance to a tehsildar Naib-Tehsildar incharge of a registration office for expenses connected with that office, as such expenses can be defrayed out of the permanent advance held in the tehsil for general expenses. Scrutiny of details will be left to the Registrar who will see that no unnecessary expenditure is incurred on contingent.

CHAPTER III CUSTODY, PRESERVATION AND DESTRUCTION OF RECORDS CUSTODY AND PRESERVATION

23. Responsibility for preservation and safe custody of records.-Registering officers are responsible for the preservation and safe custody of all registration records, including those of previous years, which have accumulated in their offices or have been transferred thereto. This responsibility applies not only to the registers and records maintained under the Act, but also to those under the previous Indian Registration Acts, III of 1877, VIII of 1871, and XX of 1866, as well as to those maintained under local rules before the extension of the last named Act to the H.P.

24. Strong boxes.-(1) The offices of all registering officers have been supplied with one or more strong, tin-lined boxes or almirahs secured by locks of approved pattern; in these boxes the registration books and all papers and documents connected therewith shall be kept; and no money or valuable of any kind shall be deposited therein. The boxes shall be placed in the room where the registering officer transacts his public business, and shall be opened and closed by that officer himself, or in his presence and he shall retain the keys of the locked boxes in his own possession. The duplicate keys of the locks supplied to Sub-Registrars shall remain in the custody of the Registrar of the district who should label each with the name of the sub-district to which it belongs, and deposit it in some safe place.

(2) The locks and duplicate keys of a registration office which has been permanently closed should be returned to the Inspector-General's office, unless a new registration office has been simultaneously opened in the same district.

(3) The boxes or almirahs of a registration office which has been permanently closed, if not required for the purposes of any other registration office in the district, should be auctioned and the proceeds credited to the head '030-Stamps and Registration-Miscellaneous Receipts'.

25. weekly examination of records.-To prevent injury occurring to the older records by damp,

white-ants, etc., the boxes should be thoroughly emptied out and their contents examined once a week and all Sub-Registrars should submit alongwith their monthly returns, a certificate to the Registrar of their district to the effect that the records in their charge have been examined according to rule. Should any injury happen to any of the records, whether by white-ants, fire, flood or otherwise, or should any of them be lost, an immediate report should be made to the Inspector-General by the Registrar of the district, who should record at the same time his opinion as to whether any one, and if so who, is to blame, and as to the measures to be taken to repair the injury or loss so far as may be possible.

26. **Preservation of wills and authorities to adopt.**-(1) The Registrar of every district has been supplied with a fire-proof safe. In this safe shall be kept Wills in sealed covers, and authorities to adopt, which may have been deposited under the provisions of the Indian Registration Act, 1866, and authorities to adopt executed before the 1st January, 1872, which may have been deposited under section 2 of the Indian Registration Act, 1871; also Wills in sealed cover which have been deposited or may be prescribed for deposit under section 43, and Wills which have been or may be opened under section 45 of the Indian Registration Act, 1871, the Indian Registration Act, 1877, or the Indian Registration Act, 1908. It shall not be used for any other purpose whatever. The key of the safe shall remain in the personal custody of the Registrar who alone shall open and close it; "The duplicate key should be carefully labelled and deposited in the Treasury strong room for safe custody in securely sealed covers". The safe shall be placed where it cannot be affected by damp, and it shall be opened and examined once in every six months with a view to ascertaining that its contents (if any) are correct and in good conditions, and that the lock is in order; and on the 1st April and 1st October every year the Registrar shall report to the Inspector-General the result of this examination, or if owing to some unavoidable cause no such examination has been made, the reason why no examination has been made.

(2) If any Will through age or damp has been subjected to such decomposition that it appears likely to become useless, the depositor-or his legal representative; if the depositor is dead-should be called upon to replace it, and informed that unless he does so, it will be destroyed when no longer legible. Such destruction should be carried out in the presence of a gazetted officer, who should record a note thereof in his own handwriting in the register.

(3) When several Wills are kept together arranged one above the other the seals are apt to wear out and the inscription thereon to become effaced owing to constant contact. It has also been observed that in some cases the inscriptions on the seals fade with the advance of years. In order therefore to prevent damage such covers should, before they are deposited in the safe, be placed in outer transparent covers with eyeletted flaps and a string should be passed through the eyelets and tied and sealed. The outer cover should not be opened unless there is a permanent change in the personnel of the Registrar or unless an occasion arises for the opening of the inner sealed cover for its removal to court.

27. **No need for verification of existence of testators.**-The Government of India have decided that it is not incumbent on Registrars to verify from time to time the existence of testators, whose Wills have been deposited with them for safe custody. All depositors of Wills should, therefore, be informed that no steps will be taken by Government to ascertain when they die, and to communicate after their death with the beneficiaries.

GENERAL RECORD OFFICE

28. **Opening of Central record offices.**-In some of Himachal Pradesh districts a central record office for registered documents has been opened, and the system should be extended to the remaining districts circumstances permit. The following paragraphs prescribe how such an office should be constituted and administered.

29. **Central office to be in Registrar's office.**-The Registrar's office shall contain the central office of record for each district and such registers of his own and those of subordinate offices as are to be preserved in perpetuity, shall be transferred to it from time to time.

30. **Catalogue of permanent records.**-(1) A catalogue shall be kept up in every registration office, so many pages being set apart for entering up serially the volumes of each species of register, where necessary, year by year. Only permanent records shall be entered, such records being of the following character:-

(a) for the period prior to the year 1847-

(i) such filed copies of documents, along with relevant indexes and diaries, as may still exist;
(ii) any register books that there may be into which deeds were copied along with relevant indexes:

(b) for the period 1847-1856-

- (i) the single register books into which deeds were copied;
(ii) the indexes to such registers if any;

(c) for the period 1850-1867-

- (i) the file books of the copies or the bundles of the copies which were taken from presneters and which, after comparison with original, were filed;
(ii) the register books in which record was made of the names, etc., of the persons who presented the copies and of the nature of the transaction;
(iii) the annual indexes to these register books;

(d) for the period 1868 to date-

all volumes of books *1,2,3,4 and 6 and all annual indexes I,II,III, and IV (vide sections 51,54, and 55 of the Act).

(2) In future, when a new catalogue has to be prepared, the following form should be adopted. Existing catalogue need not be altered:-

Book or Index No.....

S.No.	Vol.No.	Date of Commencement		
		Date	Month	Year
1	2	3	4	5

Date of Completion			Date of despatch to Central record room				
Date	Month	Year	Date	Month	Year	Signature of registering officer	Remarks
6	7	8	9	10	11	12	13

31. Transfer of records to central office.-When a central office has been opened no time should be lost in transferring to it from the Registrar's and Sub-Registrar's offices the records mentioned in clauses(a), (b) and (c) of the proceeding paragraph, if there are any such, and at the beginning of each calendar year such of the records mentioned in clause (d) as are completely filled up and in which the last entry dates back over 12 years, or such period as the Inspector-General may approve, should be transferred to the central office. All records so transferred shall be accompanied by an invoice in duplicate (vide form 3, Appendix III). One copy of the invoice shall, after careful verification be received and returned to the office from which it was received with as little delay as possible. Despatching officers will be responsible for seeing that the records are securely packed before despatch, and that every precaution is taken to guard against their loss or damage in transit.

32. Special record-room.-Where possible, a special record-room for these records shall be provided in the Registrar's office, and shall be supplied with racks and presses or with strong wooden or sheet iron almirahs fastended by secure locks.

33. Supervision of central office.-The central office may, with the sanction of the Inspector-General, be placed directly under the supervision of the Sub-Registrar at headquarters, but in any case

*Note-Book I includes also supplementary book-I (paragraph 47.)

it shall remain in the charge of the Registrar's muharrir who shall keep a catalogue as prescribed in paragraph 30.

34. Catalogue to be signed on changes of personnel.-Whenever there is a change of registering officers or of registration muharris or of head registration muharris where there is more than one muharrir, the catalogue of permanent records referred to in paragraphs 30 and 33 shall be signed by the relieved and relieving registering officers or muharris or head muharris, as the case may be.

INSPECTION AND PRODUCTION IN COURT

35. Inspection of registers, etc., by applicants under section 57.-Inspections of registration books and indexes allowed to applicants under section 57 of the Act shall be made in the presence of the registering officer, and without pen and ink. "Pencil and paper may be used for the purpose of taking notes in order to identify the document or record which is being examined. These notes shall be confined to particulars, such as the names of parties, the area of land demised or the amount of the consideration money, if any, the number of document and book, volume and page of register in which it has been copied and the date of the registration. No mark shall, however, be made on any record or paper inspected."

36. Production of registers, etc., in court.-If the production of a register book, or of any document in the custody of a registering officer is required by any court, it shall be forwarded under the charge of a member of the registration establishment, and application shall be made to the court for recovery of his expenses from the party at whose instance the record has been summoned in accordance with the Travelling Allowance Rules in force in the Himachal Pradesh.

DESTRUCTION

37. Annual destruction of useless records.-Each Sub-Registrar, and the Registrar's muharrir for the Registrar's office, shall, as soon as possible after the close of each calendar year, submit in Hindi or in English to the Registrar of the district a statement, prepared according to form E, appendix II, containing proposals for the destruction of documents and records which, in accordance with the instructions contained in appendix VII, need no longer be preserved. The Registrar, after examining all such statements, shall pass orders for the destruction of such documents and records as he may consider necessary. These statements should be disposed of by Registrars by the first March in each year at the latest. Among the old records, the following should not be preserved-

- (a) Old Book V which was kept in the years 1866-72 and contains summaries of decrees in land-suits sent to Sub-Registrars by civil courts;
- (b) the serial register books or diaries of the years 1856-68, provided copies of the deeds entered in these books are forthcoming (with the indexes), and have registration endorsement on them signed by the Sub-Registrar; -vide paragraph 30(c)(ii).

38. Destruction of registered documents.-When a registered document is destroyed under section 85 of the Act a note to that effect shall be made in the column for remarks opposite the copy in the book in which it was registered. When a document, the registration of which has been refused, is destroyed under the same section, a similar note shall be made in the column of remarks opposite the record of refusal in book 2.

CHAPTER IV BOOKS AND RECORDS

39. Registers to be kept in offices of registrars and Sub-Registrars.-(1) In the office of every Registrar and Sub-Registrar the following registers shall be maintained :-

- Book 1.
- Supplementary Book 1.
- Book 2.
- Book 3.
- Book 4.
- Book 6.

(2) Each Registrar shall also keep an additional register called Book 5.

(3) Where the Sub-Registrar and Joint Sub-Registrar are located in the same building and use the same muharrir, only one set of registers shall be kept.

40. Supply of registers. (1) The books shall consist of printed forms containing the headings hereinafter described, and paged consecutively, bound in volumes of convenient size, the number of pages in each volume being certified on the title page. Ordinarily they shall be in the regional language. The volumes shall be numbered consecutively (a separate series for each book for each office), and the number shall not terminate with the calendar year, but shall run on perpetually.

(2) Every registering officer, on receiving a volume from the Registrar's office, shall immediately examine it to see that it contains the certified number of pages, and that these have been numbered in proper consecutive order; and he shall note the result on the title page. A similar certificate shall be entered by the Registrar in any volume brought into use in his own office.

41. Indents for forms and books.—(1) All indents for registration forms and books shall be sent to the Controller, Printing & Stationery, Himachal Pradesh through the Inspector-General of Registration. Indents for Hindi forms and books should reach the Inspector-General's office not later than the 2nd January each year. The Registrar's indents should specify the books and forms likely to be required in their own offices and in those subordinate to them during the next calendar year. The number of forms to be printed each year will be calculated on the average consumption of the three previous years with an addition of 50 per cent less the number of forms in hand. For this purpose Sub-Registrars should submit to Registrars reports as to their requirements not later than the 15th December each year. Indents should be prepared in duplicate, one copy being retained in the indenting office and the other forwarded to the Inspector-General of Registration.

(2) The forms and books duly bound will be supplied to Registrars by the end of August. Registrars will stock them and distribute them when required to sub-offcies.

(3) As soon as supplies are received, their number should be carefully checked by the indenting officer, who should satisfy himself that they are in accordance with the indent before signing the receipt for them.

(4) To prevent wastage of registration books and forms, a register should be kept in each Registrar's office in the form given below. Receipts should be entered up in this register in red ink, and issues in ordinary ink, the signature of the person to whom the forms are issued being taken in the remarks column.

STOCK REGISTER OF REGISTRATION BOOKS AND FORMS

STANDARD NO. OF FORM OR REGISTER OR ENVELOPE

	Receipts			Issues			
Date	Opening balance	Number received	No. and date No. of invoice issued with which received	To whom issued	Balance after each transaction	Initials of receiving or issuing official	
1	2	3	4	5	6	7	8

42. Certificate of examination when a volume is filled up.—When a volume is filled up, the registering officer shall certify, after the last entry, the number of entries made therein during the current calendar year, and the number of pages on which they are written; he shall also examine these entries, and note in his certificate any errors or defects that he may discover.

43. Consecutive numbers to be by the calendar year-Certificate at close of year.-The consecutive numbers of entries in each book prescribed in section 53 of the Act shall commence and terminate with the calendar year, and at the close of each such year, the registering officer shall certify, after the last entry of each current volume, the number of entries made in that volume during the year, and

the number of pages on which they are written; he shall also examine these entries, and note in his certificate any errors or defects that he may discover. If no entries have been made during the year in any volume he shall certify to that effect.

44. Concurrent volume of same register. If in any office the number of documents to be registered be so large that there is difficulty in entering them day by day in the appropriate registers, the registering officer may, with the previous sanction of the Inspector-General, keep up concurrently two volumes of any register book, the documents bearing even numbers being entered in one volume, and those bearing odd numbers in the other. In special cases three or more concurrent volumes may be maintained.

45. Book 1.-Book 1 is a file book with numbered butts, of non-testamentary documents which relate to immoveable property registered under section 17 and 18 of the Act and which are not Wills. In this book shall be filed duplicate copies of all documents, duly signed by the parties and the witnesses and endorsed by the registering officer like the original. Each sheet of the duplicate copy thus signed by the parties and the witnesses and endorsed by the registering officer shall then be pasted on a separate numbered butt in book No.1 immediately on receipt, otherwise there is a danger of its being lost or injured and the registering officer shall scribe his signature and shall affix the seal of his office in such a way that both the signature and the seal are partly on each butt so used and partly on the duplicate pasted thereon. Endeavour should be made to return the original document to the presenter before he leaves the office. This book and the indies relating thereto are open to public inspection, and the copies of entries therein shall be given to an applicant on payment of prescribed fees. The heading of each butt shall be in the following form :-

Value of Stamp	S.No. of entry, nature and value of transaction and amount of re- gistration and other fee and fine levied.	Remarks
1	2	3

46. References to other documents affecting the same property.-When any document is registered in Book 1 affecting some other document previously registered in it, a note referring to the later document shall be entered in the column of remarks opposite the entry of the earlier document, and shall be signed by the registering officer of the day. A note of compliance with this rule signed by the muharrir shall always be entered on the copies of documents in which the references to previous documents occur, as without such a note it cannot be easily ascertained whether the rule has been carried out. Where entries have to be made in registers transferred from Sub-Registrar's offices to a central record-room, Sub-Registrars shall maintain lists of all such references and send them to the Registrar's office at the end of every month. The Registrar's clerks shall then enter the notes in the appropriate registers in the record-room, have them signed by the supervising officer, and return the lists duly endorsed to the Sub-Registrars who shall have the requisite notes of compliance entered against the copies of the latter documents in their offices.

47. Supplementary Book 1.-Besides the ordinary entries in Book 1, the Act requires that the following documents shall be "filed in Book 1":-

- (a) copies of maps and plans (section 61);
- (b) copies and memoranda of documents received from other registering officers (section 64 to 67);
- (c) copies of certificates granted by revenue officers under the Land Improvement Loans Act, 1883, or the Agriculturists Loans Act, 1884, and of certificates of sale granted by courts under the Code of Civil Procedure or by revenue officers in regard to immoveable property sold by public auction (section 89).

(2) To prevent injury to the binding and the disturbance of paging which would result if these documents were filed in the bound volumes, a separate file book called "Supplementary Book 1" shall be kept in each office and in it the documents above-mentioned shall be pasted. It shall contain printed slips paged in consecutive order and having columns headed as follows:-

- (a) date of receipt of copy of memorandum;
- (b) date on which document was executed;
- (c) name and address of executant.

(3) As regards the copies of maps and plans, it will be sufficient to note thereon the registration number and date of registration of the document to which they appertain, and the volume and page where the entry will be found; but all other copies and memoranda filed in this book shall be numbered consecutively and the necessary particulars shall be given of them in indexes Nos. I and II. All documents should be pasted in immediately on receipt otherwise there is danger of their being lost or injured. All notes recorded on the documents filed in this book should be signed and dated by the registering officer. In all cases the three printed columns on the paged slips should be filled up. The certificates at the beginning and end of each volume prescribed in paragraphs 40 and 42 and the annual certificates prescribed in paragraph 43, must be recorded in this book in the same manner as in all the other registers.

48. Copies of certificates of sale under the C.P.C.-The High Court has arranged that all copies of certificates of sale granted under the Code of Civil Procedure shall be prepared by the courts on printed forms of a prescribed size and shape, suitable to the size and shape of the registers in which they are to be filed, and that blank copies of these forms shall be supplied on application to the office of the Controller, Printing & Stationery, H.P. Sub-Registrars should not file any copies of sale certificates sent to them unless these are prepared upon the prescribed forms, copies not so prepared being returned to the courts sending them.

49. Copies of orders granting loans under the Land Improvement or Agriculturists Loans Act.-Copies of orders granting loans under the Land Improvement Loans Act, 1883 or the Agriculturists Loans Act, 1884, should be prepared upon paper the pages of which are of foolscap size. If the whole document cannot be copied into a single half sheet, whole sheet or more than one sheet may be used, but the paper should be limited to the size of foolscap.

50. Filing translations and maps.-When a document is registered under section 62 of the Act a note of the pages of the supplementary file book on which the translation and copy have been filed, shall be made in the column for remarks. A similar note shall be made when a copy of a map or plan is filed in Supplementary Book 1 under section 61.

51. Book 2.-
(1) Book 2 is the record of reasons for refusal to register. It also is open to public inspection, and copies of entries in it shall be given to all persons applying for them; in the event of the applicants being persons executing or claiming under the document, registration of which has been refused, or their representatives or agents, the copies shall be given free of charge for copying, though the copy must be stamped. This book shall contain the following headings:-

1. Serial number;
2. date of order of refusal;
3. name of person presenting document;
4. nature and value of transaction;
5. reasons for refusal;
6. remarks.

(2) A brief description of the rejected document is sufficient, and there is no need to copy it into the book in extenso.

(3) The record of the reasons for refusal should be sufficiently full to enable an appellate or inspecting officer to judge of their sufficiency, but need not contain a summary of any evidence which the registering officer may have taken; such evidence should be recorded on separate sheets of paper and filed in the office. When a document, the registration of which was originally refused, is subsequently registered by order of Registrar, under section 72 or 75 of the Act, or of a Civil Court under section 77, a note of such order shall be made in column (6) of this register opposite the original record of refusal.

(4) In his copy of this book the Registrar, as required by section 76 of the Act must record his reasons, not only for refusing to register a document, but also for rejecting an appeal from the order of a Sub-Registrar subordinate to him.

52. Book 3.-Book 3 is the register in which Wills and authorities to adopt are to be copied after they have been accepted for registration under section 41 of the Act; also such Wills as have been opened by the Registrar under sections 45 and 46. This book is not open to public inspection, nor are its indexes; but copies of entries in it or them shall, on payment of the prescribed fees, be given to the persons executing the documents to which such entries relate, or to their agents, and

after the death of the executants (but not before) to any person applying for such copies. The necessary search shall be made by the registering officer in person. When a Will entered in this book affects immovable property situate in districts or sub-districts other than that where the entry has been made, no copy or memorandum of such Will need be sent to the registering officers of those districts or sub-districts. This register shall contain the headings as under :

- (a) value of stamp and copy of all endorsements made in the registry office;
- (b) serial number of entry, nature and value of transaction and amount of registration and other fees and fines levied;
- (c) copy of document registered;
- (d) remarks.

53. **Description of "Will".**-To prevent mistakes, it may be explained that every document making posthumous disposition of property is a "Will" and should, when registered, be entered in Book 3. Further, that a document which merely declares the fact of having adopted a son, or given a son for adoption is not an "authority to adopt" and should not be entered in this book unless it contains testamentary dispositions which bring it within the definition of "Will" given above.

54. **Book 4.**-Book 4 is the miscellaneous register, in which are pasted duly endorsed and singed duplicate of all documents registered, under clauses (d) and (f) of section 18 which do not relate to immovable property. It is not open to public inspection, nor are its indexes; and copies of entries in it or them shall be given, on payment of the prescribed fees, only to the parties executing or claiming under the documents to which such entries relate, or to the agents or representatives of such persons. The necessary search shall be made by the registering officer in person. This register shall contain the same headings as Book 1.

55. **Separate file book for documents in languages not in use in the Himachal Pradesh.**-A separate file book should be opened in every registration office in the same form as Supplementary Book No.1 (paragraph 47 ante); and all copies and translations of documents written in languages not in common use in the Himachal Pradesh and registered in Books 1, 3 and 4 should be filed in it. The number and date of registration of the document to which the copy and translation appertain should be noted thereon along with the volume and page where the entry of the document will be found. Translations and copies should be pasted in the file book immediately after the documents to which they appertain, have been copied in the appropriate books as otherwise there is a danger of their being lost or injured. In all cases the three printed columns of the paged slips should be filled up. The certificates at the beginning and end of each volume and the annual certificates must be recorded in this book in the same manner as in all other registers.

56. **Book 5.**-(1) Book 5 is the register of deposit of Wills, and is to be kept only in the offices of Registrars, who alone can receive Wills in sealed covers for deposit. It shall contain the following headings:-

1. Serial number;
2. Superscription on the sealed cover;
3. inscription on the seal of the cover;
4. time of presentation and receipt of the sealed cover-
year, Month, Day, Hour;
5. name of depositor;
6. names of persons testifying to the identity of depositor;
7. time of delivery of the sealed cover to applicant for withdrawal-
Year, Month, Day, Hour;
8. names of persons, testifying to the identity of the applicant at the time of delivery;
9. times of opening the sealed cover-
Year, Month, Day, Hour.

(2) Columns (1) to (6) shall be filled in when Will is first deposited under section 43 of the Act; columns (7) and (8) shall be filled up in the event of the Will being subsequently withdrawn; and column (9) shall be filled up when a Will is opened, after the death of the testator, under section 45 or 46 of the Act. All these several must be verified by the signature of the Registrar for the time being. When a Will has been removed by order of court under section 46(1) of the Act the fact

shall be noted in red ink across the entry, and the note shall be authenticated by the signature of the Registrar.

57. Book 6.- (1) In addition to the books specified above, there shall be kept in every registry office a memorandum book, to be called Book 6 for the purpose of recording brief abstracts of powers of attorney authenticated under clause(1) of section 33 of the Act. It shall contain the following headings:-

1. Serial number;
2. date (year, month, day);
3. name and address of principal executing the power;
4. name and address of attorney;
5. names of persons identifying the principal;
6. value of stamp; amount of fees levied; and brief abstract of contents of power.

(2) In the last of these columns it shall be noted amongst other things, whether the instrument gives express or implied authority to the attorney to present a document for registration; whether the power is a special or a general one; and if special, in what registration office it is intended to be used. It is not necessary to copy out the document in extenso.

58. **Authentication of powers of attorney by registering officer.**-To prevent mistakes it may be explained that the only description of power of attorney, which a registering officer is competent to authenticate under section 33 of the Act is one which contains authority to present for registration a document executed by the principal, and this is the only kind of power of which entries should be made in Book 6. Such a power of attorney may, of course, be registered like any other document, but it will not be valid for registration purposes, unless it has been authenticated under section 33 of the Act. Accordingly, when a power of attorney is presented by a person who presumably does not understand the distinction between registration and authentication, and it is not a power which the registering officer can authenticate, he shall register the document in his Book 4. If, however, the power contains authority to present for registration a document executed by the principal, the registering officer shall explain the difference between authentication and registration, and ascertain the presenter's exact wishes in respect of the document. There is nothing, of course, to prevent such a document being registered as well as authenticated if the principal wishes it, but in that case the two operations shall be treated as separate transactions, and the usual fees shall be levied for both. If the power of attorney confers other powers besides an authority to present for registration a document executed by the principal, it must be registered in Book 4 and will also be authenticated and entered in Book 6, if the presenter wishes.

BOOKS IN WHICH CERTAIN CLASSES OF DOCUMENTS SHOULD BE REGISTERED

59. **Instructions as to books in which documents should be registered.**- (1) When a document is admitted to registration the registering officer has to determine in which book, it should be registered. This is a very important matter, not only because some of the books are open to public inspection while others are not, and because the rates of fee diff, but also because questions of jurisdiction and limitation are involved. Ordinarily no difficulty will be experienced in determining, for the purposes of the Act, what is and what is not "immovable property", but as occasionally doubts may arise, the following rulings are noted for the guidance of registering officers.

(a) In letter No.49-1814, dated the 31st October, 1884, the Government of India in the Home Department ruled that trees sold with a view to their being cut down and removed are "standing timber" within the meaning of clause(9) of section 2 of the Act, while trees sold with a view to being kept permanently standing and enjoyed by the taking of their fruits or otherwise are immovable property. In conformity with this ruling documents relating to trees of the classes ordinarily used for timber should be registered in Book 4 unless the terms of the document clearly contemplate their being kept standing and enjoyed. Conversely, documents relating to trees not ordinarily utilized as timber should be registered in Book 1 unless the terms of the document make it clear that they are to be cut down.

(b) Saltpetre manufacture-Agreements relating to the manufacture of saltpetre, and to other products of the earth (except standing timber, growing crops and grass) should be registered in Book 1 as documents relating to immovable property.

(c) Sajji leases.-An instrument conferring the right to cut "Sajji" for a term of years over a specified area of land, and conveying a right not only in the Sajji plants growing at time of contract but to those produced on the land in future for the terms of years agreed upon, is registerable in Book 4.

(d) Votive offerings at Shrines.-A document conveying the income of a mela (i.e. the offerings of worshippers at a shrine) was ordered to be registered in a Book 1, it being held that, as the property transferred was income derived from a sacred building, the document should for registration purpose, be treated as one relating to immovable property.

(e) Receipt of consideration money.-Acknowledgments of the receipt or payment of consideration for the conveyance, etc., of immovable property must be registered in Book 1, and of other property in Book 4.

(f) Haq lambardari.-The allowance to village headmen of 5 per cent on the land revenue commonly known as haq lambardari is "a benefit arising out of land" within the definition of "immovable property" given in clause(6) of section 2 of the Act.

60. Instructions as to instruments of adoption.-Instruments of adoption often give rise to doubt as to their proper treatment in a registration office. The following instructions in regard to their registration should be followed:-

Deeds of adoption, as generally met with in practice, may be divided into four classes:-

- (i) deeds which recite the fact of adoption only;
- (ii) deeds which recite the fact of adoption and convey the property of the adoptive father to the adopted son during the lifetime of the former;
- (iii) deeds which recite the fact of adoption and Will the property to the adopted son after the adoptive father's death;
- (iv) adoption deeds executed by widows in pursuance of an authority to adopt.

Instrument of the first class fall under clause(f) of section 18 of the Act, and their registration is optional, but they must be presented, if registration is desired, within the time allowed in Part IV of the Act. They should be registered in Book 4, and described therein and in the statistical returns as "adoption-deeds" (mutbana-nama). They are chargeable with stamp duty, under Article 3, of Schedule I, of the Indian Stamp Act, 1899.

Instruments of the second class should always be recorded in the registers and statistical returns as "instrument of gift" (hiba-name). They must be brought for registration within the period of limitation allowed in Part IV of the Act, but are subject to different treatment according as the property transferred is immovable or movable. Where the property transferred or any part thereof, is immovable, the instrument falls under clause (a) of sub-section(1) of section 17, and registration is compulsory. The registration should be made in Book 1, the fee payable being according to the scale given in clause(b) of Part(1) of Article 1 of Appendix I. Where the whole of the property conveyed is movable, the instrument falls under clause(d) of section 18 of the Act and registration is optional. The instrument should be registered in Book 4 and the free chargeable is as may be prescribed from time to time. In either case the instrument must be stamped as a conveyance on the value of the property transferred under Article 33 of Schedule I-A or as an adoption-deed under article 3 of Schedule I-A, of the Indian Stamp Act, 1899, whichever is highest. See section 6 of the Stamp Act.

Instruments of the third class fall under two heads-

- (a) Deeds intended to operate as Wills and reciting the fact of adoption only incidentally;
- (b) Deeds intended to operate as those of adoption and containing also a provision, that the adoptee would succeed to the property of the adoptive father after death of the latter.

The deeds falling under (a) must be recorded and treated in every respect as Wills (wasiyat-nama). Their registration is optional under clause(c) of section 18 of the Act, and they may be presented at any time (section 27). They must be registered in Book 3, and are liable to a registration fee as may be prescribed, but are exempt from stamp duty. Instruments coming under (b) must be treated as deeds of adoption for purposes of stamp duty as well as registration.