

CHAPTER 31.

CONTROL OVER COURTS, RETURNS AND LAPSED DEPOSITS.

I. CONTROL OVER SUBORDINATE COURTS.

Responsibility.

709. Every Judge is responsible for all payments of deposits made on his certificate or under his orders. In the case of receipts and payments of petty or B deposits no detailed check is exercised over his proceedings, the accounts which he is required to render of these showing totals only. In the case of A deposits, however, all sums received, and not paid out during the month in which they have been received, and the balance of such of these deposits as have been partly paid out, must be reported to the District Judge, and must be included in that officer's accounts, and in his return to the Accountant-General.

Note.—If the District Judge thinks it absolutely necessary, he may delegate the duty of passing chalangans to the chief ministerial officer of his Court, and place any of the officers subordinate to him in charge of accounts, in the same way as a Deputy Collector is placed in charge of a treasury, but on the distinct understanding that the District Judge will not be relieved of the responsibility for the due accounting of all money received and paid. All returns will be signed by the District Judge. (Accountant-General's No. 141-A, dated 26th April, 1881).

Daily Return of Subordinate Court.

710. Everyday, after the Treasury Advice has been received, and the Deposit and other registers have been written up and checked with it, two statements showing the transactions of the date to which it refers shall be prepared by the Judge-in-charge and forwarded to the District Judge. The first of these statements [Form No. (A) 10] shall show the total amount of the entries in the Deposit Registers and the totals of all other transactions brought on the Registers (*see* rule 746). The second shall be an extract from Part I of the Register of Deposits Repaid [Form No. (A) 19], giving the particulars of repayments on account of deposits received during previous months. At the foot of the first statement the Judge-in-charge shall certify "that he has examined the Registers of B Deposits and found them to be written up-to-date and to be in order".

Note 1.—It will be observed that these returns are intended to exhibit actual receipts and payments, and that they are therefore to be compiled from the Deposit Register and not from registers of chalangans and payment Orders.

Note 2.—The subordinate Courts referred to in rules 709 and 710 are those which keep their own accounts and the accounts of other Courts as well, *viz.* rule 631 (Accountant-General's No. 141-A, dated 26th April, 1881).

Note 3.—The advices of the payments of deposits appertaining, to the subordinate Courts at the sadar station should be issued from the District Judge's Court (Accountant-General's No. 141-A, dated 26th April, 1881.)

711. At out stations some delay in submitting the daily returns is unavoidable, but this delay should not exceed the time necessary for the Treasury Advice List to reach the Court. The date on which the returns are actually signed should be noted on them by the Judge-in-Charge.

Verification by Judge-in-Charge.

712. At the time of signing the returns, the Judge-in-charge should have before him the Registers of Chalangans and Payments Orders, the Registers of Receipts and Payments of Deposits, and the Treasury Advice List; and, after comparison, he should attest the entries in column 8 of Registers No. (A) 14 and No. (A) 16 by placing his initials in column 9, and the entries in the Registers of Deposit Receipts and Payments by placing his initials in columns 7 and 13 respectively.

Examination by District Judge.

713. The statements furnished by the subordinate Court shall, when received in the District Judge's office, be compared with the corresponding Advice List, supplied to him by the treasury officers, under rule 700. In the case of out-stations, the totals for the whole month supplied by the Judge-in-charge must agree with the totals for the whole month supplied by the treasury officer, if the rules regarding periodical remittances have been correctly followed. In the course of the month the former totals will ordinarily exceed the latter, and the difference must be taken to represent cash transactions advised by the Court, but not yet brought on the treasury books. In the case of courts near treasuries, no such discrepancies should occur if the rules are properly observed. When any such are noticed, immediate steps must be taken, under the District Judge's orders, to reconcile them.

Judge's Register of Totals.

714. After examination, the totals of deposits received and paid shall be posted into a register to be kept by the District Judge in Form No. (A) 21. This register contains two sets of columns, one set relating to A deposits and the other to B deposits. Separate portions of the register for the month must be allotted to each subordinate court, that is, for each subordinate court a number of pages, according to the probable work, must be assigned in the leaves devoted to that particular month. The entries in respect of each subordinate court will thus come continuously and in order of date and they must be totalled at the end of the month.

715. In the portion of the register which relates to B deposits, a column has been provided for a daily balance which must be struck by adding together the preceding day's balance and receipts, and deducting the payments. The object of the daily balance is to afford the District Judge a ready means of controlling subordinate courts in the receipt and payment of small deposits, as any excess of payments over receipts will be at once detected.

Posting Repayments of A Deposits.

716. (1) Taking up next the detailed Daily Register of Deposits Repaid [Form No. (A) 19], the repayments must be posted against the corresponding entries in the Judge's Daily Register of Deposits received [Form No. (A) 18], and must be initialled by the District Judge, or, under his orders, by the chief ministerial officer of his court in the same manner as repayments authorised by himself. The extracts of repayments, sent by subordinate courts (rule 710) shall form part of his Register of Deposit Repayments [Form No. (A) 19].

(2) As each payment is noted in the Judge's register, the district number (rule 720) against which the payment is charged must be noted in the subordinate Court's return.

Note.—In noting the repayments, care should be taken to see that the amounts thus reported as repaid are actually repayable, and that amounts which should be credited to Government are not repaid to individuals.

Monthly Return

717. (1) At the end of the month, there shall be furnished by the subordinate Courts to the District Judge a statement of all A deposits received, but not wholly repaid during the month. This statement will be an extract from the Register of Deposit Receipts [Form No. (A) 18], omitting the items which have been wholly repaid during the same month. Of deposits received and partially

repaid in the same month the unpaid balance only is to be shown in this statement. The dates of despatch from the subordinate court and of receipt by the district Court shall be noted on this statement.

Explanation.—An A deposit, the balance of which has been reduced below Tk. 5 by a payment made in the same month, is to be included among the A, and not among the B deposits.

(2) On the 30th June of each year the subordinate Courts shall, in addition, submit to the district court a certificate that all uncashed orders to be cancelled under rule 682 (3) have been marked off in their Registers.

Plus and Minus Memorandum.

718. There shall be appended to the monthly statement of deposit receipts a plus and minus memorandum in the following form :—

	Taka	Paisa.
Balance of last month—		
Amount of A deposits received during the month—		
Repaid during the month		
Not repaid during the month		
Amount of B deposits received during the month—		
Repaid during the month		
Not repaid during the month		
Total		
Amount of A deposits repaid during the month—		
Received in all previous years		
Received last year		
Received during current year—		
Previous months		
Current month		
Amount of B deposits repaid during the month—		
Received during 19	—19	
Received during 19	—19	
Total		
Balance of Deposits Outstanding..		

Certificate.

Certified that, on a comparison of treasury advices with postings therefrom in the Registers of Chalcans, of payment Orders, of Deposit Receipts, and of Repayments, the amounts entered above as received and paid are correct.

Note.—The repayments of B deposits received in the year of account, and in the year next preceding, should be shown separately.

Examination by District Judge.

719. On receipt of the monthly statement and the plus and minus memorandum, the register [Form No. (A) 21] shall be compared therewith. First, as regards A deposits, the total of the column headed "Repaid on account of current month" should agree with the amount shown in the plus and minus memorandum; and when this amount is deducted from the total of the column headed "Total amount received", the balance ought to agree exactly with the total of the statement of outstanding A deposits received from the court to which the figures relate. Second, as regards B deposits, the balance itself can be tested in detail only once a year, when the yearly statement under rule 730 is received; but every month the difference between the opening and the closing balance should be equal to the difference between the receipts and payments reported in the plus and minus memorandum.

Posting Receipts of A Deposits.

720. The subordinate Court's monthly detailed statement of A deposits received shall be attached by the District Judge to his own Register of Deposits received, after he has closed the accounts of the civil Courts at the sadar station. The District Judge will also number the deposits in the subordinate Court's return in continuation of his own series.

Note.—The District Judge should examine the receipts, so as to see that no item has been improperly held in deposit, and if he finds amounts so held which should be credited to Government, he should direct the subordinate Court accordingly.

721. The District Judge's Registers of Deposits exceeding Tk. 5 received and repaid thus include each month not only those of his own court, but also of all subordinate courts, excepting only the sums received and repaid in such courts during the same month.

2. DISTRICT MONTHLY RETURNS OF DEPOSITS.

Returns of Deposits Received.

722. On the 12th of each month an Extract Register of Deposit Receipts exceeding Tk. 5 shall be prepared by the District Judge in Form No. (A) 13, and forwarded to the treasury officer for transmission after a comparison with his cash accounts, to the Accountant-General. This extract register will be a copy of the entries made during the month in his register [Form No. (A) 18], and will contain all such items of more than Tk. 5 each as were deposited in his own court and in courts subordinate to him, omitting all those which were wholly repaid during the month, and showing, in the case of those partially repaid during the month, the unpaid balance only. The sadar court entries should appear first, then,—after a line or break,—the entries of each subordinate Court separately headed by the name of the subordinate Court. At the foot of this register, deposits received and repaid during the month and deposits received for sums of Tk. 5 each and less, are to be shown in separate totals for each Court without details. This extract register should be despatched punctually on the 12th of the month, unless in the case of the larger districts a later date is fixed. The whole of the entries for each Court should be consecutive and separated from those of the other Courts by a space and heading.

Returns of Deposits Repaid.

723. A monthly extract from his Register of Deposit Payments [Form No. (A) 19] of sums above Tk. 5 shall be forwarded in the same form by the Judge to the treasury officer for transmission, after comparison with his lists of payments,

to the Accountant-General. The District Judge shall include in this extract (1) the details of repayments on account of deposits of previous months, whether made in his own Court or entered by him from the statements of subordinate Courts (rule 714); (2) a single total for each court of the repayments of the current month's deposits, whether made at the district or subordinate Courts, which must agree with the total of receipts on the same account; (3) the totals for each Court of the repayments on account of deposits Tk. 5 and less received during the year of account and the year next preceding.

724. Like the Extract Register of Receipts, this return will keep each Court's entries in separate series. The extract will be prepared on the same printed form as the register, and should be posted as illustrated below :—

Illustration.

Details of deposit.			Dates as to present repayment.		
Date of Receipt.	No. as per Register of Receipts	Amount or balance of deposit.	Date of cashing payment order whether at court or at Treasury.	Date of granting payment order as per Court's Register	No. of Payment Voucher.
1	2	3	4	5	6
7th September, 1898.	..	Court, A Tk. Paisa. 15.50	3rd September, 1901.	2nd September, 1901.	176
3rd January, 1901.	..	6.78	..	..	177
7th June, 1901.	..	108.62	..	3rd September, 1901.	178

Amount repaid	Received in all previous years	Received last year	Received during current year		Initials of Accountant	Initials of Judge-in-charge	Remarks
			Previous months	Current months			
1	8	9	10	11	12	13	14
	Tk. P.	Tk. P.	Tk. P.	Tk. P.			
...	15. 50	...	...	...
...	...	6. 78	...	...	
...	...	...	108. 62	...			
Total:	15. 50	6. 78	108. 62	...			
Add—Repayment of deposit of current month.	...	...	...	29. 72			
Add—B deposits repaid.	9. 37	3.50	9.19	6.19			
Total Court 'A'	24. 87	10. 28	117. 81	35. 91			

Plus and Minus Memorandum.

725. (1) A plus and minus memorandum in the form prescribed in rule 718, but including the figures of the subordinate Courts, as well as those of the District Judge's own Court, shall be appended to the statement of deposit receipts.

(2) This plus and minus memorandum is to show as repayments the actual repayments at the treasury, and is further to show the treasury balance outstanding.

Note.—It will be found convenient to keep in a separate register a copy of this plus and minus memorandum, with further memoranda of the details from which the figures have been arrived at. It is important that there should be no difficulty at any time in reconciling the figures of the Court with those of the treasury.

3. ANNUAL CLEARANCE REGISTER OF DEPOSITS.**Clearance Register**

726. (1) At the end of each year the Registers of A Deposits received in the next preceding year shall be closed by transcribing into the last column, headed "Transferred to Clearance Register", every balance which exceeds Tk. 5. An Annual Clearance Register shall then be drawn up in Form No. (A) 20 showing all these balances against their original numbers—showing, in other words, all the unpaid balances of A deposits of the preceding account year next but one. For example, the Clearance Register of July 1923 will show all unpaid balances of A deposits received in 1921-22.

(2) Of balances which do not exceed Tk. 5, a separate list shall be made out under rule 733 below.

727. The items in this account having been carefully compared with the corresponding balances in the original Register of Deposits received [Form No. (A) 18], the last named document shall be laid aside, and future repayments recorded only in the Clearance Register.

Note.—If against any of the items transferred to the Clearance Register, a repayment order has been issued and cancelled under rule 682 (3), a note to that effect must be made in the Clearance Register, so that, if application for repayment is again made, an order may not be issued without recalling the original cancelled one.

Return by Subordinate Courts.

728. A copy of the Clearance Register shall be sent by the subordinate courts to the District Judge, and by him carefully compared with the entries in his Register of Receipts. Any discrepancies found must be investigated and corrected.

Return by District Judge.

729. The clearance register of the District Judge necessarily includes the items in the several Clearance Registers of the subordinate Courts, and a copy of it shall be sent to the Accountant-General. The due date for its despatch shall be the 31st July, by which time the Judge should have received and compared the Clearance Registers of his subordinate Courts.

Verification of Petty Deposit Balance.

730. In order to verify the balance of B deposits, each Court shall make a list of the unpaid balances of receipts of the past twelve months, and, by actual summation of these balances, find the total amount outstanding on account of

the past year's deposits. Each Court is required to submit, along with the Clearance Register of A deposits, the list of unpaid balances of B deposits prepared by it and a certificate that the balance of B deposits of the past year has been found by actual summation to be Tk.

731. The balance found under the last rule, together with the total of the list prepared under rule 733 (2), must equal the total balance of petty deposits on 30th June, and must be so verified—

- (i) by each Court with the forward balance in the plus and minus memorandum;
- (ii) by the District Judge with the balances of the subordinate Court brought forward in the Register No. (A) 21.

732. The District Judge, having verified the balance certificates of the subordinate Courts, shall endorse each with the certificate "Examined and found correct" and shall certify the fact of having done so upon the statements of lapsed deposits sent to the Accountant-General under rule 734.

Note.—The District Judge shall submit a certificate to the Accountant-General in the following form, along with the annual returns—"Certified that I have satisfied myself from an examination of the records of this office that the registers of B deposits of this court as well as those of the subordinate Courts are kept up-to-date and are in order; that the daily certificates from the subordinate Courts are regularly received and that the balance on the 30th June as certified to by the subordinate Courts agrees with those shown in the registers maintained in this office for the past year".

4. LAPSE OF DEPOSITS.

733. On 30th June of each year, the following unpaid balances of deposits lapse to Government, and are to be so written off in the Clearance Register and Registers of Receipts, respectively :—

- (1) of A deposits, first, all balances of deposits of the last account year but one which do not exceed Tk. 5, and are therefore not carried forward under rule 726 into the Clearance Register ; these balances should be marked "Lapsed" in the Register of Receipts ; secondly, all balances of deposits outstanding over three complete years, that is, all balances in the Clearance Register prepared two years before ; these are to be marked off in the last column of the Clearance Register ;
- (2) of B deposits, the balances of all deposits outstanding over one complete year, that is, the balances which, in the case of deposits over Tk. 5, are transferred to Clearance Register under rule 726 ; these are to be marked off in the last column of the Registers of Receipts.

Example.—The balances which lapse on 30th June, 1966 are :—

- (a) all balances not exceeding Tk. 5 of A deposits received in 1964-65,
- (b) all balances of A deposits received in 1962-63,
- (c) all balances of B deposits received in 1964-65.

Statements of Lapsed Deposits.

734. (1) Three statements of the balances to be written off shall be prepared in Form No. (A) 12, one for each of the three classes (a), (b) and (c), specified in the Example under rule 733. These statements shall be submitted along with the

Clearance Register. Those of the subordinate Court must be compared by the District Judge with his own registers, and discrepancies, if found, must be reconciled. Those of the District Judge must include, under the District Judge's numbers, the lapsed balances of A deposits of the subordinate courts.

(2) As regards B deposits, the statements received from the subordinate Courts must be copied into the District Judge's statement, with a separate total for each court, the originals being filed for future reference.

Note.—The note under rule 727 applies to these statements of lapsed deposits also.

Correction of Balance.

735. These statements must all be submitted during July and the totals thereof must be deducted by a separate entry from the plus and minus memorandum, drawn up at the end of July, so that the plus and minus memorandum may show only the balance actually outstanding upon the registers of the Court concerned.

Refund of Lapsed Deposits.

736. When payment of a deposit lapsed under rule 733 is required by a person entitled thereto, application shall be made through the District Judge, who shall examine the claim, and, if he finds it correct, shall forward an application in Form No. (A) 4 to the Accountant-General. Several deposit numbers may be included in a single application, if they are payable to the same person. The Accountant-General's letter of authority, when received, shall be noted against the items in the Clearance Register (or original register in the case of a B deposit), so as to prevent a second application. This letter shall then be passed for payment at the treasury, as prescribed in the form. No other record of these refunds is necessary; and such payments are not to be shown in the plus and minus memorandum.

737. All applications for refund of lapsed deposits should be entered in a separate register in the accompanying form, before submission to the Accountant-General, Bangladesh, for sanction :—

Date of issue.	Serial No.	Name of applicant	No. and date of deposit	Date of lapsed deposit	Amount claimed	No. and date of Accountant-General, Bangladesh's authority	Remarks

Note.—Dated signature of the person receiving the authority should be taken in the remarks column.

738. If the letter of authority received from the Accountant-General is not claimed by the payee within twelve months from the date thereof, it shall be returned to the office of origin.

SUPPLEMENTARY AND MISCELLANEOUS RULES.

1. SUPPLEMENTARY RULES AS TO RECEIPTS UNDER HEAD (A)
OF RULE 640.

Note.—For rules as to refunds allowed under sub-heads (i) to (vii) of head (A) of rule 640, see rules 684 to 686.

Registers.

739. Every Judge-in-charge shall maintain a register of judicial deposits other than civil deposits and peremptory receipts (*e. g.*, judicial fines, stamp duties and penalties, miscellaneous receipts, etc.) and refunds therefrom in Form No. (A) 22. In this register, all receipts are to be posted which do not come under head (B) (deposits) or head (C) (peremptory receipts) of rule 640. The entries shall be made and checked in the same way as the entries in the Register of Deposit receipts of the subordinate Courts.

740. Every Court under whose decree or order receipts under sub-heads (i) to (iii) of head (A) of rule 640 are realised shall maintain a register in Form No. (A) 32. The entries in the register shall be initialled by the presiding officer of the court at the time of signing the order-sheet.

Credits to Government.

741. It is the duty of every Judge to see that sums which are in deposit, but which under any rule or law are forfeited, or become the property of Government (*e. g.*, earnest-money forfeited, or intestate property unclaimed), are duly credited to Government. In every such case there shall be prepared simultaneously (1) a payment order addressed to the cashier and directing payment of the deposit "by transfer as per chalan No. _____ of this date", and (2) a chalan crediting it to the proper head. Such payment order and chalan shall be registered and dealt with in every way as if cash were paid out of and received into court.

Receipts under sub-heads (i) and (iii) to (vii) of Head (A) of Rule 640.

742. (1) With regard to stamp duty and penalties, attention should be given to sections 39, 45 and the other sections in Chapter IV of the Stamp Act, 1899, as amended by the Bengal Stamp (Amendment) Act, 1922. The duty and the penalty must always be separately credited.

(2) Loose forms of the Register (R) 19 shall be used for the certificates to be sent to Collectors under section 38 of the Stamp Act on account of duty and penalty levied by civil courts on instruments which, though originally unstamped or insufficiently stamped, may be admitted under the provisions of sections 35 and 37 of that Act.

743. With regard to unclaimed property of intestates or others, it will be seen from the form that register No. (A) 22 deals only with receipts under this head which have remained in deposit for the prescribed period. A register showing the property in detail must be kept in civil courts in Form No. (A) 27.

Note 1.—Any cash belonging to an intestate's estate which may be received in court, from whatever source derived, must be paid into the treasury at once, and no such cash must be allowed to remain in the hands of the nazir.

Note 2.—On the receipt of unclaimed property of persons dying intestate, the nazir must make the requisite entries in the register in Form No. (A) 27, Volume II, and these entries must

be compared with the police chalan by the sheristadar and the accountant. If cash forms part of the property or if part of the property, being perishable, is sold before the expiry of the year prescribed by law, such cash or sale-proceeds must, after entry in the register just mentioned, be put in deposit till the time arrives for paying them over to claimants or crediting them to Government.

Note 3.—When any property in the custody of the court is sold, the sale account must invariably be checked with the register by the sheristadar and the accountant, and the Judge must from time to time test the work of his subordinates by personally examining the sale accounts in some cases taken at random.

Note 4.—The cost of conveying intestate property to the court should be paid from the permanent advance and the same charge in the contingent bill, subject to reimbursement from the eventual proceeds of the sale of the property, or, in cases where a claim to heirship is established, would be met either by payment by the heir before the property is delivered to him, or by the sale of such portion of the property as may cover the expense.

744. Under the sub-head (iii) of head (A) (Other general fees, fines and forfeitures) of rule 640 shall be comprised all receipts not falling within any of the other principal heads of receipt, *e. g.*, forfeiture of earnest money.

745. Receipts under the head of account, mentioned in rule 740, are at once credited at the treasury to Government. They are not to be retained intermediately in deposit either at the court or at the treasury.

Control of Subordinate Courts.

746. The receipts of subordinate Courts under the sub-heads (i) to (vii) of head (A) of rule 640 are included in the daily statement sent to the District Judge under rule 710, and are also included in the daily Advice from the treasury received by the District Judge under rule 700. The Judge must effect a comparison between these two, and see that in each month the total amount advised as paid into the treasury agrees with the total amount realised by the subordinate courts.

Monthly Returns.

747. At the close of the month, every Judge-in-charge shall prepare Lists in Form No. (A) 22 of all the receipts, forfeitures or duty, under the sub-heads (i) to (vii) of head (A) of rule 640, paid by him into the treasury. Subordinate courts shall forward their lists in duplicate to the District Judge, and the District Judge shall add the totals of these lists at the foot of his own list, and, appending one of the copies received by him from each subordinate Courts, shall forward the whole to the Accountant-General for check against the treasury accounts.

2. MISCELLANEOUS RULES.

Accountant and Cashier.

748. In carrying out these rules, care must be taken by all judicial officers that, in respect of cash transactions in Court, district officers are employed as accountant and cashier. In other words, the same officer shall not keep the Registers of Chalans and Payment Orders, Deposit Registers, etc., and also receive and pay the money.

Note.—A naib nazir or a clerk may be appointed as cashier provided (i) that he is expressly so designated, (ii) that his duties and responsibilities are made clear, and (iii) that he gives the necessary security. Such appointments should be made in cases where the nazir, owing to the pressure of other work, is unable to discharge the duties of cashier in strict accordance with the instructions contained in the Court's General Letter No. 1 of 29th January, 1902.

Language of Accounts.

749. Every judicial officer shall, save with the express permission of the District Judge, keep his accounts in English; and it must be distinctly recorded

by him whether the sheristadar is, or is not, responsible for a general control and supervision over the accountant.

Note 1.—At headquarters stations the sheristadar, of the District Judge, and at subdivisions and out-stations the sheristadar of the "Judge-in-charge" should be required to inspect periodically and carefully the nazir's account books. The sheristadar should append his dated signature in the pages of the account books in token of his having examined them. The discovery of any defects, of a breach of account rules of the High Court Division, or of the instructions given in rule 639 and the notes to Forms Nos. (A) 23 and (A) 24, should be promptly brought to the notice of the "Judge-in-charge". In the case of courts in the interior of the district, the fact should, without delay, be brought to the notice of the District Judge.

Note 2.—Accounts may be kept in Bengali when such forms are supplied.

Forms.

750. The whole of the necessary forms and account books are to be obtained through the Forms Department, and each court is responsible for maintaining a proper printed stock of all the forms herein prescribed, and for submitting timely indents according to the rules in force from time to time.

Daily Examination of Accounts.

751. The accounts and registers, of which a list is given in Appendices I and II annexed to these rules, must be compared daily by the Judge-in-charge; and this rule is on no account to be neglected, as its observance is essential to the integrity of the transactions and the correctness of the books. The notes at foot of the forms indicate how the verification is to be made.

APPENDICES.

Appendix I.

List of Registers to be compared daily by Judge-in-charge (Rule 751).

For all judicial officers —

Kept by the accountant—

	Form No.
(1) Register of chalans	(A) 14
(2) Register of chalans for petty receipts ..	(A) 15
(3) Register of Payment Orders	(A) 16
(4) Treasury pass-book	(A) 17
(5) Register of deposits received—	
Part I }	
Part II }	(A) 18
(6) Register of deposits repaid—	
Part I }	
Part II }	(A) 19
(7) Clearance Register of A deposits	(A) 20
(8) Register of Judicial Deposits (other than civil deposits and peremptory receipts) and refunds	(A) 22

Kept by the cashier—

(1) Counterfoils of receipts granted by cashier for peremptory cash receipts	(A) 23
(2) Peremptory cash register	(A) 24
(3) Cash book	(A) 25

For District Judges—

Kept by the accountant—

Register showing deposits received and repaid by Subordinate Courts	(A) 21
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Kept by the cashier—

Register for Intestate property	(A) 27
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Appendix II.

Judge's Daily Examination of Accounts.

(1) Transactions at Court.

Comparison of cashier's cash book with the Registers of Chalang and Payment Orders.

Comparison of Treasury pass-book with the cash book.

(2) Transactions at Treasury.

Comparison of treasury advice with postings therefrom in the Registers of Chalang, of Payment Orders, of Deposit Receipts, and of Miscellaneous Receipts.

Comparison of Treasury Advice with Treasury pass-book.

(3) Transactions at Subordinate Courts.

By Subordinate Court.—Comparison of the daily statement with the registers.

By District Judge.—Comparison of Treasury Advice with subordinate court's statement.

Comparison of statement with posting therefrom in the Register Form No. (A) 21, and Registers of Receipts and Payments of Deposits.

Judge's Monthly Examination of Accounts.

1. The proper closing and totalling of all registers.
2. Comparison of out-going statements with office registers.
3. Comparison of plus and minus memorandum with totals of registers.
4. Ascertainment and verification of outstanding payment orders.

By District Judge.—Comparison of subordinate court's returns with register Form No. (A) 21.

Appendix III.

List of Returns.

(1) From the Subordinate Courts to the District Judge.

Statement of total receipts and payments on account of deposits and other transactions (rules 710 and 746)	.. ..	Daily.
Extract Register of repayments of A Deposits received in previous months (rule 710)	.. ..	Daily.
Memorandum relating to peremptory receipts (rule 691)	.. ..	Monthly.
Statement of A deposits received, but not repaid, during the month, with plus and minus memorandum enfacéd (rules 717 and 718)	.. ..	Monthly.
Statement of receipts under sub-heads (i) to (vii) of head (A) of rule 640 (rule 747)	.. ..	Monthly.
Clearance Register of A deposits (rule 728)	.. ..	Annually.
Certificate of the examination of B deposits (rule 730)	.. ..	Annually.
Statements of lapsed deposits (rule 734)	.. ..	Annually.

(2) From the Judge-in-charge to the Treasury.

Memorandum relating to peremptory receipts (rule 691)	Monthly.
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(3) From the District Judge through the Treasury Officer.

Extract Register of deposit receipts with plus and minus memorandum enfacéd (rules 722 and 725)	Monthly.
Extract from register of deposit repayments (rule 723)	.. ..	Monthly.
Statements of receipts of his Court, and of the courts subordinate to him, under the sub-heads (i) to (vii) of head (A) of rule 640 (rule 747)	.. ..	Monthly.

(4) From the District Judge to the Accountant-General direct.

Clearance Registers of A deposits (rule 729)	.. ..	Annually.
Statement of lapsed deposits of his court, and of the Court subordinate to him, with certificates of the examination of B deposits enfacéd (rules 734 and 732)	.. ..	Annually.

PART VII.—RULES RELATING TO REGISTERS, PERIODICAL RETURNS, STATEMENTS AND ANNUAL REPORTS.

CHAPTER 33.

REGISTERS.

1. General.

752. A list of the registers prescribed for being maintained in the civil courts will be found in Volume II, comprising four classes :—

- (a) Account Registers.
- (b) Primary Registers.
- (c) Subsidiary Registers.
- (d) Statistical Registers.

Note 1.—The forms of the registers are in most cases self-explanatory and the additional instructions in this Chapter are for general guidance. Account Registers are separately dealt with in Part VI.

Note 2.—When registers are in bound volumes, the volumes should not be closed until all the forms therein have been exhausted.

753. Other Subsidiary or Statistical Registers should not be maintained in any court unless there are special circumstances for introducing them. The list referred to specifies all the registers which, it is believed, if properly maintained, will furnish every information absolutely necessary for judicial, administrative or statistical purposes. The introduction of unauthorised registers or books of any kind should be strongly discouraged.

754. All registers shall be kept in English or in Bengali when supplied.

755. The periods for which different registers have to be preserved are shown in the list given of them in Volume II. The periods stated therein are to be reckoned from the date of the last entry in the register and at the expiration of those periods the registers shall be destroyed.

756. No one except the clerk-in-charge of writing a particular register shall, unless otherwise provided, make any entry therein without the orders of the presiding Judge.

2. Primary Registers.

757. (1) General Register of Suits [Nos. (R) 1(i), (R) 1(ii)] —Separate registers should be maintained for the following classes of suits :—

- (i) Title and other suits [(R) 1(i)].
- (ii) Suits for Money and Movables [(R) 1(ii)].

(2) Small Cause Court suits shall not be entered in the register for suits for money and movables. The Register (R) 10 shall be regarded as the General Register of Small Cause Courts suits in a court invested with the Jurisdiction of a Court of Small Causes.

(3) The Supreme Court (High Court Division) desire to impress upon all courts that the particulars required to be entered in the suit register should contain

everything material to the case and yet be as concise as possible. The particulars regarding proceedings in execution of decrees should also be duly and regularly filled in. All entries must be made contemporaneously with the stages through which a case or subsequent proceeding, if any, passes and the writing of registers, etc., must not be deferred till after the disposal of cases.

(4) When money payable under a decree is paid into court or a petition of adjustment or satisfaction is filed without there being any execution proceeding pending, such satisfaction shall be noted in columns 20 to 33. The fact that this has been done shall at the same time be noted on the petition and on the order-sheet of the suit.

Note 1.—If the record of the suit has been deposited in the District Record-Room, the petition with the connected papers and necessary order shall be sent to the Record-keeper who shall enter in red ink a note of payment or satisfaction (as the case may be) in the order-sheet of the record of the suit and the entry shall be signed by the Judge-in-charge of the record-room.

Note 2.—If the record of the suit is before the court of appeal, the petition together with the connected papers shall be sent to that court, where a note of the payment or satisfaction (as the case may be) shall be made in red ink in the order-sheet of the suit record and signed by the presiding Judge of the court of appeal.

Note 3.—In the case of payment into court the provisions of rule 181, should be carefully observed.

758. Register of Execution Cases [No. (R) 5]—A separate register has been prescribed for execution cases not with the object of superseding the information to be entered in the execution columns of the General Register of Suits but for the sake of administrative convenience, and also for the purpose of showing proceedings in execution of decrees of other Courts.

Note 1.—Applications under Or. 21, rr. 95 and 96 of the C. P. Code, for the delivery of possession of immovable property sold in execution of decrees, if uncontested, are to be treated as continuations of the execution cases to which they relate. A note of such applications with dates thereof, should be made in the appropriate column of this register.

Note 2.—For contested cases arising out of applications under Or. 21, rr. 95 and 96, see rule 774 (a) (9).

Note 3.—This register will also serve the purpose of a daily list of execution applications filed. It should be laid at some conspicuous place in the Court room everyday at a fixed time for inspection by parties and advocates.

759. Register of Miscellaneous Judicial Cases (R) 2—In this register all miscellaneous judicial cases including references under the Land Acquisition Act, applications for probate, letters of administration, or succession certificate, applications in respect of minors or lunatics, applications to sue in forma pauperis, claims and objections, etc., should be entered. Applications to appeal in forma pauperis shall also be entered in this register.

Note.—In this register should be entered all miscellaneous judicial cases mentioned in rule 774, post, except applications for insolvency for which a separate register has been prescribed in Form No. (R) 3. See, however, Note to rule 774 (b) (30).

760. Register of Miscellaneous non-judicial cases (R) 4—In this register should be entered all miscellaneous non-judicial cases mentioned in rule 775 post and cases under section 7 of the Bengal Wills and Intestacy Regulation, 1799 (Bengal Regulation V of 1799) in which no claimant appears [*vide* Note to rule 365 (d) vii].

761. Register of Appeals [Nos. (R) 6(i), (R) 6(ii), (R) 6(iii)].—This register shall be maintained in the courts of District Judges and in courts in which appeals are preferred under section 21 (4) of Act XII of 1887. The records of appeals transferred to the courts of Additional District Judges and Subordinate Judges

for disposal, shall, as soon as possible after the appeal has been disposed of and the copies of judgment and decree sent to the lower court, be returned to the court of the District Judge for the purpose of having columns 8—10 of the latter's register filled in in his office. After this is done, the records shall again be sent to the court disposing of the appeal for transmission to the record-room in due course.

762. Register of Miscellaneous Appeals [No. (R) 8].—This register shall be maintained for only appeals from orders under sec. 104, C. P. Code (Or. 43, r. 1), and appeals in miscellaneous Judicial cases.

Note.—Applications to withdraw or transfer an appeal under sec. 24, C. P. Code, for the re-admission or rehearing of an appeal under Or. 41, rr. 19, and 21, and for review under Or. 47, r. 1 not being appeals but of the nature of original applications though made to an appellate court, should be entered in the Register, of Miscellaneous cases kept in that court. When, however, an appeal is remanded, revived or reviewed, it will of course be shown in its proper place in the Register of Appeals.

763. Small Cause Sheet [No. (R) 10].—This register shall be used in courts of Subordinate Judges and Munsifs invested with the powers of a Small Cause Court Judge under Sec. 25 of the Small Causes Court Act (XII of 1887) for purposes of record in connection with cases tried under such powers.

N. B.—For other primary registers, see Volume II.

3. Subsidiary Registers.

764. Register of Application for copies [No. (R) 23].—This register shall be maintained by the head comparing clerk or other officer-in-charge and not by a copyist.

Note.—Applications for copies or inspection of Wills and Registers of Wills, shall, in accordance with the orders of the Government, be entered in this register.

765. A register should be maintained for the attendance of ministerial officers. The form prescribed by the Government may be used for the purpose.

N. B.—For other subsidiary registers, see Volume II.

4. Statistical Registers.

766. Registers [Nos. (R) 42 to (R) 48].—These registers are intended to be written up from day to day, so that the entries in different columns should consist of consecutive series of numbers the last of which should, at the end of the month, quarter or year, at once supply the information required for inclusion in the various periodical statements to be submitted.

Note 1.—The value of suits should be expressed in taka only. Fraction of a taka less than 50 Paisa will be disregarded and 50 Paisa and above will be reckoned as one taka.

Note 2.—Presiding Judges should see from time to time that these registers are regularly and carefully maintained. Unauthorised registers or books which seek to supplement them will then be unnecessary and their use should be strongly discouraged. (G. L. No. 8 of 4th June, 1907).

CHAPTER 34.

PERIODICAL RETURNS AND STATEMENTS.

1. Forms.

767. The forms prescribed for submission by the civil courts of statements and returns are entered in the list to be found in Volume II.

768. The forms themselves contain instructions for observance. The following general instructions are intended to secure the correct and uniform preparation of these statements. The Supreme Court (High Court Division) desire to impress upon all presiding Judges and other officers concerned that unless the statements are prepared accurately and in exact compliance with the instructions issued, they are not merely valueless but mischievous.

Note 1.—Printed forms of the periodical statements will be supplied by the Press and Forms Manager, Bangladesh, to all subordinate courts from time to time on indent. The forms so supplied should alone be used for the periodical statements. The practice of extending the printing forms by pasting sheets of paper on them should be avoided. As many printed forms as may be necessary to contain the information required should be used. For reports and for explanations where they have to be written separately, foolscap paper should be used.

Note 2.—Where a statement is blank it should not be submitted in a form, a note to that effect being sufficient.

Note 3.—Care must be taken that the number of suits or cases shown as pending at the close of one period is entered as pending at the beginning of the next. When, however, the entries must differ by reason of an error in a previous return, a note should be added explaining the discrepancy and pointing out the parts where corrections should be made.

2. Classification of Cases.

(i) Suits and Appeals from Decrees.

769. (1) For the purposes of the periodical statements, suits and appeals from decrees are divided into three classes :—

(i) Suits for money and movables, and appeal in the same, and

(ii) Title and other suits, and appeals in the same.

(2) The details of this classification, which must be strictly adhered to throughout the returns, will be found in Annual Statement No. 2 [Form No. (S) 11].

(3) As all plaints are to be registered on presentation in the Registers of suits (*vide* rule 50), orders rejecting plaints must be treated for the purposes of the rules in this Part as suits, and shown in the Annual Statement Nos. 2, 3, 4, Part I [Nos. (S) 11, (S) 12 and (S) 13].

770. Suits for money and movables are again subdivided according as they are dealt with under the Small Cause Court procedure, or under the ordinary procedure. Where an officer has the powers of a Small Cause Court Judge, the work done by him in the exercise of these powers should be shown bracketed with that done under his ordinary powers.

771. Where an officer has been appointed by the Government under subsection (4) of section 48 of the State Acquisition and Tenancy Act, 1950, to be a Special Judge for the purpose of hearing appeals from the decision of Revenue

Authority, the works done by him in the exercise of those Special powers should be shown in quarterly statement C [Form No. (S) 6] and in Annual Statement 5, Part I, [Form No. (S) 15], bracketed with that under his ordinary powers.

772. Cases under the Religious Endowments Act (XX of 1863), under sections 88 and 92, Or. 36, r. 3, and applications for declaration that a marriage be dissolved by exercising the right of option of puberty, and references made under section 5 of the Bengal Alluvial Lands Act, 1920, are to be registered as suits, and must be entered as such in the returns.

773. An application for probate or for letters of administration should, for the purpose of the returns, be treated as a miscellaneous judicial case until the date upon which it is contested, and as a suit from that date.

Note 1.—In order to explain the discrepancies which will result in the total numbers of miscellaneous judicial cases for disposal, disposed of, and pending, it should be stated on the face of each return of miscellaneous judicial cases how many applications for probate and for letters of administration were transferred, during the period to which the return relates, to the head of suits, and treated as suits from the dates upon which the applications were contested.

Note 2.—Applications for the revocation of probate and letters of administration should be treated in the same manner as applications for probate or letters of administration.

(ii) *Miscellaneous Judicial Cases.*

774. Separate statements being provided to show applications for the execution of decrees, these will not be included under the head "Miscellaneous Judicial" cases, and it is intended that such other cases only as require a judicial enquiry or order should be included.

The following list shows the cases which are to be entered under the head "Miscellaneous Judicial" cases, and without the special orders of the Supreme Court (High Court Division) no addition should be made thereto :—

(a) Cases under the Civil Procedure Code.

- (1) Applications under secs. 22 and 24, C. P. Code.
- (2) Applications under Or. 9, rr. 4, 9 and 13, and under Or. 41, rr. 19 and 21.
- (3) Miscellaneous civil proceedings under Or. 16, rr. 12 and 17.
- (4) Cases under sec. 47, C. P. Code.

Note—Applications for ascertainment of mesne profits should be regarded as applications made in the course of the trial of the suit (Or. 20, r. 12) and are not to be registered as miscellaneous judicial cases.

- (4A) Applications under section 95, Civil Procedure Code.
- (5) Applications under sec. 144, C. P. Code.
- (6) Applications under Or. 21, r. 2, by judgment-debtors to certify payment or adjustment alleged to have been made when no execution proceeding is pending.
- (6A) Applications under Or. 21, r. 46 (A).
- (7) Applications under Or. 21, r. 58 and Or. 38, r. 8.
- (8) Applications under Or. 21, rr. 90 and 91.
- (9) Applications under sec. 74 and Or. 21, rr. 97 and 98.

- (10) Applications under Or. 21, r. 100(1).
 - (11) Applications under Or. 22, r. 9.
 - (12) Commissions under sec. 76(2), C. P. Code.
 - (13) Applications under Or. 33, r. 1, and Or. 44, r. 1.
 - (14) Proceedings under Or. 39, r. 1(2) and (3) and r. 2(3) and (4).
 - (15) Applications under Or. 46, r. 7.
 - (16) Applications under Or. 47, r. 1.
- (b) Cases under other Acts.
- (17) Cases regarding the property of intestates under section 7 of the Bengal Wills and Intestacy Regulation, 1799, in which a claimant appears.
 - (18) Applications regarding the care of lunatics' estates, and the guardianship of their persons, under the Lunacy Act, 1912.
 - (19) Applications under section 75 of the Lunacy Act, 1912, for sanction to the sale, etc., of the property of lunatics.
 - (20) Applications under section 88 of the Lunacy Act, 1912, for order for the payment of cost of maintenance of lunatics.
 - (21) Applications for probates and letters of administration under the Succession Act (XXXIX of 1925), except contested cases which must be transferred to the head of suits (*see*, rule 773, *ante*); and applications under part VII of the Act.
 - (22) Inquiries made at the instance of the Collector under clause (5) of sec. 19H of the Court-fees Act, 1870, as to the true value of the property of deceased persons.
 - (23) Applications under section 11 of the Court of Wards Act, 1879.
 - (24) Cases under section 83 of the Transfer of Property Act, 1882.
 - (25) Applications for certificates of succession under the Succession Act, 1925.
 - (26) Applications for certificates of guardianship of minors, or of administration of their property under the Guardians and Wards Act, 1890, or for the revocation of such certificates, applications under section 31 of the same Act for sanction to the sale or disposal of the property of minors and applications under section 25 of the same Act for custody of minors.
 - (27) Cases under Parts III, IV and VI of the Land Acquisition Act, 1894.
 - (28) Miscellaneous criminal cases under secs. 195, 476, 478 and 480 of the Criminal Procedure Code, 1898.
 - (29) Insolvency petitions under the Insolvency Act, 1920.

Note.—Subsequent proceeding in connection with the same insolvency petition except contested proceedings under secs. 4, 53, 54 and 69 of the Act are to be treated as part of the original proceedings, and should not be registered as separate miscellaneous cases. Contested proceedings under these sections should be registered as separate miscellaneous judicial cases and the number of the insolvency cases should be noted below the number of the subsequent miscellaneous judicial case.

- (30) Proceedings under section 72(2) of the Insolvency Act, 1920.
 - (31) Applications under section 5 of the Religious Endowments Act, 1863 (XX of 1863), except contested cases which must be transferred to the head of suits (*see*, rule 772 *ante*).
 - (32) Applications under Charitable and Religious Trusts Act (XIV of 1920).
 - (33) Applications under sections 49, 71, 72 and 74 of the Trusts Act (II of 1882).
 - (34) Cases under the Mussalman Wakf Act, 1923 (XLII of 1923), and applications for the sanction required by the Muhammadan Law for the transfer of wakf property.
 - (35) Applications under section 70 of the Bengal Wakf Act (XIII of 1934.)
 - (36) Cases under sections 2, 3 and 4 of the Partition Act (IV of 1893).
 - (37) Applications under sections 38, 104, 120 and 124 (2) of the Companies Act, 1913.
 - (38) Applications under sections 7(2), 8(2), 11(1), 12, 28(1), 33, 37(4) and 38 (1) and Statement of Special case under section 13(b) of the Arbitration Act, 1940 (Act X of 1940).
 - (39) Applications under sections 34 (1) (b) (ii), 35, 36 and 38 of the Money-Lenders Act, 1940.
 - (40) Applications under sections 70(4) and 83(6) of the Insurance Act (IV of 1938).
 - (41) Applications under section 24 of the Non-Agricultural Tenancy Act, 1949.
 - (42) Applications under section 37-A (8) of the Agricultural Debtors Act, 1935.
 - (43) Applications for setting aside sales under sections 23 and 24 of the public Demands Recovery Act, 1913 (III of 1913).
 - (44) Applications under section 96 of State Acquisition and Tenancy Act, 1950.
 - (45) Cases under the Workmen's Compensation Act, 1923.
 - (46) Cases for payment of compensation to the *Ex-Rent* Receivers under section 67 of the State Acquisition and Tenancy Act, 1950.
- Note.*—The entries regarding these cases should be made in the Register in red ink.
- (47) Applications under the Premises Rent Control Ordinance, 1963 (No. XX of 1963).
 - (48) Application for attachment of property under section 3 of the Criminal Law (Amendment) Ordinance 1944, (Ordinance No. XXXVIII of 1944).

(iii) *Miscellaneous Non-Judicial cases.*

775. Under the head "Miscellaneous non-judicial" cases information is required in the returns regarding only a few specified heads, viz :—

- (1) Applications under section 9(1) of the Money-Lenders Act, 1933, and section 39 of the Money-Lenders Act, 1940.
- (2) Applications under section 76 (3) of the Companies Act, 1913.
- (3) Applications for service of notice under sub-section (1) of section 9 (Proviso excluded) and applications for permission to deposit rent under section 51 of the Non-Agricultural Tenancy Act, 1949.

(iv) *Miscellaneous Appeals.*

776. The following are classed as Miscellaneous Appeals :—

- (1) Appeals from orders under sec. 104 (1), (Or. 43, r. 1).
- (2) Appeals in miscellaneous judicial cases.

3. *Compilation of Statements and Returns.*

777. For statistical purposes, suits in which preliminary decrees are made under the provisions of Or. 20 of the C. P. Code and suits for the foreclosure of a mortgage or the sale or redemption of mortgaged property in which a preliminary decree is made under the provisions of Or. 34 should be treated as disposed of and entered in the periodical statements as such when the preliminary decree is passed. If, at any time afterwards, an application is made for making the decree final, the suit should be brought into file again, and included in the column "Revived".

Note 1.—Subsequent proceedings are to be treated as a continuation of the suit. Cases brought into file again and disposed of should also be separately noted in the remarks column of statements and returns.

Note 2.—As to transmission of records of such suits to the record room, see Notes 1 and 2 to rule 413.

778. When a defendant having appeared at the first hearing fails to appear at an adjourned hearing and a decree is passed against him, the case should be exhibited "decree *ex parte* (Jonardan V. Ramdhone, I.L.R.23, cal, 738 F. B.).

779. (1) It is not possible to define precisely when a case should be treated and shown as decided without contest or "after full trial". Generally speaking, when any substantial question of fact or law is raised in the defence and is not waived at the trial, the decision is after full trial although little or no evidence, oral or documentary, may have to be adduced by the parties at the hearing. The main principle that should be kept in view is whether the contest is real or genuine and calls for judicial determination by the Judge. Figures are necessary for statistical purposes as also to be assured that each officer is doing his fair share of work. The object is to show "bona fide" contested work and not to swell the apparent outturn of such work in the courts by the inclusion of a mass of merely routine matters or matters of nominal contest which in no sense call for the exercise of judicial discrimination or discretion and which do not take up any appreciable amount of time. The entry of such matters in the statement showing disposal of suits after full trial not only defeats its object in the case of particular courts where this undesirable practice obtains but also destroys the value of comparison between different courts in respect of outturn.

(2) The following are some instances of cases which should be treated as decided without contest and shown as such, namely, all cases in which the only question or questions ultimately decided on, or with display of contest are :—

- (a) A question regarding the amount or apportionment of costs of a case, or
- (b) a question regarding payment by instalments, or
- (c) an unsubstantial question as to the rate of interest, or
- (d) a question regarding the award or amount of damages in suits for recovery of rent.

Note 1.—Such cases should be shown as disposed of on admission or compromise as the case may be.

Note 2.—Cases in which preliminary decrees are passed (e. g., mortgage, partition, account, etc.), should be considered as decided on contest when either the preliminary or the final decree or both are passed after contest. A suit may be contested. But when there is no judgment in it after contest and it is eventually decreed *ex parte* or compromised, it should be shown as decided without contest.

780. A case is not said to be received or disposed of by transfer except when it is passed from one court to another by a judicial order. Cases which have been left by the presiding Judge to his successor in the same court are not to be treated as transferred. Where on account of some mistake or otherwise in classification a case has to be removed from one file to another in the same court, the column "Pending" must be corrected and explanation given in the next return.

781. Applications under sec. 39, C. P. Code, for transfer of decrees to other courts not being applications for execution should not appear in the returns at all, whether granted or refused. The receiving court is not to make any entry in its returns until an application is filed for execution. If after commencement of proceedings in any court on an application for execution, the judgment-creditor makes an application for transfer to a court not subordinate, and the court complies with it under clauses (a) to (d) of sec. 39(1), the case pending in the transferring court shall be returned as disposed of by transfer, when satisfaction of the decree has not been obtained at all on the application for execution ; and as disposed of on its merits, when part satisfaction has been obtained ; but, as directed above, it is not to be noticed in the receiving court's returns as received by transfer.

Note.—If a decree be transferred for execution by a superior court to a subordinate court of its own motion, after an application for execution under Or. 21, r. 10, has been filed and execution ordered under Or. 21, r. 17, that application should be shown as disposed of and received by transfer.

782. (1) In order to obtain the average duration of cases the aggregate number of days for which all cases were pending before the court must be divided by the total number of such cases.

(2) In calculating average duration of cases or appeals, the time that the case has actually been pending in a particular court should alone be calculated. A case should be considered to start pending when it is received in the court whether by institution or by transfer, and to cease pending when it is no longer before the court whether as the result of disposal or by transfer to another court. In the calculation, revived or remanded cases are to be treated as if newly instituted on the date of revival or on the date of receipt by remand.

Note.—Fractions should be omitted from the columns intended to show the average duration of cases decided.

783. Cases restored or revived or brought into the file again when final decree is applied for and cases received on remand or by transfer shall be treated as pending from the date of institution and not from the date of restoration, revival, receipt on remand or by transfer, for all other purposes other than calculation of "average duration".

Note 1.—The date of the transfer of a case by one court is ordinarily to be taken as the date of its receipt on transfer by another; any instances of unusual delay should be noticed in the explanations.

Note 2.—Advantage should be taken of the column in the returns for "Remarks" to show the extent to which the particular court immediately concerned is responsible for any delay, which, under the rules, requires explanation.

784. As regards suits, the date of the presentation of the plaint shall be considered as the date of institution, unless it contains some defect or omission so serious as to require its return before registration or amendment, in which case the date of admission, after correction and refiling or amendment, shall be regarded as the date of institution. With regard to applications to execute decrees, the date of their presentation should alone be considered.

Note.—When on account of heavy filings on a particular date a plaint is entered in the suit Register after the date on which it was presented, the date of registration should be shown below the date of presentation in the appropriate column of the Register of Suits as also on the order-sheet of the record.

785. When an order has been made under Or. 41, r. 25 or 27 of the C. P. Code, the case is to be considered as pending before the appellate court, and the time occupied in making the return called for, or in taking the evidence, must be counted as time occupied in the appeal. If there is much delay in obtaining the finding or evidence asked for, the remarks column may be availed of in explaining the consequent delay in the disposal of the appeal.

786. When an order of remand is made under Or. 41, r. 23 of the C. P. Code the case must be treated as decided by the appellate court, and must be brought on the file of the lower court.

787. Separate accounts must be kept of the time cases, whether suits or appeals, were pending (1) from institution to original or first decision; (2) from date of application for review to date of finally disposing of the case, whether the review shall have been granted or refused; (3) from the date of the order of remand under Or. 41, r. 23 of the C. P. Code, to the date of the new decision under such order. In annual Statements Nos. 4 and 5 [Forms Nos. (S) 13 to (S) 16, Volume II] it will be necessary to give only the average duration before the original or first decision of a suit or appeal.

4. Submission of Periodical Returns and their Dates.

788. Monthly, quarterly and half-yearly statements should be despatched by subordinate courts to the District Judge on or before the 5th of the month next succeeding the period to which they relate, and annual statements on or before the 20th day of the new year.

Note.—The monthly statement in Form No. (S) 1 is to be submitted every month irrespective of the quarterly and other periodical statements.

789. (1) Quarterly and half-yearly statements should be submitted by District Judges to the Supreme Court (High Court Division) on or before the 15th of the month next succeeding the period to which they relate; and annual statements, along with the annual report on the administration of civil justice,

on or before the 15th February of each year. The separate confidential report on the work and character of subordinate judicial officers in Form No. (M) 8, should also be submitted by this date.

(2) The punctual despatch of correct statements is an important duty, the neglect of which will not be overlooked by the Supreme Court (High Court Division).

790. Punctuality in the submission of all statements and annual reports must be insisted upon, and District Judges should be careful to take the necessary steps to ensure the accurate compilation and prompt despatch of the same. The Supreme Court (High Court Division) will be compelled to take a serious view of the conduct of any officer, who neglects to accord due attention to these orders.

791. Attention is drawn to rule 149 which requires the submission by every judicial officer of a monthly statement of cases and appeals in which arguments have not been heard and judgments have not been delivered.

792. At the end of every quarter all subordinate courts shall send a return to the District Judge, showing the number of applications for copies of decrees in which the copies were not ready for delivery to the parties within fourteen days after they were filed.

793. The presiding Judge of every subordinate court shall examine the records of at least 5 per cent. of the execution applications finally disposed of in the month in order to satisfy himself that the necessary information relating to them has been entered in the suit Register and send to the District Judge a certificate to this effect monthly along with the monthly statement and returns that are to be submitted to him.

794. Except where otherwise specially provided, the returns are meant to show separately the work of each court, and not the work of each officer who may have presided during the year in the same court. Officers' names need not, therefore, be given.

795. Where the figures given in any return differ from those given in any returns previously submitted, explanations should always be given in order to avoid the necessity for a reference in the matter. Much correspondence will also be rendered unnecessary if, before submission, figures entered in the annual statements are compared with those in the High Court Division's printed report for the previous year.

796. Officers having work in more departments than one should always note in their returns how their time was apportioned between the various departments. This is necessary to enable the Supreme Court (High Court Division) to judge whether the work done is sufficient, and to admit of the officer's salary being correctly apportioned in the annual returns between the various departments.

797. In the periodical returns submitted to the Supreme Court (High Court Division) by District Judges, the returns of all subordinate courts including Small Cause Courts, as well as those of Additional Judges, should be incorporated.

798. Where, in the general statement compiled for any district, the total of the column "Received by transfer" differs from that of the column "Disposed of by transfer" the reason should be explained.

799. No statement of return prescribed by the Supreme Court (High Court Division) shall be modified, discontinued or replaced by any other, nor shall return or statement of any kind (weekly, fortnightly, monthly, quarterly, etc., etc.) be introduced without an express order of the Supreme Court (High Court Division) previously obtained. The Supreme Court (High Court Division) consider that the revised statements and returns prescribed are, if properly prepared and scrutinised, sufficient for administrative control and other purposes. Whenever any difficulty is experienced in respect of the prescribed forms, or any modification is considered necessary, the reasons therefor should be submitted by the District Judge with a draft of the proposed form for the consideration of the Supreme Court (High Court Division). A District Judge may, however, in any particular case call for a statement other than the ordinary to enable him to deal with some special matter and when so doing, he shall see that such statement is brief in form and easily collected from existing registers.

Note.—The existence of many authorised and unauthorised returns is responsible for attention being diverted from much more important considerations and tends to defeat the whole object of the submission of periodical returns. All unauthorised special or periodical returns or statements of every kind, where they exist, should be discontinued forthwith (G.L. No. 20 of 1933).

800. (1) District Judges should carefully scrutinise the periodical statements and explanations submitted by the subordinate courts, and satisfy themselves that the business of those courts is transacted with due despatch, and that cases receive personal attention in execution as well as before decree.

Note.—See rule 167.

(2) District Judges will insert at the foot of their quarterly statements, a certificate either that the statements, etc., have been found satisfactory or that needful steps have been taken in respect of those which have been found unsatisfactory, and cases which appear to call for notice or instruction of the Supreme Court (High Court Division) should be separately reported.

801. District Judges should personally examine, at least half-yearly, a certain proportion of the records of cases of all classes (contested and uncontested) disposed of by each subordinate judicial officer in the district and sent to the record room from all courts, in order to satisfy themselves that the work of those courts is being done with despatch and in accordance with law. The results of this examination should be noted in the Annual Administration Report and the names of the officers whose work is found to be defective or irregular or unsatisfactory should be mentioned there.

Note 1.—The examination should be directed with a view to ascertaining the following points among others :—Whether orders are passed promptly and written properly; business is conducted with despatch; adjournments are too leniently granted; dates are fixed in a business like manner; *ex parte* injunctions or attachments before judgement are given too freely; proper discretion is used in allowing or refusing commissions; orders passed are in accordance with law; orders required to be drawn up in the hand of the Judge are so drawn up; evidence is properly recorded; judgments contain sufficient reason for decision, show proper appreciation of facts and knowledge of law; and are promptly written, etc., etc.

Note 2.—See rule 808(10).

802. In all quarterly statements, the number of days during which any District or Subordinate Judge or any Munsif has been absent from court owing to temporary indisposition or other cause, should be noted.

803. (1) In the second and fourth quarterly returns submitted by the subordinate courts to the District Judge should be given a brief explanatory note regarding the pendency of (i) cases dealt with under the Small Cause Court procedure, (ii) miscellaneous judicial cases, (iii) miscellaneous appeals, when a suit,

case or appeal has been pending for more than six months or (iv) when a decree has been for more than six months under execution. In the case of all other classes of suits and appeals from decrees, explanations are required only when such cases have been pending for more than a year. Detailed explanation regarding the pendency of cases, when necessary, should be given in the fourth quarterly return of the year.

Note 1.—In the case of rent suits, an enquiry only need be made if the number entered in the quarterly statement as pending for more than three months is unusually large.

Note 2.—Cases stayed under the Bengal Agricultural Debtors Act, 1935, should be shown in the statement in Form No. (S)9 when over 6 months old. No detailed explanation as required under the above rule is necessary regarding the pendency of such cases shown in the statement.

(2) In the second and fourth quarterly returns submitted by the District Judges to the Supreme Court (High Court Division), should similarly be given a brief explanatory note regarding suits and cases pending over one year before themselves, the Additional Judges and the courts subordinate to them together with the remarks recorded by them on the explanations of the subordinate courts. Detailed explanations regarding the pendency of cases, when necessary, should be given in the fourth quarterly return of the year.

Note 1.—Detailed explanation under sub-rules (1) and (2) (when necessary) should be given in a fly-leaf when the space provided in the prescribed form is not sufficient for the purpose.

Note 2.—Explanations of delay should in all cases be as condensed as possible. The real reasons contributing to the delay should be stated concisely but precisely. Stay of proceedings awaiting return of records, representation of deceased parties, in the hands of commissioner, awaiting disposal of analogous cases in the same or another court and other reasons that have really contributed to the delay should be briefly noted. Such entries as "Will be disposed of shortly", "At the desire of parties", "Fixed for peremptory hearing on.....", etc., etc., are not explanations of delay and should not find a place in the statements.

(3) Any case which appears to call for special notice should be separately brought to the notice of the Supreme Court (High Court Division) and District Judges are at liberty, if they think it necessary, to call for a full explanation from any subordinate court in regard to any case on its file.

804. In order that when scrutinising the periodical returns the progress made in the disposal of old cases pending for more than a year may be seen at a glance, a statement in the prescribed form (S) 8 should be submitted half-yearly by the subordinate courts to the District Judge and by the District Judge to the Supreme Court (High Court Division).

805. (1) District Judges will submit with their quarterly returns a concise statement in Form No. (S) 7 regarding the numerical outturn of work shown by each of their subordinates, and a separate expression of opinion as to the adequacy of work disposed of by each officer during the quarter stating reasons, if any, which may account for shortage in disposals by any of them.

Note 1.—It is not possible to fix any standard outturn of work applicable to all courts. In reviewing the work of each judicial officer, regard should be had to the state of the pending file, the complexity or otherwise of cases disposed of, the rise or fall in serious contest, the time spent by an officer in discharging duties when placed in administrative charge of a department, and other reasons, if any.

Note 2.—Names of officers are in many cases bracketed together with the comment "fair" or "unsatisfactory". Such expression do not convey any correct idea of the work of each officer. District Judges should make individual comment in each case with special reference to any deficiency apparent in the outturn. (G. L. No. 1, dated the 11th January, 1932).

(2) When the returns contain any adverse remarks regarding the numerical outturn of an officer, he should be demi-officially supplied with a transcript of such remarks, with a view to rectifying the defects in future.

806. Most of the annual statements can be readily compiled from the Statistical Registers, the forms of which are reproduced in Volume II, as Nos. (R) 42 to (R) 48. In the case of others, it is essential that the requisite information should be collected from time to time, so as to be available without delay at the close of the year. In the latter case District Judges should be careful to require the proper officers of their courts, and of the courts subordinate to them, to collect the information at convenient intervals.

ANNUAL AND CONFIDENTIAL REPORTS.

1. Annual Reports.

807. District Judges shall submit to the Supreme Court (High Court Division), along with the annual returns and statements, a report for the year to which these refer upon the administration of civil justice. Tabular statements in Forms Nos. (S) 22 to (S) 31, Volume II, shall accompany the report, with opposite remarks as to any increase or decrease of business, or the like, shown in each. These tables shall include the figures for all the courts of small causes and the regular civil courts in each district, separate totals being given for each of these classes of courts. District Judges should be careful to avoid treating their annual reports as matters of routine, and are expected to see that the entries in the tables included in them, and those in the corresponding annual statements, agree, as they must do, exactly. The failure to explain discrepancies between figures given in two successive reports, which, in the absence of special reason, ought to be identical, is also a matter which leads to much unnecessary correspondence, and should be avoided.

808 (a) No particular form is prescribed for the Annual Administration Report. It is left to the District Judges to put on record the main feature in the administration of civil justice of the year under review.

(b) Information regarding the following matters must, however, be included in the order stated below with explanations of important or suggestive variations in the statistics. Matters requiring special attention or suggestions regarding modification of rules should be stated separately :—

- (1) Judicial staff of the district during the year under report.
- (2) Noticeable rise or fall in the number of suits and cases filed in each class of courts, *viz.*, Munsif's Courts, Subordinate Judges' Courts and District Judges' Courts, and in individual courts ; of suits of any particular description instituted in them ; and of appeals filed in the last two classes of courts.
- (3) Large or small disposals ; and large number of cases pending at the close of the year of suits pending for over a year, of regular appeals pending for more than six months, of miscellaneous appeals pending for more than three months, of execution cases pending for more than six months and of small causes pending for more than three months observable in any courts.
- (4) Noticeable increase or decrease of arrears as compared with the previous year.
- (5) High or low percentage of appeal and of confirmation of decree on appeal.
- (6) Noticeable increase in the number of cases sent on remand and the courts passing orders of such remand with the names of presiding Judges.
- (7) Noticeable fluctuations in the average duration of suits and appeals and in the percentages of appeal and confirmation as compared with the previous year.
- (8) Any points in the returns specially noticeable or requiring explanation.

- (9) The observance of the rule as to the punctual commencement by the courts of the judicial work of the day at the prescribed hour (*vide*, rule 2).
- (10) The result of the examination of the records of cases decided by subordinate judicial officers (*see*, rule 801).
- (11) The report may also contain mention of any instance of special and distinguished merit on the part of individual officers, which it may be deemed fit for being brought to the favourable notice of the Supreme Court (High Court Division) or of Government.
- (12) (a) The date of last inspection of each subordinate court, the name of the officer who inspected, the probable date of next inspection of each such court, the sufficiency of security of court officials, the state of libraries, the maintenance and check of furniture and other stock.
- (b) The observance of the provisions of rules 938 and 940 (inspection by all judicial officers of the offices of their own Courts).
- (13) The observance of the rules regarding the distribution and service of processes (rules 56 to 102), the efficiency of the process-serving establishment, the percentage of personal service, any noticeable rise or fall in the number of processes served, as compared with the previous year and its effect on the strength of the process-serving establishment judged by the standard laid down in rules 835 and 836 (*see*, rule 836).

Note 1.—Under this head should be stated the number of original processes issued to process-servers during the year (a) in the Court of the District Judge and Subordinate Judges, (b) in the Courts of the Munsifs of the district, and (c) the number of appellate processes in the Court of the District Judge and the Subordinate Judges. Cases of serious misconduct among the process-serving staff and the action taken should be noted.

Note 2.—A comparative statement should be given of the figures of each station for the year under report and the previous year showing (a) number of processes served, (b) number of process-serving peons, (c) average number of processes served by each peon, (d) percentage of personal service, (e) average number of days a peon was on duty in mufassil in each month during the year.

- (14) The state of the District Record-Room which must be ascertained by careful personal enquiry and not from the mere report of the Record-Keeper.

Note.—Information should be given on such subjects as :—

The date of last inspection by the District Judge himself under rule 941 and the probable date of next inspection. Records properly classified and neatly arranged ? Regular entry of particulars in the Index for racks ? Records requisitioned promptly despatched ? Records destroyed at due dates ? etc., etc.

- (15) The extent to which effect has been given to the rules regarding the arrangement of the records in the course of the trial.
- (16) The mode in which effect is given to the rules relating to the employment of commissioners (Ch. XI) specially in commissions which require knowledge of surveying (rule 266 *et seq.*).

Note.—It should be noted whether commissions requiring knowledge of surveying are invariably issued to survey passed advocates as required by rule 266 *et seq.* A statement should also be furnished showing (i) the number of survey-passed advocates in the district, (ii) number of other persons (if any) who are enrolled in the list of commissioners for execution of survey commissions, (iii) total number of survey commissions issued during the last three years, (iv) the number of such commissions issued to survey-passed advocates during the year and the total remuneration paid to them, (v) the number of such commissions issued to other persons during the year and the total remuneration paid to them. Remarks on the manner in which the commissioners have performed this class of work should also be added (*see also*, rule 263).

- (17) The observance of the rules under the Court-fees Act (*see* Chapter 26).

Note.—Under this head should be noted in particular the working of rule 609 (boat-hire surcharge), the manner in which the discretion given under the rule (*vide* Note 1 to the rule) is exercised and the total annual realisation and expenditure on account of boat-hire in the year under report and the previous year.

- (18) Noticeable increase or decrease in the number of applications for information as compared with the previous year.

Note.—Numbers to be given separately for each court in the District.

- (19) Cases of corrupt practice among the ministerial and process-serving staff which came to the notice of the courts and the punishment awarded to corrupt officials.

- (20) The condition of the judicial buildings. Improvements or repairs required ? Internal alterations expedient ?

- (21) The effect of any recent legislation on the working of the courts.

- (22) The extent to which the courts have applied the provisions of the Usurious Loans Act, 1918, and the Money-Lenders Act, 1933.

Note.—Information may usefully be given as to the rate of interest generally claimed in the courts and the rate of interest allowed in the case of secured and unsecured debts. The extent of the application of the Acts, by the courts *suo motu* should also be noted.

- (23) The name of each officer presiding over the District Judge's, Additional Judge's, Subordinate Judge's and Munsif's Court or Courts during the year, the period for which he held charge and the total civil (and criminal) work done by him.

Note.—In this connection *see* also rules 304 and 914.

(c) The length of the report should be curtailed as far as possible by the omission of figures appearing in the annual returns submitted to the Supreme Court (High Court Division).

2. Confidential Reports.

809. (1) District Judges are required to submit not later than the 15th February of each year a separate confidential report on the work, character, qualifications and official merits of the judicial officers serving under them during the previous year, in which the work done by each officer is to be analysed and commented upon, only as aids to forming a judgment as to their respective deserts and fitness for promotion. This is not, however, to debar District Judges from making remarks in the Administration Report regarding the special merits of individual officers which it may be deemed fit to notice [*vide*, rule 808 (1)].

(2) Before leaving a district of which he has held charge, a District Judge, who has had sufficient opportunity of seeing the work of subordinate judicial officers and is in a position to offer his considered opinion, should place on record in Form No. (M) 8, for his successor's information, reports on their character, qualifications and official merits. These reports will be forwarded to the Supreme Court (High Court Division) at the time reports are submitted in accordance with the provisions of clause (1) of this rule.

Note 1.—District Judges are responsible for submitting such reports on all the subordinate judicial officers who were employed in their districts during the year (*i.e.*, January to December) under review. They are not responsible for reporting on officers who join their districts during the year in which the report is written.

Note 2.—In view of the fact that District Judges see but little of a judicial officer's work during his first year in their district, but may see much of it after the judicial officer has left, District Judges need not, in future, submit any confidential report on an officer's work, unless they wish to do so, for his first year's work in their district, but should submit confidential reports for subsequent years and also for the year after the judicial officer has left the district.

Note 3.—District Judges are reminded that as a general rule in no case should an officer be kept in total ignorance for any length of time that his superior officers after sufficient experience of his work are dissatisfied with him. In cases where a warning might eradicate or help to eradicate a particular fault, the advantages of prompt communication are obvious.

810. (1) Confidential reports should set out distinctly and tersely sufficient particulars and it is essential that they should be so full as clearly to show special merits or defects so that the Supreme Court (High Court Division) may form a definite and correct judgement on the merits of the officer. In the case of a very bad report, it is necessary that the unfavourable traits should be briefly illustrated.

(2) No adverse remark must be made which cannot be supported by precise data, which data are liable, specially in the case of a very bad report or of an officer who had hitherto a good or average record, to be called for by the Supreme Court (High Court Division).

(3) District Judges should form a clear and reasoned estimate of the merits or demerits of the officers under them on proven or known facts and express their views clearly and fully. What is desired is not an opinion at all costs but a considered and definite opinion founded on a real knowledge of the officer and his work, based not merely on appeal cases but on scrutiny of cases and proceedings which do not come in appeal and on a knowledge of the officer's administrative and general methods and capabilities. The reports should be frank and outspoken.

Note 1.—In this connection see also, rule 304.

Note 2.—Vague and inconclusive remarks or the use of such vague general expressions as "satisfactory", "bad", or the like are not very helpful and defeat the object with which such report is prescribed. When it is said that an officer is "good" it may be taken to mean that a reporting officer has really no criticism to offer, and that the officer reported on has given satisfaction. But if an officer has any particular good quality worth mentioning, e.g., "energetic" or "sound in judgment" or "tactful", it may be of great advantage that it should be specially mentioned. In reporting unfavourably of an officer, the use of such vague expressions as "bad", "unsatisfactory", or "useless" is distinctly more objectionable. It is essential to know, if possible, where in the badness consists. The report should state whether the officer is "perverse", "untrustworthy", "lazy", "purfunctory" or whatever the particular characteristic of his work may be; and it is a good thing to illustrate briefly the unfavourable trait.

Note 3.—The Government have recently drawn attention to the following observations of the public Services Commission:—"One common defect is the irregularity of reports, i.e., long periods are often barren of any remark. Another is that remarks are often so brief and casual as to convey real little meaning. A third defect is that remarks are often mere off-hand impressions, while a fourth arises out of the fact that strictures are often recorded without any grounds being given. All the above defects when present collectively in combination, or singly, serve to rob a personal file of much of its value, and in deed largely to defeat the purpose of which it supposed to be maintained. In particular it is important that whenever a censure or inappreciative opinion is recorded, some effort should be made by the writer to give the reasons, and as far as possible the facts, on which he bases his view".

(4) The manner in which subordinate judicial officers have managed their offices and discharged their duties when placed in administrative charge of a department, (e.g., the accounts, the record-room, the copying or nazarat, etc.), should be specially reported on and any instance of special excellence should be brought to the notice of the Supreme Court (High Court Division). Administrative ability in an officer counts no less than capacity for judicial work and such reports are of the greatest value to the Supreme Court (High Court Division) in assessing the merits of a particular officer, and his fitness for confirmation and promotion.

Note.—Such reports should invariably state whether the officer exercises effective control over his office and the departments he may be in charge of. It is often simply mentioned that an officer held charge of a department. Such information conveys no real meaning and is of no use.

811. Confidential reports should in future be in printed Form No. (M) 8 and typewritten, if possible, by the reporting officer himself or at his dictation, by his confidential Assistant. Entries against items 1—4 of the form may, however, be made and figures supplied by the office of the reporting officer before entries against other items are made by him.

Note.—For Form of confidential reports for submission to the Supreme Court (High Court Division), see Appendix to this part.

812. If the confidential reports on the work and character of subordinate judicial officers contain remediable defects or any adverse remarks regarding an officer which in the opinion of the Supreme Court (High Court Division) should be communicated to him for his guidance and correction, a transcript of the remarks will be sent by the Registrar directly to the officer concerned.

813. Sessions Judges are required to submit to the Supreme Court (High Court Division) on or before the 15th February of each year, a confidential report on the work as criminal Judges of the Assistant Sessions Judges employed in their districts.

Note.—Such reports should be in a narrative form embracing the following points : (a) detention of witnesses; (b) exposition of the law; (c) average duration of sessions trials; (d) result of appeals, if any; (e) general (e.g., fitness for higher appointment) S.L. No 12778—12800A., dated the 3rd July, 1934).

814. District Judges are required to submit on or before the 15th November of each year a confidential report on the work and character of the sheristadars of their Courts and the nazirs at district headquarters and a copy of their yearly landed property statements showing immovable property held, acquired, or disposed of by them in any district including property acquired in the name of their relations and other persons. Their character and reputation should be specially reported on and it should be noted what relations they have in service in all the offices of the district and among legal practitioners.

Note.—The landed property statement should be submitted in Form No. (S) 31 with suitable modifications.

3. Numerical outturn and quality of work.

815. The Supreme Court (High Court Division) have observed a tendency on the part of a number of judicial officers to attach undue importance to a large numerical disposal of suits in their courts. The Supreme Court (High Court Division) have reason to fear that such officers work solely to make a show in the annual returns under the erroneous belief that the outturn of cases in mere figures is considered as the only test of merit. But the impression that the number of cases disposed of is regarded as a test of merit and ability is altogether mistaken. The quantity of work done, if it is well done, is no doubt a measure of an officer's energy, but a judicial officer's merit and his fitness for promotion are in the main judged by the quality of his work which is of far more importance to the interests of justice than mere quantity. It is not possible to lay down any standard outturn of work for all courts, as much depends on the intricacy or otherwise of the cases disposed of, the state of the file, the nature of the contest and other things. But every officer is required to do a fair share of work and the aim should be quality combined with reasonable despatch.

Note.—When an officer's return exhibits an unusually large number of disposals of contested cases, the District Judge should examine some of the records with a view to determine whether he has been picking out only easy cases in disregard of their chronological order, or showing cases as decided after full trial where the contest is unreal or nominal, or doing his work in a slipshod and perfunctory manner.

APPENDIX.

CONFIDENTIAL

FORM NO. (M) 8.

For submission to the Supreme Court (High Court Division) of Confidential Reports regarding Munsifs, etc. (Rule 811).

PART I

1. Name of Officer reported on :
2. Post held under reporting Officer with special powers, if any :
3. Total service as—

Munsif :

Sub-Judge :

4. Period under observation of reporting officer :

PART II

This assessment should be recorded by initialling the appropriate box in Columns 5 to 23.

		Assessment.	Remarks.
5. Quantity of work disposed of : <i>Note 1.</i> —The remark should, if possible, be supported by figures showing the number of cases disposed of, increase or decrease of arrears, etc. <i>Note 2.</i> —In judging of the adequacy or otherwise of the out-turn regard should be had to the instructions in rule 812, Vol. I. If the numerical disposal appears to be small, the features, if any, present to explain it should be noted.	Good	.. <input type="checkbox"/>	
	Adequate	.. <input type="checkbox"/>	
	Inadequate.	.. <input type="checkbox"/>	

		Assessment.	Remarks.
6. Quality of Judicial work : <i>Note 1.</i> —The number of regular and miscellaneous appeals heard together with the percentage of such appeals confirmed, modified and reversed should be shown here.	Very sound ..	<input type="text"/>	
	Sound	<input type="text"/>	
	Faulty	<input type="text"/>	
7. Judgment :	Well-reasoned ..	<input type="text"/>	
	Not well-reasoned	<input type="text"/>	
	Unduly long ..	<input type="text"/>	
	Not unduly long ..	<input type="text"/>	
8. Recording of evidence :	Proper	<input type="text"/>	
	Improper ..	<input type="text"/>	
9. Level of Intelligence :	Average	<input type="text"/>	
	Above Average ..	<input type="text"/>	
	Below Average ..	<input type="text"/>	

		Assessment.	Remarks.
10. Grasp of facts :	Good	<input type="text"/>	
	Poor	<input type="text"/>	
11. Knowledge of Law :	Very sound ..	<input type="text"/>	
	Sound	<input type="text"/>	
	Poor	<input type="text"/>	
12. Administrative ability :	Very good ..	<input type="text"/>	
	Good	<input type="text"/>	
	Tolerable ..	<input type="text"/>	
	Poor	<input type="text"/>	
13. Power of expression :	Expresses himself very clearly ..	<input type="text"/>	
	Adequate ..	<input type="text"/>	
	Poor	<input type="text"/>	

	Assessment.	Remarks.
14. Reliability :	Most reliable .. <input type="text"/>	
	Reliable .. <input type="text"/>	
	Unreliable .. <input type="text"/>	
15. Degree of interest and perseverance :	Maintains a considerably high degree of interest and displays great perseverance in his work. <input type="text"/>	
	Takes keen interest in his work and is capable of sustained effort. <input type="text"/>	
	Indifferent .. <input type="text"/>	
16. Intellectual integrity :	Trustworthy and straight forward .. <input type="text"/>	
	Inclined to be partial and biassed .. <input type="text"/>	
17. Incorruptibility :	Incorruptible .. <input type="text"/>	
	Reputed to be corrupt .. <input type="text"/>	

	Assessment.	Remarks.
18. Sense of duty ;	<p>Reputed to be corrupt because of— <input type="text"/></p> <p>(i) Monetary consideration .. <input type="text"/></p> <p>(ii) Other considerations .. <input type="text"/></p> <p>Has a high sense of duty <input type="text"/></p> <p>Has a moderate sense of duty .. <input type="text"/></p> <p>Lacks a sense of duty <input type="text"/></p>	
19. Relations with the Bar, litigant public and staff :	<p>(i) Very well-behaved and helpful inspires confidence .. <input type="text"/></p> <p>(ii) Well-behaved and courteous <input type="text"/></p> <p>(iii) Inclined to be unhelpful, rude and discourteous <input type="text"/></p>	

		Assessment.	Remarks.
20. Appearance and bearing :	Creates a very good impression ..	<input type="text"/>	
	Presentable ..	<input type="text"/>	
	Creates an unfavourable impression	<input type="text"/>	
21. Standard of living :	Lives within known means of income	<input type="text"/>	
	Lives beyond known means of income ..	<input type="text"/>	
22. Punctuality :	Punctual ..	<input type="text"/>	
	Unpunctual ..	<input type="text"/>	
23. Physical fitness :	Physically fit ..	<input type="text"/>	
	Keeps indifferent health	<input type="text"/>	

Add a brief pen picture of the Officer.

PART III

Form for submission to the Supreme Court (High Court Division) of Confidential report regarding the Assistant Sessions Judges, as required under Rule 813 of the C. R. & O., Vol. I.

Name

(a) Detention of witnesses :

1st day

2nd day

After 3rd day

(b) (i) Appreciation of Law :

(ii) Sifting of evidence :

(c) Average duration of Sessions trials :

Average duration.

Total No. of cases tried.

(d) Result of appeals, if any :

Total No. of appeals heard.

Confirmed

(e) General (Fitness for higher promotion) :

PART IV

Comparing him with other officers of the same grade, give your general assessment of the officer by initialling the appropriate box below :

Outstanding.	Very good.	Good.	average.	Below average.	Special aptitude, if any, for Secretariat or for foreign assignments.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

FITNESS FOR PROMOTION.

(Initial in the appropriate box below).

	Assessment by the Reporting Officer.
Recommended for accelerated promotion	<input type="checkbox"/>
Fit for promotion	<input type="checkbox"/>
Recently promoted; assessment for further promotion premature :	<input type="checkbox"/>
Not yet fit for promotion, but likely to become fit in course of time :	<input type="checkbox"/>
Unfit for further promotion; has reached his ceiling :	<input type="checkbox"/>

.....
Signature of the Reporting Officer.

.....
Designation.....

.....
Date.....

CHAPTER 36.

RULES REGARDING VAKALATNAMAS AND MUKHTARNAMAS.

816. Vakalatnamas and Mukhtarnamas, whether executed by principals or their attorneys and agents and mukhtarnamas under the authority of which Vakalatnamas are executed, shall not be required to be verified on oath. The responsibility in regard to all such documents being properly and correctly executed shall rest entirely with the legal practitioner concerned. This rule does not apply to cases in which only mukhtars or agents not duly certified under any law, for the time being in force are employed. In all such cases the mukhtarnamas shall be verified on oath.

Note.—This exception does not affect the practice in criminal courts. (C.O. No. 19 of 11th May, 1878).

817. Advocates practising in the Supreme Court (High Court Division) shall note on their vakalatnamas the names of the mukhtars or other persons from whom the vakalatnamas are received.

818. The appointment of a mukhtar in addition to an advocate cannot be authorised on the vakalatnama appointing the latter, but only on a separate document drawn as a mukhtarnama and *vice versa*.

819. No advocate without, accepting in writing a vakalatnama (and filing it if it be not already filed) shall act in any case.

820. No advocate, shall plead in any case unless he has (a) been engaged for that purpose by another advocate, duly appointed to act for the party or (b) filed a memorandum of appearance under Or. 3, r. 4, C. P. Code [substituted by section 2 of the C. P. Code (Second Amendment), Act XXII of 1926].

821. When the party cannot sign his or her name, the vakalatnama or mukhtarnama must be endorsed as follows :—

“I, A. B., do hereby appoint C. D., Advocate/Mukhtar to act for me in the abovenamed cause, in token whereof I have made my mark in the presence of E. F.

X (Mark)

and I, E. F., do hereby attest the above mark as having been made in my presence by A. B., who is known to me.

X (Signature).”

Note.—The attester should be a person other than the person who writes the endorsement.

822. (1) The courts accept vakalatnamas and mukhtarnamas on the responsibility of the legal practitioners filing them. An advocate, accepting a vakalatnama or a mukhtar accepting a mukhtarnama purporting to be executed by his client in person is bound to satisfy himself as best as he can that it was so executed. When it purports to be executed by a third party, on behalf of his client, he is bound to ascertain that such person has been duly empowered by the client to appoint an advocate, or mukhtar, as the case may be, and has himself executed the document.

(2) No advocate shall receive a vakalatnama and no mukhtar shall receive a mukhtarnama from any person other than the party himself or his recognised agent within the meaning of the C. P. Code, (Or. 3, r. 2), or a person duly authorised by power-of-attorney to act in his behalf, or his servant, relation or friend or an advocate or mukhtar specially authorised in writing in that behalf.

Note 1.—The authority should be in the following forms:—

I, A. B., do hereby authorise C.D., my relation/servant/advocate, etc., to deliver the accompanying vakalatnama/mukhtarnama to E.F., my duly appointed advocate/mukhtar in the abovenamed cause.

X. (Signature or thumb-impression)

Note 2.—The authority may be endorsed on the vakalatnama or mukhtarnama itself.

Note 3.—A vakalatnama received by the advocate, or in the case of a mukhtarnama, by the mukhtar, himself through the post from a person previously known to him, and with whose handwriting he is familiar, may be accepted.

(3) No advocate or mukhtar shall receive a vakalatnama and no mukhtar shall receive a mukhtarnama from a person who is unable to sign his or her name, unless it bears an endorsement in the form prescribed by rule 821 above.

(4) Where there are more parties than one and they desire to appear by separate vakalatnamas or mukhtarnama, the vakalatnama or mukhtarnama of one may be received from any other similarly authorised, but if they desire to appear by one and the same vakalatnama or mukhtarnama, it may be received from any one of them or from a person duly authorised by any one of them without special authority from the others.

(5) Every advocate, filing a vakalatnama and every mukhtar filing a mukhtarnama shall endorse on the back of it with his own hand the following particulars:—

- (i) the date of acceptance,
- (ii) the name of the person from whom it is received, and
- (iii) if such person is neither the client himself nor an advocate, or mukhtar, the precise nature of the authority of that person with date of the authority.

Note 1.—Bench clerks and other officers who are authorised to receive vakalatnamas or mukhtarnamas must in every case satisfy themselves that the endorsements are properly made and contain all the particulars required by this rule.

The name of the person from whom the document is received must always be given and it is not enough to describe him as plaintiff or defendant. This applies also to each case of subsequent acceptance under sub-rule (6).

Note 2.—Subsequent acceptance of a vakalatnama or mukhtarnama already filed shall also be endorsed with the same particulars under the three heads (i), (ii) and (iii) [vide sub-rule (6)].

(6) A vakalatnama or mukhtarnama, which has been filed in court may subsequently with the permission of the presiding Judge, be accepted by an advocate or mukhtar, as the case may be, whose name appeared in it at the time when it was first filed; in the case of such subsequent acceptance the endorsement shall contain the same particulars as are required in the case of the first acceptance under sub-rule (5) above.

Note 1.—An advocate's registered clerk cannot transfer a vakalatnama to any advocate.

Note 2.—The several provisions of rule 822 apply to attorneys practising in the subordinate Courts.

(7) Where any member of a professional partnership has accepted a vakalatnama or powers from any party to a litigation under the provisions of this rule, every other partner of the firm shall be deemed in all respects, other than in respect of appearance in court, to have accepted a vakalatnama or powers from such party and shall not be entitled to act or to plead in the same litigation for any other party.

(8) No vakalatnama or powers shall be accepted in the name of the firm constituting a professional partnership. The partners or such of them who may so desire, must accept the same individually.

823. A party who has retained an advocate to appear and act for him and appointed him by execution of a vakalatnama cannot be heard in person, unless he first withdraws the vakalatnama and determines the appointment in the manner laid down in Or. 3, r. 4, C. P. Code.

824. (1) If no fresh vakalatnama is filed in execution cases, the party applying for execution must make a verified statement that the advocate, filing the application for execution is the duly authorised advocate who acted for him in the original suit.

(2) As the powers conferred on an advocate cease on the enforcement of the decree, that is on payment of the money (if money be decreed) into court— an advocate, in a suit cannot receive without any special power, sums realised in execution of the decree in such suit. The taking of the money out of court is a subsequent and separate transaction and no advocate, shall be allowed to receive or withdraw the same unless—

- (a) the vakalatnama under which he acted on behalf of his client in the suit or in the execution proceedings (where a fresh vakalatnama has been filed) contains a special clause enabling him to do so, or
- (b) there is a separate instrument distinctly conferring on him the authority to do so, or
- (c) the decree-holder has in his application for execution made a (1) verified statement that a special power to receive money realised in execution had been conferred on the advocate, who acted for him in the suit concerned and (2) also a prayer that the money should on realisation be paid to the said advocate acting on his behalf under such power.

CHAPTER 37.

DRESS OF ADVOCATES.

825. Advocates of the Supreme Court shall when appearing in Subordinate Court, wear the same gown as in the Supreme Court.

826. The following distinctive dress shall be worn by Advocates of the Subordinate Courts when appearing in Court:—

- (1) A black or white Chapkan, Achkan or Buttoned-up long coat with trousers to match and a black alpaca gown of the cut and shape of a B. A. gown; or
- (2) If European dress is worn, then a black coat with dark or white trousers and a black or dark coloured plain tie and the gown.

Note 1.—"White" in sub-rule (1) comprises any plain dull colour like whitish, pale cream, natural tussore etc.

Note 2.—The wearing of the gown is compulsory.

Note 3.—Advocates have the option of wearing or not wearing their gowns when appearing before Magistrate or other executive officers discharging Civil and Revenue duties, who are not themselves required to wear gowns.

PART IX.—ESTABLISHMENT, LIBRARIES, OFFICE RULES, ADMINISTRATIVE WORK, ETC., ETC., AND ANNUAL INSPECTIONS.

CHAPTER 38.

ESTABLISHMENT.

I. Process-serving Peons.

827. (a) The process-serving establishment in each district shall consist of—

(i) Such number of permanent process-servers for each station of the district as shall be determined from time to time by the Supreme Court (High Court Division) with the approval of Government, and

(ii) temporary peons, to be known as probationers, whose number in each station shall not exceed 10 per centum of the number of permanent process-servers employed there.

Note.—The term 'probationers' is applied to these temporary peons for convenience of nomenclature only. The Probation Rules issued in Government of Bengal, Finance Department's notification No. 779T-F, of 14th June, 1928, will not apply to them.

(b) The District Judge will temporarily increase or decrease the actual strength of process-servers in his district when such increase or decrease is justifiable under the instructions laid down in rule 836. An increase shall be effected by filling any permanent posts left vacant and when the full sanctioned strength of permanent man is already employed, by the creation of temporary posts on the scale of pay of the permanent posts. A decrease shall be effected by abolishing any temporary posts of process-servers and if there are no such posts, by leaving unfilled vacancies in permanent posts as they occur.

(c) There shall be a joint process-serving establishment for all courts at the same station under the direct control of the nazir, who will be responsible to the various courts for proper service and execution of processes made over to him for the purpose. A register of process-serving peons shall be maintained at each station in Form No. (R) 16, Volume II.

(d) The duties of probationers shall be to assist the process-servers and to perform the work of such of them as are on leave.

828. (a) Leave vacancies among process-servers will not be filled. The work of men on leave will be performed by probationers without extra remuneration.

(b) Temporary vacancies (not leave vacancies) in posts of permanent process-servers shall be filled by the promotion to officiate therein of probationers.

(c) Temporary posts of process-servers created in accordance with rules 827 (b) and 836 will be filled by the appointment thereto of probationers.

(d) Substantive vacancies in posts of permanent process-servers shall be filled by the appointment thereto of probationers, provided that a probationer shall not be confirmed in a permanent post until he has completed at least two year's service on probation (previous service as a probationer or officiating service in a temporary or permanent post of process-server shall count as service on probation for the purpose of this rule).

(e) Leave vacancies in posts of probationers shall remain unfilled.

829. A conduct register of peons with a sufficient number of pages for each shall be maintained in every nazarat and all cases of irregularity, failure of duty or misconduct on the part of a peon should be noted therein with details of action taken.

Note.—Punishment of every kind awarded to peons should be noted in the service book with particulars of the offence.

830. No peon should be retained or appointed for the service of the processes who cannot read and write efficiently, or who is not capable of fully and intelligently carrying out the duties of a process-server.

831. The nazir at each station shall keep a register of candidates for filling vacancies in posts of probationers. These candidates will be enrolled whenever necessary under orders of the Judge-in-charge of the nazarat.

832. The Judge-in-charge shall as occasions require hold examinations in reading, writing and of a knowledge of the rules regarding service and execution of processes. Persons Passing the test shall be placed on the enrolled list.

Note 1.—Orderlies, office peons and night-watchman will be eligible as probationers, provided they possess the required qualification and pass the test.

Note 2.—Candidates found to be unfit and undesirable should be struck off the enrolled list.

Note 3.—The permanent appointment of peons lies with the District Judge.

833. Promotion according to the time-scale would be dependent on good work.

834. Vacancies (other than leave vacancies) occurring at any station in post of probationers shall be filled by the appointment thereto of enrolled candidates attached to that station. Any periods of duty in a post of probationer performed by an enrolled candidate, whether continuous or otherwise, will count towards the two years of probation prescribed by rule 828 (d) on the subsequent appointment to a permanent post.

Note.—On the promotion of a probationer to officiate in a post of process-server, a temporary vacancy in a post of probationer will occur. This vacancy should be filled by the appointment of the senior enrolled candidate. On the reversion of the probationer to his old post on completion of his term of officiating service, the junior enrolled candidate acting as probationer should be discharged.

835. Table I below gives the minimum number of processes per annum that should be served by one process-server in the several stations of each district on the assumption that each process-server spends at least 20 days per mensem in the mufassil on the service of processes. Table IA gives the corresponding minimum district average number of processes that should be so served. The number of permanent process-servers for each district, will be fixed by the Supreme Court (High Court Division) from time to time with the approval of the Government [*Vide* rule 827 (a) (i)].

TABLE I.

Bakerganj—			
Sadar	..	..	550
Bhola	..	..	450
Pirojpur	..	..	550
Patuakhali—			
Sadar	..	..	450
Bargona	..	..	450
Bogra—			
Sadar	..	..	700
Chittagong—			
Sadar	..	..	550
Cox's Bazar	..	..	450
Fatikchhari	..	..	550
North Raozan	..	..	550
Patiya	..	..	450
Satkania	..	..	500
South Raozan	..	..	500
Sandwip	..	..	450
Comilla—			
Comilla Sadar	..	..	500
Brahmanbaria	..	..	500
Chandpur	..	..	500
Nabinagar	..	..	500
Dacca—			
Sadar	..	..	600
Manikganj	..	..	500
Munshiganj	..	..	500
Narayanganj	..	..	600

Dinajpur—

Dinajpur	..	..	700
Thakurgaon	..	..	600
Panchagarh	..	..	600

Faridpur—

Sadar	..	..	550
Bhanga	..	..	550
Chikandi	..	..	450
Goalundo	..	..	550
Gopalganj	..	..	450
Madaripur	..	..	450

Jessore—

Sadar	..	..	450
Magura	..	..	550
Jhenidah	..	..	550
Narail	..	..	450

Khulna—

Sadar	..	..	500
Bagerhat	..	..	500
Satkhira	..	..	500

Mymensingh—

Sadar	..	..	450
Bajitpur	..	..	450
Iswarganj	..	..	600
Jamalpur	..	..	600
Kishoreganj	..	..	600
Netrakona	..	..	600
Sherpur	..	..	450

Tangail—			
Sadar	..	..	450
Noakhali—			
Sadar	..	..	550
Feni	..	..	550
Hatiya	..	..	450
Lakshmipur	..	..	450
Pabna—			
Sadar	..	..	600
Sirajganj	..	..	600
Kushtia—			
Kushtia Sadar	..	..	600
Meherpur	..	..	600
Chuadanga	..	..	600
Rajshahi—			
Sadar	..	..	550
Naogaon	..	..	625
Natore	..	..	625
Rangpur—			
Sadar	..	..	600
Gaibandha	..	..	500
Kurigram	..	..	500
Nilphamari	..	..	600
Sylhet—			
Sadar	..	..	550
Moulvi Bazar	..	..	550
Habiganj	..	..	450
Sunamganj	..	..	450

TABLE IA.

Name of district.				Average number of processes to be served by each process-server per annum.
1. Bakerganj	..	..	..	500
2. Patuakhali	..	..	..	500
3. Bogra	..	..	..	700
4. Chittagong	..	..	..	500
5. Comilla	..	..	..	500
6. Dacca	..	..	..	550
7. Dinajpur	..	..	..	650
8. Faridpur	..	..	..	500
9. Jessore	..	..	..	500
10. Khulna	..	..	..	500
11. Mymensingh	..	..	..	550
12. Tangail	..	..	..	550
13. Noakhali	..	..	..	500
14. Pabna	..	..	..	600
15. Kushtia	..	..	..	600
16. Rajshahi	..	..	..	600
17. Rangpur	..	..	..	550
18. Sylhet	..	..	..	500

836. (1) The District Judge will temporarily increase or decrease the actual strength of process-servers in his district if such increase or decrease is warranted on a calculation of the total permissible strength to be obtained by dividing the total of the number of original processes of all courts issued to the process-servers for service in the district in the preceding calendar year by the district average number of processes per process-server shown in Table IA of rule 835. Any fraction will count as one.

(2) The average number of days per month spent by the process-servers in the mufassil on the work of process-serving shall also be calculated. This shall be calculated by ascertaining the total number of days spent in the mufassil on process-serving during the calendar year previous to the date of calculation by all the process-servers of the district (including probationers while doing the work of process-servers on leave), and dividing the number by the total number of process-servers (including temporary men, but excluding probationers) actually employed in the district during the same period, and then dividing again by 12.

(3) The calculations described above should be made by the District Judge each year in January. Any increase or decrease in the actual strength will be effected in the manner laid down in rule 827 (b) and will take effect from the beginning of the next financial year.

(4) A yearly report of the calculation thus made shall be sent to the Supreme Court (High Court Division) and to Government, so that it may be seen whether the present personnel represents the actual requirement based on the standards laid down in rule 835.

(5) If sufficient cause appears for altering the district average shown in Table IA of rule 835, the District Judge may report the matter to the Supreme Court (High Court Division) which will issue orders subject to the approval of Government.

(6) The District Judge may apportion the process-servers of the district among different stations as may appear necessary, the figures in Table I being used as a guide for this purpose.

(7) It should be remembered that if the minimum standard is in fact too high, this will appear from the inability of the staff allotted on that basis to cope with the work. On the other hand, if the standard is too low the fact will not emerge so easily; if the staff work with full efficiency, the lowness of standard will appear from the fact that they were not employed on the average 20 days in the mufassil, and whenever the calculations for any station appear to justify the full staff but the average number of days spent in the mufassil is less than 20, this will show that the minimum standard for that station has been pitched too low. But it is likely that the staff will accommodate itself by slackness to the lower standard. Before submitting any proposals for lowering the minimum in any station, District Judges should satisfy themselves that the staff in that station is working efficiently, and further that relief cannot be given from other stations where the minimum standard may be too low.

837. In order to ensure that processes are fairly distributed among process-servers and that a fair average of successful work is attained by each process-server, a statement in Form No. (R) 18 shall be prepared by the nazir and placed before the Judge-in-charge of the nazarat at the close of each month for scrutiny. A copy of the statement with the remarks of the Judge-in-charge and the disciplinary action taken in the case of offending peons shall then be forwarded to the District Judge who will compare the work done by each

process-server in the several courts in his jurisdiction and see whether the rules regarding distribution and service of processes are being strictly observed and whether proper disciplinary action has been taken against delinquent process-servers.

838. Every nazir shall, at the end of each month, place before the Judge-in-charge a statement of the number of processes, calculated as in rule 835 and the notes thereto which may have been executed by the process-servers within the month; and such statement shall show the number declared by each court as emergent. A copy of the statement shall also be sent to the District Judge.

2. Ministerial Officers.

839. (1) A service book in the prescribed form should be opened for every non-gazetted Government servant at his own cost on his holding a substantive post on a permanent establishment for the first time. It should be kept in the custody of the head of the office in which he is serving and transferred with him from office to office. It is the duty of the head of the office to see that all entries are duly made and attested.

(2) It is the duty of every Government servant to see that his service book is properly maintained and that all corrections are properly attested.

(3) Personal certificates of character must not be entered in a service book.

(4) All orders regarding reduction, dismissal, suspension, fine, etc., should be noted in the service book with a brief statement of the reason and it is the duty of the head of the office to see that these entries are made with regularity.

(5) The service books in each office should be taken up for verification in January of every year by the head of the office, who after satisfying himself that the services of the Government servant concerned are correctly recorded in each service book, should record in it a certificate in the form prescribed in Subsidiary Rule 247 of the Fundamental Rule 74.

(6) The leave account maintained for every non-gazetted Government servant should be revised annually and kept up-to-date.

840. (1) Before leaving a station on transfer or on long leave every Additional Judge or Subordinate Judge or Munsif is required to send a confidential report to the District Judge regarding the character and work of each of the ministerial officers employed in his office and in the department placed in his charge. Such report should also be sent when a ministerial officer is transferred to another court or office after working long enough in his court or in a department under him to enable the judicial officer to form a clear opinion of his merits and demerits.

(2) Relevant extracts from the report should be entered in a character roll to be kept in the District Judge's office with a sufficient number of pages for each ministerial Officer employed in the district.

(3) The District Judge should similarly record in the above book or in a separate character roll kept for the purpose, his opinion regarding the work and character of the ministerial officers employed in his own office.

(4) If the confidential report of the Additional Judge, Subordinate Judge or Munsif on the work and character of any ministerial officer, submitted in accordance with sub-rule (1), or the opinion of the District Judge on the work, and character of any ministerial officer employed in his own office, recorded under sub-rule (3), mentions remediable defects or makes any adverse remarks which, in the opinion of the District Judge, should be communicated to the ministerial officer concerned for his guidance and correction, a transcript of the report or of the remarks will be sent to him by the District Judge.

841. (1) A ministerial officer (whether continuously or not) who has completed three years as District Judge's sheristadar or as nazir at District headquarters or in both those posts in succession and who was previous thereto holding any other post or posts at the sadar station for two years or more, becomes liable for transfer, if the Supreme Court (High Court Division) consider it desirable.

(2) The Supreme Court (High Court Division) reserves to itself the right to transfer any such ministerial officer at any time, before the completion of the tenure of office laid down in sub-rule (1) of this rule, whenever a review of the case of any such officer shows that in the interests of the service his transfer is desirable before the prescribed period.

842. (1) The District Judge should from time to time consider the question of transferring the ministerial officers of one station to another station in the district whenever they have been in the same station or in the same post for an unduly long period.

(2) If it is found desirable to transfer a ministerial officer from a station but there is no corresponding post of the same grade in any other station within the district, the matter should be reported to the Supreme Court (High Court Division), so that his transfer to another district may be arranged.

Note.—For the purpose of this rule any period exceeding five years should be considered an unduly long period for a ministerial officer to be in one post.

843. (1) No ministerial officer holding a responsible position and dealing with accounts and money is to be allowed to hold his appointment uninterruptedly for an indefinite period. After holding it for not more than five years, he must be transferred to another appointment in the same or another office or department.

(2) This rule applies to nazirs, accountants and cashiers of all courts as well as to sheristadars and clerks of Munsif's courts when they are employed in keeping accounts, there being no separate accountant.

Note 1.—The taking of leave for a period of not less than six months at a time after holding such post for five years continuously may be deemed as interruption provided an independent officer acts in the post and the presiding Judge is satisfied that no exception could be taken to the conduct of the officer on leave during the term he held the office. Reappointment to the same post should, however, be avoided as far as possible.

Note 2.—The transfer under the rule may be to a post under another court in the same or a different station, or to a post under the same court unconnected with the keeping of accounts or cash.

Note 3.—This rule does not generally apply to assistant accountants or naib nazir, who only assist the accountant or cashier, but such officers are liable to be transferred under rule 842.

844. It is undesirable that a ministerial officer should hold the same post in the same department or office for an unduly long period. Head clerks, Bench clerks, Execution clerks and others who have to come in frequent contact with the public should be moved by the presiding Judge of the court to which they are attached from one post to another within his office or in a department under him

at such intervals as efficiency or the interest of public service demands. Periodical interchange of posts between ministerial officers also conduces to better administration inasmuch as every one of them becomes acquainted with the duties of all kinds of appointments in the establishment.

845. In making future appointments to the ministerial staff, candidates otherwise fit who are proved by a test to know both shorthand and typewriting should always receive preference and those who are similarly found to know typewriting only should, if otherwise fit, receive preference over candidates who know neither.

846. (1) Judicial officers should see that the rules in the Boards Miscellaneous Rules relating to securities of officers are followed *mutatis mutandis* in the case of ministerial officers of civil courts who are required to furnish security.

Note 1.—Rule 112 of the Board's Miscellaneous Rules applies generally to officers who handle money and provides a scale of security varying with the amount of money handled whereas rule 126 applies to certain named officers who do not ordinarily handle money but have to handle valuable documents. Accountants and Record-keepers and Assistant Record-keepers in civil courts come under the latter category and are required to furnish the security prescribed in rule 126.

Note 2.—In cases where a clerk is required to officiate as Nazir for a period of three months or less, attention should be paid to the two provisos to Rule 128 of the Bengal Board's Miscellaneous Rules which regulate the furnishing of securities in such cases. There is, however, no objection to the procedure indicated in Note 4 to Rule 40 of the Bengal Financial Rules being followed in the case of officiating periods of three months or less. When the officiating period exceeds three months, the clerk officiating as Nazir should either furnish the full amount of the security or the permanent Nazir should stand surety for him to the extent of his own security.

(2) Whenever it is found that the amount in the hands of an officer handling money is frequently in excess of the amount of his security, steps should be taken to ensure that his security is promptly raised to the proper figure.

Note.—The power to reduce the security in exceptional cases is vested in the Government alone and the District Judge has not been empowered to exercise the function.

(3) Attention is invited to rule 113 of the Board's Miscellaneous Rules which requires that no process-serving peon should be appointed who cannot give a security bond of Tk. 50 (executed by some person of known respectability and solvency) for his good and honest conduct.

Note.—One process-serving peon cannot stand security for another peon.

847. The attention of judicial officers is drawn to the following rule (rule No. 563) of the Board of Revenue, Bengal, 1910 :—

“Promissory notes and savings bank deposits lodged as security shall not be returned until after six months from the date of vacation of office, but security bonds should be retained permanently, or until it is certain that there is no necessity for keeping them any longer.”

3. Rules prescribed by the Supreme Court (High Court Division) of Bangladesh under section 9 of the Civil Courts Act, 1887, for the appointment of ministerial officers in the subordinate civil courts of Bangladesh.

[The following rules are subject to the provisions of the Civil Courts Act, 1887 (XII of 1887), and the Bangladesh Service Rules and any other rules framed in this behalf under the Act.]

848. (1) *Number of probationers admissible.*—Probationers may be appointed up to a number not exceeding 10 per cent. of the number of employees, that percentage being calculated on the total of the ministerial establishment of the district, and not on the strength of each outlying station or department of the office. These probationers are intended primarily to fill leave vacancies in the Lower Division. When a probationer is acting in a leave vacancy in the permanent establishment or is employed in a temporary appointment or is absent from office for any reason, his place may not be filled up temporarily by appointing a temporary or acting probationer or by any other expedient.

(2) *Selection of probationers.*—Probationers must be selected by the District Judge personally and a candidate for a vacancy in the list of probationers must fulfil the following conditions :—

- (a) He must have passed the Higher Secondary Certificate Examination, or equivalent Examination.
- (b) He must not be over 25 years of age.
- (c) He must produce a certificate of good moral character from the school in which he has last been educated, or from some respectable householder to whom he is well known in private life and who is himself known to a respectable officer of Government, the last fact being certified by the countersignature of the officer in question.

Note 1.—In selecting probationers, candidates otherwise fit who are proved by a test to know both shorthand and typewriting and who write a good hand and are proficient in correct spelling and figure work should always receive preference and those who are similarly found to know typewriting only, should, if otherwise fit, receive preference over candidates who know neither.

Note 2.—The District Judge shall interview personally as many as possible of such of the candidates as appear to be suitable on a perusal of their applications before making his final selection.

(3) *Relationship to other ministerial officers.*—Every candidate for appointment, whether by examination or otherwise, must state his relationship, if any, to any of the ministerial officers in all the offices of the district. Any incorrect or incomplete statement will render him liable to summary dismissal. Relationship to ministerial officers does not disqualify a candidate, but there must be no concealment of the truth.

(4) *Period of probation.*—The period of probation should be limited ordinarily to two years, though a probationer of proved incapacity should be removed as soon as possible. If on completing two years service a probationer is not definitely accepted as qualified for permanent appointment in the Lower Division he should be at once removed. But if he has already held acting appointments and given satisfaction therein, and if it is his misfortune rather than his fault that he has not been permanently appointed, the District Judge may exercise his discretion to retain him longer.

(5) Conditions and prospects of probationers service :—

- (i) Probationers are liable to summary removal for incompetency or misconduct, without the formal proceedings requisite in the case of officers holding paid appointments.
- (ii) Probationers at offices not at the headquarters of a district will be appointed from the headquarters, and no probationer in such an office will be permitted to act in paid appointment without the sanction of the

District Judge. Probationers are employed for the district as a whole and are liable to serve in any department and in any outlying stations in which their services may be required.

- (iii) Probationers have the first claim to officiating vacancies in the Lower Division in the permanent establishment of the district to which they are attached, and in the absence of strong reasons (*e. g.*, reward for specially meritorious service, etc.), which must be recorded by the District Judge they should be appointed in order of seniority to fill permanent vacancies in the Lower Division.

In exceptional circumstances and with the sanction of the Government, the District Judge may fill any permanent vacancy by appointing an outsider or a man employed in any other Government office.

(6) *Appointment of ministerial officers.*—The appointment of ministerial officers is in the power of the District Judge. A District Judge's choice in appointing ministerial officers is not limited to his own district.

(7) *Relationship of applicants for employment to any Government officers.*—Applicants for employment, as ministerial officers, in the offices of civil courts should state in their applications whether they are related to any persons already in the service of Government, and if so, specify the name of such persons and the nature of the employment held by each of them.

(8) *Upper and Lower Divisions of ministerial establishment.*—Ministerial establishments comprise Upper and Lower Divisions. The Upper Division consists of specific posts for which special salaries have been fixed, and the Lower Division contains appointments on graded pay which is independent of the posts occupied. Appointments in the Upper Division are to be made with regard to special fitness for the post and unless other considerations are equal, seniority is not to be regarded in filling them. Appointment and promotion in the Lower Division depend upon seniority subject to approved service. In the matter of appointment and promotion the district staff is to be created as a whole and care must be taken that the staff at outlying stations shall receive equal consideration with that at headquarters. District Judges are not at liberty to interchange the salaries attached to particular appointments in the Upper Division, but they are authorised to distribute the grades of the Lower Division among the different branches of their own and outlying stations in such manner as may from time to time be found convenient.

(9) *Filling up vacancies.*—District Judges will observe the following rules in filling up vacancies in the district staff :—

- (a) In the case of a permanent vacancy in the Lower Division which the District Judges desires to fill by promotion in accordance with seniority, the resultant vacancies being similarly filled, and a probationer being appointed to fill the last vacancy created, the District Judge is not required to advertise the vacancy in his office. He will, however, record his reasons, if any ministerial officer is passed over for promotion in strict accordance with seniority and if the senior probationer is not appointed to the last vacancy.
- (b) In the case of a permanent vacancy in the Upper Division, and of a permanent vacancy in the Lower Division in which the District Judge contemplates introducing an outsider, a notice of the vacancy shall be

suspended in a prominent place in the district and outlying stations and a date, not less than 15 days after the issue of the notice, shall be fixed for filling up the vacancy.

- (c) On the date fixed for filling up the vacancy, the District Judge shall examine all the applications and shall record a proceeding stating that he has done so, and giving his reasons for the selection ultimately made.

Note.—In the matter of appointments of staff, District Judges should pay due regard to the latest instructions of the authorities.

CHAPTER 39.

LIBRARIES.

849. In each office an official, to be nominated by the presiding Judge in writing, shall be placed in charge of the library. He will be primarily responsible for the custody and preservation of the books therein ; but this will not relieve the presiding Judge from the general responsibility devolving on him as the head of the office.

It shall be the duty of the librarian—

- (1) to stamp the seal of the Court on the title page and several leaves of each book ;
- (2) to affix on the lower portion of the back of every book received a label with a number corresponding to a number in the catalogue ;
- (3) to keep a classified and indexed catalogue of all books in the prescribed form and to prepare a new catalogue every five years ;
- (4) to check the catalogue with the books at the commencement of each year and to submit a report to the presiding Judge ;
- (5) to issue books from the library in accordance with rule 852 and to see that no books are issued otherwise .

850. Books shall be classified in the catalogue and arranged in the library in the manner following :—

- (i) Regulations and Acts.
- (ii) Special Acts (when printed separately).
- (iii) Commentaries on Acts, Text books or General treatises.
- (iv) Law Digests and Index of Cases.
- (v) Departmental Codes, Guides, Manuals and Circulars.
- (vi) Law Reports (all kinds).
- (vii) Periodicals.
- (viii) Administration Reports.
- (ix) Dictionaries, Glossaries, Lists, Directories.
- (x) Miscellaneous.

Note.—Where the library is small, classification should be according to subject and the books arranged in the shelves accordingly.

851. (1) Correct catalogues of stout paper must be kept of the books in the library in the following form in manuscript. The binding of a catalogue should

be limp, unless its size is such as requires stronger binding. The name of the author, the edition and the year of publication should be noted against each book :—

Group No.

Title of Group.

Serial number in group.	Title of books.	Date of receipt.	No. of volumes.	No. of copies in Library.	Almirah or rack No.	Shelf number.	Remarks.
1	2	3	4	5	6	7	8

(2) When a new catalogue is made, there should be a certificate by the officer-in-charge of the library that all the books in the previous catalogue have been carried to the new catalogue. The presiding Judge will initial it after satisfying himself about its correctness.

852. (1) When any officer requires a book from the library, he shall send a receipt for it on a slip of paper, which shall be returned when the book is returned to the library.

(2) The librarian shall enter in a register to be kept in the following form for that purpose ;—

- (a) the serial number ;
- (b) the name and number of each book removed from the library on that day and not returned before the close of the day ;
- (c) the date when it was removed ;
- (d) the name of the person to whom issued ;
- (e) the borrower's initial with date ;
- (f) the date of return and the librarian's initial ;
- (g) the date of each reminder ; and
- (h) remarks.

(3) When the signature of the receiving officer cannot be conveniently obtained, the requisition slip-receipt which is also necessary in the case of the Judge to whose office the library is attached, should be filed in chronological order, serially numbered and the serial number entered in column 5 of the above register.

853. Every reasonable facility should be afforded to the other Judicial officers to consult the books in the District Judge's library.

854. As a court cannot be reasonably expected to function efficiently when it lacks an essential part of its equipment, every endeavour should be made to provide each court with a minimum library containing up-to-date editions of annotated Acts and text books which are constantly required for use in court and for this purpose the annual budget allotment for book purchase should be evenly distributed between the several courts in a district after spending what is required for the District Judge's library.

855. Every ministerial officer upon receiving charge of an office to which a library is attached, is to satisfy himself that the books are complete and in good condition, and that the catalogue and lists are duly kept up-to-date. Unless he then reports deficiencies, it will be assumed that he received the library in good order, and he will be thence forward personally responsible for defects.

856. The officer-in-charge of the library should occasionally inspect the almira's to see that the books are not destroyed by white ants or lost.

857. Presiding Judges should from time to time inspect the books and weed out duplicate copies of superseded editions and books which are of no further use. They may be sold to the best advantage.

858. In outlying stations, the copy of the Bangladesh Gazette received by the senior judicial officer should be circulated by his sheristadar to the other judicial officers with a slip attached.

859. Reports, gazettes, and other books supplied to judicial or other officers are not to be taken away by the incumbents on their promotion or transfer, but are to be transferred to their successor in office.

CHAPTER 40.

FORMS AND STATIONERY.

860. At every station, an officer should be specially placed in charge of the stock of forms required for all the courts ; and supplies, if requisitioned, should be issued by him ordinarily once a week to the chief ministerial officer of each court and to parties daily at an hour to be fixed by the Judge-in-charge of forms.

861. A list of forms with their numbers assigned to each should be prepared showing the due dates for the indents to be submitted as well as the due dates for receipt of the indents, and kept hung on a card. The list should be corrected from time to time as new forms are added or any of the existing ones declared obsolete.

862. The forms shall be arranged on the racks by groups in accordance with the classification given in Volume II and the name of each form with schedule and serial number shall be shown against it on the shelf. A board indicating the name of each group of forms will be exhibited against such group.

863. A stock book of forms shall be correctly maintained by the clerk placed in charge of them in the prescribed form No. (R)39(i), Volume II. A separate page or a sufficient number of pages should be given to each form, so that under each item the transactions of several years may be recorded continuously. The balance shall be struck after each transaction and the balance on the 30th June and the 31st December of each year shall be verified by counting the forms on the racks, and a note of the verification made on each page of the stock book.

864. The Judge-in-charge of forms should see that indents are prepared with care in such a way as to render supplementary indents during the year unnecessary and to prevent the inclusion therein of which there is already a sufficient stock. Before the submission of an indent the clerk should prepare a statement showing the actuals for the immediately preceding three years, the average for these years, the balance in hand and the estimated consumption up till the date of the receipt of the indent. Estimates prepared on the above data can be conveniently checked and brought as near as possible to actual requirements. Forms enough to last for a whole year and to leave a margin of three months' consumption at the end of that year shall be entered in the indent. When forms are published in books the number of books should be stated.

Note.—It should be seen that indents are sent for new or revised forms as soon as possible after they are printed and that no manuscript forms of which a printed copy is available is used through failure to send indent in time.

865. Saleable forms printed by Government and available from the Nazir or any other officer appointed in this behalf by the District Judge, or the licensed stamp vendors, must be used in the courts. Non-saleable forms printed by private presses may be used provided they conform to the models of the prescribed forms and the paper is of a quality not inferior to that of the forms supplied by Government.

866. Issue of forms is to be made on written requisitions containing the following particulars ; (i) Description of forms, (ii) purpose for which required, (iii) number required and (iv) name of person ; the requisitions with the remarks of the sheristadar are to be put up before the Judge-in-charge of the forms who will pass necessary orders and the forms will be issued accordingly. The requisition slips should be retained for two years.

867. Whenever there is a change of the forms clerk, a balance shall be struck by the outgoing officer and the officer receiving charge shall verify the balance by counting the forms on the racks. Unless he then reports deficiencies, it will be assumed that he received the stock shown and he will be thenceforward personally responsible for shortage or defects.

868. The allotment for purchase of stationery should be divided between the courts in a district according to their respective requirements and stationery articles of the value representing the allotments should be supplied separately to each court for its consumption.

869. An officer nominated by the presiding Judge shall be in charge of the stationery and maintain a stock book in Form No. (R) 39-A, showing accounts of receipts and issues. The recipient and issuer of stationery articles will put their respective initials in the columns provided for the purpose at the time of the receipt and issue of stationery. At the same time the issuer will cancel the blank columns. The opening and closing balances will be struck monthly by the clerk in charge of the stationery articles. The presiding Judge will cause the stock of stationery to be verified half-yearly by an officer who will report the result and make a note of the verification in the stock book. The presiding Judge will initial after satisfying himself about the correctness.