

Imperial Library (Indentures Validation) Act, 1902 [Repealed]

Schedule 2 - Second Schedule

THE SECOND SCHEDULE

THIS INDENTURE made the twentieth day of December one thousand nine hundred and one BETWEEN THE CALCUTTA PUBLIC LIBRARY a Society registered under the provisions of Act 21 of 1860 of the Legislative Council of India (hereinafter called the said Society) of the first part, Maharajah Bahadur Sir Narendra Krishna K.C.I.E. of No.2 Raja Nubokissen Street Calcutta Zemindar the Vice-President of the said Society and as such the continuing trustee of the property of the said Society under the said Act and the Rules of the said Society of the second part, the said Maharajah Bahadur Sir Narendra Krishna K.C.I.E. as such Vice-President as aforesaid Charles Elvin Dissent of 61 Wellesley Street Calcutta Government Pensioner Jogen Chunder Dutt of 171 Manicktollah Street Calcutta Attorney-at-Law and Kali Churn Palit of No 2 Jagadish Nath Roy's Lane Calcutta Vakil who collectively constitute the present Council of the said Society of the third part and the Secretary of State for India in Council (hereinafter called the Secretary of State) of the fourth part WHEREAS in the year one thousand eight hundred and forty at meetings of a Committee of subscribers to a fund raised with the object of perpetuating the name and administration of Sir Charles Theophilus Metcalfe Baronet (afterwards created Baron Metcalfe) Governor General of India to which fund the Calcutta Public Library as then constituted and a Society known as the Agricultural and Horticultural Society of India were contributors it was resolved to erect a building in Calcutta of two storeys which should be devoted as to the lower storey thereof to the purposes of the said Agricultural and Horticultural Society of India and as to the upper storey thereof to the purposes of the Calcutta Public Library AND WHEREAS application having been made by the said Committee of subscribers to the Government of India for a suitable site for the building to be erected as aforesaid the piece or parcel of land in the second schedule hereto particularly described was in the year one thousand eight hundred and forty made over by the Government of India to the said Calcutta Public Library and the said Agricultural and Horticultural Society of India subject only to the conditions following namely that the building to be erected thereon with the object and for the purposes aforesaid should be ornamental and substantial and that on failure on the part of the said Calcutta Public Library and Agricultural and Horticultural Society of India to keep the said building in repair the said piece or parcel of land should revert to the Government of India or at least that the said building should not without the consent of the Government of India be alienable to other purposes than for the use of the said Calcutta Public Library and the said Agricultural and Horticultural Society of India AND WHEREAS thereafter by the application of the balance of the said fund in the hands of the said Committee of subscribers augmented by further substantial contributions by the said Calcutta Public Library and the said Agricultural and Horticultural Society of India an ornamental and substantial building suitable for the purposes of the said Calcutta Public Library and the said Agricultural and Horticultural Society of India was erected on the said piece or parcel of land which building on the completion thereof was called and has ever since been known as " The Metcalfe Hall " AND WHEREAS so far as is known no conveyance or other assurance of the said piece or parcel of land was at any time executed to or in favour of the said Calcutta Public Library and the said Agricultural and Horticultural Society of India AND WHEREAS on the twenty-third day of August one thousand eight hundred and seventy-one the said Calcutta Public Library was registered under the provisions of Act 21 of 1860 of the Governor General in Council AND WHEREAS the said Secretary of State recently purchased from the Agricultural and Horticultural Society of India the interest of that Society in the said piece or parcel of land and the aforesaid building known as the Metcalfe Hall AND WHEREAS the said Society party hereto and the said Agricultural and Horticultural Society of India until the said purchase by the Secretary of State were possessed of and entitled in perpetuity to the said piece or parcel of land and the aforesaid building known as the Metcalfe Hall and other the out-buildings erected and being thereon as tenants in common in equal shares AND WHEREAS by the Rules of the said Society party hereto it was in effect provided that any person who at the date of the making of the said Rules should be possessed of one or more Original shares in the Society (shares which came into existence prior to the end of the year one thousand eight hundred and forty-nine) or who at the date of making the said Rules might have become or should thereafter become possessed of any share or shares in the said Society should be deemed a proprietor of the said Society AND WHEREAS the several persons

named and described in the first schedule to these presents are the present proprietors of the said Society AND WHEREAS by the said Rules it was also provided that the property of the said Society should be vested in Trustees for the benefit of the proprietors and the rate-payers of Calcutta represented by the Corporation of Calcutta as subscribers to the said Society and that the President and Vice President for the time being should be such Trustees AND WHEREAS in accordance with the Rules of the said Society and until such time as the said Corporation of Calcutta withdrew their subscription to the said Society (as sometime since happened) the President of the said Society was nominated by the said Corporation and the Vice-President the said Society was from time to time nominated by the said proprietors and on such nomination the said Officers were elected by the Council of the said Society in annual general meeting AND WHEREAS since the withdrawal by the said Corporation of Calcutta of their subscription to the said Society there has been no nomination and election of President of the said Society and the office of President has been and is now still vacant and the present Vice-President of the said Society party hereto of the second part is now the sole continuing trustee of the property of the said Society AND WHEREAS it was by the said Rules further provided that the management of the said Society should be entrusted to a Council consisting of twelve members of whom six should be elected by the said Corporation of Calcutta and the remaining six should be elected from amongst the said proprietors and the subscribers to the said Society any three of such members of Council to form a quorum AND WHEREAS since the withdrawal of the said Corporation of Calcutta of their subscription to the said Society as aforesaid the full number of members of the Council of the said Society has not been maintained and the persons parties hereto of the third part are the present members of the said Council AND WHEREAS the Government of India being desirous of forming an Imperial Library and for the purposes thereof of acquiring the said undivided moiety or half part or share of the said Society in the said Metcalfe Hall and land and buildings and also the books and library shelves belonging to the said Society in the said Metcalfe Hall the Government of Bengal on behalf of the Government of India a short time since accepted an offer made by the said parties hereto of the third part on behalf of the said Society for the sale and transfer to the Secretary of State of the said immovable and movable property of the said Society in consideration of the payment by the Government of India to the parties hereto of the third part of the sum of Rupees twenty-eight thousand and five hundred (being at the rate of Rupees five hundred for each of the fifty-seven proprietors shares in the said Society) for distribution amongst the several persons proprietors of the said Society named and described in the First Schedule to these presents or the heirs executors administrators or assigns of such of the said persons as are named and described in the first and second parts of the said schedule in the proportions in the said schedule mentioned.

NOW THIS INDENTURE WITNESSETH that in consideration of the sum of Rupees twenty-eight thousand and five hundred on or before the execution of these presents paid by the Government of India to the said persons parties hereto of the third part the payment and receipt whereof in manner aforesaid the said parties do hereby respectively acknowledge and therefrom do hereby respectively release the Secretary of State his successors in office and assigns the said Society and the said parties hereto of the second and third parts do hereby grant and transfer unto the Secretary of State his successors in office and assigns ALL that the one equal undivided moiety or half part or share of the said Society of and in all that piece or parcel of land more particularly described in the second schedule hereunder written and the building standing and being thereon or on some part thereof and known as the Metcalfe Hall and all other the out-buildings erected and being thereon AND also of and in all ways paths passages drains rights privileges easements and appurtenances whatsoever to the said piece or parcel of land and buildings or any of them or any part thereof belonging or with the same now or heretofore held and enjoyed or reputed or known to be part or parcel thereof or appurtenant thereto AND all the estate right title interest claim and demand of the said Society and the said parties hereto of the second and third parts into or upon the said premises or any part thereof TO HAVE AND TO HOLD the said one equal undivided moiety or half part or share and all other the estate right title and interest of the said Society of and in the said piece or parcel of land and buildings and all other the premises hereinbefore expressed to be hereby granted and transferred unto and to the use of the Secretary of State his successors in office and assigns for ever AND THIS INDENTURE FURTHER WITNESSETH that for the consideration aforesaid the said Society and the said parties hereto of the second and third parts do hereby assign and transfer unto the Secretary of State his successors in office and assigns ALL and singular the books and library shelves belonging to the said Society in and upon the premises hereinbefore expressed to be granted and transferred AND all the right title and interest of the said Society to and in the same To HAVE HOLD receive and take the said premises hereby assigned and transferred or expressed so to be unto the Secretary of State his successors in office and assigns absolutely AND the said Society and the said parties hereto of the second and third parts for and on behalf of the said Society (but not so as to bind themselves personally) do hereby respectively covenant with the Secretary of State his successors in office and assigns that notwithstanding anything by the said Society at any time done or knowingly suffered the

said Society now have full power in manner aforesaid to grant and transfer the said one equal undivided moiety or half part or share of and in the said piece or parcel of land here ditaments and premises hereinbefore expressed to be hereby granted and transferred unto and to the use of the Secretary of State his successors in office and assigns and to assign and transfer the said books and premises hereinbefore expressed to be hereby assigned and transferred unto the Secretary of State his successors in office and assigns AND that the Secretary of State his successors in office and assigns shall and may at all times hereafter peaceably and quietly possess and enjoy the said equal undivided moiety or half part or share of and in the said piece or parcel of land hereditaments and premises and every part thereof and the said books shelves and premises and receive the rents issues and profits thereof respectively without any lawful eviction interruption claim or demand whatsoever from or by the said Society or any person or persons lawfully or equitably claiming under or in trust for them AND that discharged from or otherwise by the said Society sufficiently indemnified against all incumbrances claims and demands created by the said Society or any person or persons lawfully or equitably claiming as aforesaid AND that the said Society and every person claiming through under or in trust for them will at all times at the cost of the Secretary of State his successors in office or assigns execute and do all such assurances and things for further or more effectually assuring the said one equal undivided moiety or half part or share of and in the said piece or parcel of land hereditaments and premises and the said books and premises unto and to the use of the Secretary of State his successors in office and assigns respectively in manner aforesaid as shall be reasonably required AND THIS INDENTURE FURTHER WITNESSETH that for the consideration aforesaid it is hereby agreed by and between the said Society and the said parties hereto of the second and third parts for and on behalf of the several persons named and described in the said first schedule to these presents and the Secretary of State for himself and his successors in office and assigns as follows:

1. From and after the formation of the said Imperial Library each of the said several persons proprietors of the said Society named and described in the said first schedule to these presents shall during his life-time and while he shall be in Calcutta have the privilege of taking out of the said Imperial Library for perusal at his place of residence such of the books hereinbefore expressed to be hereby assigned and transferred as he may from time to time require provided always that the books so taken at any one time shall not exceed six books or twelve volumes in number that all books so taken out shall be returned to the said Imperial Library within one calendar month and that the person or persons taking out any book or books in exercise of the aforesaid privilege shall be responsible for and shall make good to the Secretary of State all loss that may be sustained by reason of the non-return of any book or books or the return of any book or books in a damaged condition.

2. If after the formation of the said Imperial Library any of the books hereinbefore expressed to be hereby assigned and transferred shall not be required by or for the purposes of the said Imperial Library notice thereof together with a list of such books as shall not be required shall be given or sent to the parties hereto of the third part and if within such time as the Government of India shall deem reasonable a majority of the persons named and described in the said first schedule to these presents shall create and open a Library in Calcutta for the reception there of the books mentioned in the said list together with the shelves containing the same shall be made over and delivered by the Government of India free of cost to a Committee of the said persons appointed to receive the same for the purposes of the said Library subject to the express condition that the said books shall not be sold given away parted with or used for any purpose other than those of the said Library.

3. Should no library such as is referred to in the last preceding clause hereof be opened by the persons and within the time aforesaid or should such a library be opened and thereafter be disused or closed the books included in the list hereinbefore referred to but not the shelves containing the same may be distributed amongst or made over to such libraries or library in Calcutta as either upon the recommendation of the majority of the persons named and described in the said first schedule to these presents or in their own discretion the Government of India may select and as may be willing to receive the same.

The First Schedule referred to in the foregoing Indenture.

PART I : LIST OF PROPRIETORS HOLDING TRANSFERABLE SHARES

1. Apar, J.G., Esq.....	.Clerk of the Crown, High Court, Calcutta.
2. Biswas, Kaliprasana, Babu....	.Banian, Calcutta.
3. Chatterjee, Amarendro Nath....., Babu	.Vakil, High Court, Calcutta.

4. Deb, Satya Priya, Babu.....	.Asst., Board of Revenue, Calcutta.	
5. Depenning, G.A., Esq.....	.Gentleman, Calcutta	
6. Dey, Nilmoney, Babu.....	.Gentleman, Cossipore.	
7. Dhur, Ashutosh, Babu.....	.Attorney-at-Law, Calcutta.	
8. Dutt, J.C., Esq., M.A., B.L.....	.do.	do.
9. "Jogesh Chandra, Babu.....	.Gentleman, Calcutta.	
10. " Kader Nath, Babu.....	.do.	do.
11. " Khetra Mohan, Babu.....	.Banian, Calcutta	
12. " Mano Mohan, Babu, M.A.,B.L.	.Vakil, High Court, Calcutta.	
13. " Satis Chandra, Babu.....	.Gentleman, Calcutta.	
14. Ghosh, Jogendra Chandra, Babu.	.Zemindar, Garden Reach.	
15. " Munindra Chandra, Babu.....	.Gentleman, Calcutta	
16." Nabu Krishna, Babu.....	Gentleman, Salkeah, Howrah.	
17. Ghosha, Pratapa Chandra, Babu, B.A.	.Gentleman, Calcutta	
18. Howe, Rivers T.L., Esq.....	.Asst.Controller Genl.in charge of	
	Paper Currency Dept., Calcutta.	
19. Law, Jaygobind, Babu, C.I.E.	.Zemindar, Calcutta.	
20. Martin, John, Esq.....	.Of the firm of Messrs.John Davies & Co., Calcutta.	
21. Mitra, Prakas Chunder, Babu ,	.Medical Profession, Calcutta L.M.S.	
22. Mullick, Binod Behari, Babu	.Zemindar, Calcutta.	
23. Narendra Krishna, Maharajah	.Zemindar, Calcutta. Bahadur, Sir, K.C.I.E.	
24. Palit, Kali Churn, Babu, B.L.	.Pleader, Police Court, Calcutta.	
25. Pandit, Ram Chundra, Babu.	.Gentleman, Bhowanipore.	
26. Ray, Ananda Mohan, Babu.	.Zemindar,	do.
27. " Gobinlal " Babu	.Gentleman, Calcutta.	
28. Rowland, Mrs.Geo.Henry	.Calcutta.	
29. Sen, Narayan Kissen, Babu.	.Store-Keeper, Stamp Office, Calcutta.	
30. Set, Balailal, Babu...	.Gentleman, Calcutta.	
31. " Giris Chandra, Babu, M.A.,	.Attorney-at-Law, Calcutta.B.L.	
32 & 33.Sircar, Mohendrolal,	.Dr. Medical Profession, Calcutta.	
M.D., D.L., C.I.E., (holds 2 shares)		
34. Sturmer, Miss Anne.	.Zemindar, Calcutta.	
35. Tagore, Debendra Nath, Babu	.do.	do.
36. " Jagadindra Nath, Babu	.do.	do.
37. " Jotendra Mohun, Maharajah-	.do.	do.
Bahadoor, Sir, K.C.S.I.		
38. Thomson, Walter Alex.John, Esq.	.Chandmari Tea Estate, Nagra Kata	
	P.O., vi Jalpaiguri, West Dooars	
39. Woodburn, Hon'ble Sir John.	.Lieutenant-Governor of Bengal.	
	K.C.S.I.	

40. Robinson, C.C., Esq.	. Barrister-at-Law, Calcutta
41. Stuart, J.N., Esq.	. Of the firm of Messrs. Bahner, Lawrie & Co., Calcutta
42. Westland, Sir James, K.C.S.I.	. Late Finance Minister, India.

PART II : Transferable shares in abeyance

43. Basu, Dwarkanath, Babu.	. Gentleman, Calcutta, died in 1898.
44. Hollingberry, Robert Heatly, Esq	. do. do. died in 1896.
45. Mitra, Gopi Kissen, Babu	. do. do. died in 1895.
46. " Romes Chundra, Sir, Kt	. do. do. died in 1899.
47. Sen, Beni Madhab, Babu	. do. do. died in 1899.
48. Mitra, Jagganath, Babu	. Assistant, Appellate Side, High Court, Calcutta, died in 1901.

PART III : List of Proprietors holding non-transferable shares

49. Baker, J.W., Esq.	. Of the firm of Messrs. Barry & Co. Calcutta.
50. Bonnaud, A., Esq.	. Merchant, Calcutta.
51. Dissent, C.E., Esq.	. Gentleman, Calcutta
52. Duncan, W.N., Esq.	. Of the firm of Messrs. Stewart, Mackenzie & Co., Calcutta.
53. Ghosh, Kali Krishna, Babu	. Gentleman, Bankipore, Patna.
54. Manuk, Mrs.M	. Calcutta
55. Robertson, J.A., Esq	. Gentleman, Chandernagore
56. Tagore, Kali Kissen, Babu	. Zamindar, Calcutta.
57. Mitter, Jotendranath, Babu	. Gentleman, Calcutta.

The Second Schedule referred to in the foregoing Indenture

ALL that piece or parcel of land situate and being No.12 Strand Road in the Town of Calcutta and a portion of Holding No.20 Block No.23 in the Southern Division containing an area of 1 bigha 2 cottahs and 2 2/3 chittacks or thereabouts whereon or on some part whereof has been erected a building known as the Metcalfe Hall and which said piece or parcel of land and premises are bounded on the North by Hare Street on the East by the messuage and godowns belonging to Doorga Churn Law and Chundy Churn Law in the Occupation of Messrs. Ralli Brothers on the South by the premises occupied by the Government Stationery Office and on the West by Strand Road.

IN WITNESS whereof the said Society have subscribed their name by their Vice-President and Secretary and the said persons hereto of the second and third parts have hereunto set their hands and seals and the Secretary to the Government of India in the Home Department acting for and on behalf of the Secretary of State has hereunto set his hand and seal the day and year first above written.

(Here follow signatures of parties and witnesses: Not re-printed.)