



Government of Bombay
Legal Department

The Bombay Code

Volume IV

containing

The unrepealed Acts of the Governor of Bombay in
Council from 1898 to 1920 and of the Bombay
Legislative Council from 1921 to 1922: And a
Chronological Table of Acts reproduced
in the Volume with an index

FIFTH EDITION

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BOMBAY

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PREFACE.

The present fifth edition of the Bombay Code is based partly on the last edition edited and published by the Legislative Department of the Government of India and partly on the last edition of the supplementary volumes (containing Bombay Acts from 1923-1934), edited and published by the Legal Department of the Government of Bombay. It contains, with some exceptions, the unrepealed Bombay Regulations, the Local Acts of the Governor General in Council in force in the Province of Bombay, the Acts passed by the Governor of Bombay in Council, the Bombay Legislative Council and the Bombay Legislature.

2. The exceptions referred to above are—

(a) certain enactments which are now only in force within narrow limits and which were excluded from the last edition of the Code ;

(b) the following Acts, which are of a purely personal character :—

Act XVIII of 1848 (Nawab of Surat):

Act VI of 1893 (Sir Dinshah Manockjee Petit).

Act XIX of 1911 (Sir Cowasjee Jehangir Baronetcy).

Act IV of 1913 (Sir Currimbhoy Ebrahim Baronetcy).

Act II of 1915 (Sir Sassoon Jacob David Baronetcy).

Act X of 1915 (Sir Jamsetjee Jeejeebhoy Baronetcy).

Act XXV of 1917 (Sir Currimbhoy Ebrahim Baronetcy Amendment).

Bom. Act VIII of 1924 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy).

Bom. Act XVI of 1936 (Sir Chinubhai Madhavlal Ranchhodlal Baronetcy Amendment).

3. This edition of the Code consists of six volumes, and like the earlier edition is divided into parts according to the class of enactments in each part. Volume I contains Part I, which reproduces unrepealed Bombay Regulations published in the last edition ; and Part II which consists of unrepealed Local Acts of the Governor General in Council, now in force in the Province of Bombay. The other five volumes contain Parts III and IV which reproduce the Acts passed by the

local Council and the Bombay Legislature, respectively, from 1862 onwards. Volume II consists of the Acts passed during the years 1862 to 1887, Volume III those passed from 1888 to 1897, Volume IV those passed from 1898 to 1922, Volume V those passed from 1923 to 1930 and Volume VI those passed from 1931 to 1937.

4. Since its last publication in 1922 a large number of amending acts and new enactments have been passed by the Bombay Legislative Council. The Government of India (Adaptation of Indian Laws) Order, 1937, passed under section 293 of the Government of India Act, 1935, has made considerable changes in almost all the Acts and Regulations enacted prior to 1st April 1937. In publishing this edition, all Acts purely of an amending nature modifying the main Bombay Acts have been omitted except those which have modified the Acts of the Central Government.

5. In order to facilitate ready reference to all the changes carried out in any Act, a table has been inserted at the commencement of each Act setting out the number and years of all amending and repealing Acts. A chronological table of Acts and a short index are also appended to each of the volumes. The changes made by the Government of India (Adaptation of Indian Laws) Order, 1937, are referred to in the foot-notes as being made by the Adaptation of Indian Laws Order in Council.

All Acts are printed as modified up to 31st December 1937.

LEGAL DEPARTMENT :

28th January 1938.

**I—CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS
OF THE GOVERNOR OF BOMBAY IN COUNCIL
(1898 TO 1920).**

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1898	I	The City of Bombay Municipal Investments Act, 1898.	....	1
1901	III	The Bombay District Municipal Act, 1901.	Rep. in part by Bom. Act 1 of 1910 ; Rep. in part by Bom. Act 11 of 1923 ; Rep. in part by Bom. Act 5 of 1925 ; Rep. in part by Bom. Act 15 of 1932 ; Rep. in part by Bom. Act 17 of 1933 ; Rep. in part and amended by Bom. Act 3 of 1903 ; Rep. in part and amended by Bom. Act 4 of 1904 ; Amended by Act 38 of 1920 ; Amended by Bom. Act 3 of 1902 ; Amended by Bom. Act 10 of 1912 ; Amended by Bom. Act 8 of 1914 ; Amended by Bom. Act 3 of 1915 ; Amended by Bom. Act 6 of 1917 ; Amended by Bom. Act 6 of 1918 ; Amended by Bom. Act 2 of 1919 ; Amended by Bom. Act 3 of 1920 ; Amended by Bom. Act 4 of 1924 ; Amended by Bom. Act 15 of 1925 ; Amended by Bom. Act 20 of 1929 ; Amended by Bom. Act 4 of 1930 ; Amended by Bom. Acts 25 and 26 of 1930. Amended by Bom. Act 12 of 1931 ; Amended by Bom. Act 23 of 1931 ; Amended by Bom. Act 14 of 1934 ; Amended by Bom. Act 9 of 1935 ; Amended by Bom. Act 34 of 1935 ; Amended by Bom. Act 11 of 1936 ; Amended by Bom. Act 14 of 1936 ; Amended by Bom. Act 15 of 1936 ; Amended by Bom. Act 24 of 1936 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	5
1901	VI	The Bombay Land Reve- nue Code Amendment Act, 1901.	....	161

Chronological Table

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1902	IV	The City of Bombay Police Act, 1902.	Rep. in part by Bom. Act 1 of 1910. Rep. in part and amended by Bom. Act 2 of 1917. Rep. in part and amended by Bom. Act 11 of 1923. Amended by Act 38 of 1920; Amended by Bom. Act 4 of 1905; Amended by Bom. Act 5 of 1913; Amended by Bom. Act 3 of 1915; Amended by Bom. Act 6 of 1920; Amended by Bom. Act 18 of 1920; Amended by Bom. Act 5 of 1921; Amended by Bom. Act 12 of 1926; Amended by Bom. Act 11 of 1928; Amended by Bom. Act 21 of 1930; Amended by Bom. Act 21 of 1933; Amended by Bom. Act 20 of 1935; Amended by Bom. Act 1 of 1936; Amended by Bom. Act 21 of 1936; Adapted and modified by the Adaptation of Indian Laws Order in Council.	163
1904	I	The Bombay General Clauses Act, 1904.	Amended by Bom. Act 4 of 1905; Adapted and modified by the Adaptation of Indian Laws Order in Council.	229
1905	I	The Bombay Court of Wards Act, 1905.	Amended by Bom. Act 1 of 1910; Amended by Bom. Act 2 of 1913; Amended by Bom. Act 7 of 1934; Adapted and modified by the Adaptation of Indian Laws Order in Council.	249
1906	II	The Mamlatdars' Courts Act, 1906.	Amended by Bom. Act 7 of 1926 (when notified); Amended by Bom. Act 11 of 1928; Adapted and modified by the Adaptation of Indian Laws Order in Council.	271
1909	III	The Prince of Wales Museum Act, 1909.	Amended by Bom. Act 7 of 1913; Amended by Bom. Act 6 of 1921; Amended by Bom. Act 12 of 1922; Amended by Bom. Act 7 of 1924; Amended by Bom. Act 19 of 1933; Adapted and modified by the Adaptation of Indian Laws Order in Council.	287
1912	II	The Societies Registration (Amendment) Act, 1912.	Short title given, Bom. Act 2 of 1921.	299

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1912	III	The Bombay Race-courses Licensing Act, 1912.	Amended by Bom. Act 4 of 1931 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	301
1912	VI	The Bombay Medical Act, 1912.	Amended by Bom. Act 9 of 1912 ; Amended by Bom. Act 4 of 1918 ; Amended by Bom. Act 12 of 1929 ; Rep. in part and amended by Bom. Act 3 of 1916 ; Rep. in part and amended by Bom. Act 4 of 1916 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	305
1912	VII	The Bombay Smoke-nuisances Act, 1912.	Rep. in part by Act 8 of 1920 ; Amended by Bom. Act 10 of 1924 ; Amended by Bom. Act 10 of 1929 ; Amended by Bom. Act 8 of 1935 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	315
1912	XII	The Bombay Abkari (Amendment) Act, 1912.	Short title given, Bom. Act 2 of 1921.	325
1912	XIII	The Indian Limitation (Amendment) Act, 1912.	....	327
1913	IV	The Bombay Land Revenue (Amendment) Act, 1913.	....	331
1913	VII	The Prince of Wales Museum (Amending) Act, 1913.	....	333
1915	I	The Bombay Town-Planning Act, 1915.	Rep. in part and amended by Bom. Act 2 of 1919 ; Amended by Bom. Act 13 of 1920 ; Amended by Bom. Act 16 of 1920 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	335
1915	III	The Bombay Decentralization Act, 1915.	Rep. in part by Bom. Act 7 of 1920 ; Rep. in part by Act 3 of 1937.	357
1915	IV	The Bombay City Survey Act, 1915.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	359

Chronological Table

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1	2	3	4	5
1918	VI	The Bombay Disqualification of Aliens Act, 1918.	Rep. in part by Act 38 of 1920 ; Amended by Bom. Act 4 of 1920 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	367
1920	VII	The Bombay Public Conveyances Act, 1920.	Amended by Bom. Act 2 of 1924 ; Amended by Bom. Act 11 of 1924 ; Amended by Bom. Act 7 of 1928 ; Adapted and modified, by the Adaptation of Indian Laws Order in Council.	371
1920	XV	The City of Bombay Primary Education Act, 1920.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	385
1920	XVII	The Bombay Pleaders Act, 1920.	Rep. in part by Act 21 of 1926 ; Rep. in part by Act 22 of 1926 ; Amended by Bom. Act 11 of 1928 ; Amended by Bom. Act 6 of 1929 ; Amended by Bom. Act 18 of 1931 ; Adapted and modified by the Adaptation of Indian Laws Order in Council.	391

II—CHRONOLOGICAL TABLE OF THE UNREPEALED ACTS OF THE BOMBAY LEGISLATIVE COUNCIL.

(1921 to 1922)

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
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1921	I	The Deputy President's Salary Act, 1921.	407
1921	II	The Bombay Short Titles Act, 1921.	409
1922	III	The Bombay Cotton Contracts Control (War Provisions) Repeal Act, 1922.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	415
1922	IV	The Mahul Creek (Ex-tinguishment of Rights) Act, 1922.	Amended by Bom. Act 16 of 1927.	419
1922	XI	The Identification of Prisoners (Bombay Amendment) Act, 1922.	....	421
1922	XIII	The Prevention of Cruelty to Animals (Bombay Amendment) Act, 1922.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	422

BOMBAY ACT No. I OF 1898.¹

[3rd June, 1898]

An Act to supplement the provisions of the City of Bombay Municipal Act, 1888, with respect to the Investment of Sinking Funds and Surplus Moneys, and to validate certain Debentures.

WHEREAS it is expedient to supplement the provisions of the ² City of Bom. III Bombay Municipal Act, 1888, with respect to the investment in public of 1888. securities of sinking funds and surplus moneys of the Municipal Corporation of the City of Bombay ; and whereas it is also expedient to remove doubts which have arisen with respect to the validity of certain debentures of the Corporation in which portions of their sinking funds and surplus moneys purport to have been heretofore invested, and to obviate the extinction of such debentures of the Corporation as have been, or may hereafter be, issued in or transferred to the name of the Corporation or to the name of the Municipal Commissioner for the City of Bombay on behalf of the Corporation in respect of any such investments ;

It is hereby enacted as follows :—

1. This Act may be cited as the City of Bombay Municipal Investments Act, 1898.

2. [Repealed by Bom. 13 of 1933, section 42 and Appendix.]

3. [Repealed by Bom. 13 of 1933, section 42 and Appendix.]

4. All the several debentures of the Corporation heretofore issued, transferred, assigned or endorsed in the name of the Corporation or in the name of the Municipal Commissioner on behalf of the Corporation as specified in Schedule A, and all debentures heretofore issued by way of renewal, consolidation or sub-division of any of the said debentures shall be deemed to be and to have always been valid and negotiable in all respects and in the same manner as if the same had been issued against moneys borrowed from the Secretary of State or any other person.

5. The signature of the person for the time being holding the office of the Municipal Commissioner for the City of Bombay to a transfer of any debenture standing in the name of the Corporation or of the Municipal Commissioner on behalf of the Corporation shall be valid and sufficient, notwithstanding that such person may not have held the said office at the time when such debenture was issued, transferred, assigned or endorsed to the name of the Corporation or the Municipal Commissioner as aforesaid.

¹ For Statement of Objects and Reasons, see Bombay Government Gazette, 1898, Pt. V, p. 73 ; and for Proceedings in Council, see *ibid.*, p. 205.

² Vol. III of this Code.

SCHEDULE A.

Particulars of Loans and Numbers of Debentures.	Number.	Amount.	Total.	Grand Total.
<i>5 per cent. Bombay Municipal Loan (Rs. 10,08,500) for Drainage and Water Works, Markets and Roads.</i>		Rs.	Rs.	Rs.
Nos. 445 to 729	285	500	1,42,500	1,48,500
.. 730 to 741	12	500	6,000	
<i>5 per cent. Agripada House Sullage Water Connections Loan (Rs. 2,48,000).</i>				1,00,000
Nos. 1 to 170	170	500	85,000	
.. 171 to 182	12	500	6,000	
.. 183 to 188	6	500	3,000	
.. 485 to 492	8	500	4,000	
.. 493 to 496	4	500	2,000	
<i>The (5 per cent.) 35 Lakhs various Sanitary Works Loan.</i>				1,00,000
Nos. 6801 to 6825	25	500	12,500	
.. 6826 to 6876	51	500	25,500	
.. 6877 to 6888	12	500	6,000	
.. 6889 to 6894	6	500	3,000	
.. 6895 to 6902	8	500	4,000	
.. 6903 to 6967	65	500	32,500	
.. 6968 to 6992	25	500	12,500	
.. 6993 to 7000	8	500	4,000	
<i>5 per cent. Tansa Water Works Loan (Rs. 147 Lakhs).</i>				
Nos. 24401—24450 to 25351—25400 ..	20	25,000	5,00,000	
.. 25401—25440 to 26201—26240 ..	21	20,000	4,20,000	
.. 26241—26270 to 27261—27290 ..	35	15,000	5,25,000	
.. 27291—27310 to 28271—28290 ..	50	10,000	5,00,000	
.. 28291—28300 to 28481—28490 ..	20	5,000	1,00,000	
.. 28491—28494 to 28887—28890 ..	100	2,000	2,00,000	
.. 28891—28892 to 29229—29230 ..	170	1,000	1,70,000	
.. 29231—29270 to 29351—29390 ..	4	20,000	80,000	
.. 29391—29392 and 29393—29394 ..	2	1,000	2,000	
.. 29395—29396 to 29399—29400 ..	3	1,000	3,000	
<i>The (5 per cent.) Municipal Building Loan (Rs. 8,00,000).</i>				8,00,000
Nos. 1—50 to 151—200	4	25,000	1,00,000	
.. 201—240 to 361—400	5	20,000	1,00,000	
.. 401—430 to 551—580	6	15,000	90,000	
.. 581—600 to 961—980	20	10,000	2,00,000	
.. 981—990 to 1171—1180	20	5,000	1,00,000	
.. 1181—1184 to 1377—1380	50	2,000	1,00,000	
.. 1381—1382 to 1599—1600	110	1,000	1,10,000	
Total 5 per cent. Loan Debentures	36,48,500

SCHEDULE A—contd.

Particulars of Loans and Numbers of Debentures.	Number.	Amount.	Total.	Grand Total.
		Rs.	Rs.	Rs.
<i>The (4 per cent.) Loan of 4½ Lakhs for Fire Brigade Quarters and Stations.</i>				
Nos. 1—20 to 181—200	10	10,000	1,00,000	
„ 201—210 to 291—300	10	5,000	50,000	
„ 301—304 to 417—420	30	2,000	60,000	
„ 421—422 to 479—480	30	1,000	30,000	
„ 481 to 500	20	500	10,000	
Total 4 per cent. Loan Debentures	2,50,000
GRAND TOTAL	38,98,500

THE BOMBAY DISTRICT MUNICIPAL ACT, 1901.

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SCHEDULES.

BOMBAY ACT No. III OF 1901¹.

[1st April, 1901]

Repealed in part by Bom. Act 1 of 1910.

„ „ by Bom. Act 11 of 1923.

„ „ by Bom. Act 5 of 1925.

„ „ by Bom. Act 15 of 1932.

„ „ by Bom. Act 17 of 1933.

Repealed in part and amended by Bom. Act 3 of 1903.

„ „ „ „ „ 4 of 1904.

Amended, by Act 38 of 1920.

„ by Bom. Act 3 of 1902.

„ „ „ 10 of 1912.

„ „ „ 8 of 1914.

„ „ „ 3 of 1915.

„ „ „ 6 of 1917.

„ „ „ 6 of 1918.

„ „ „ 2 of 1919.

„ „ „ 3 of 1920.

„ „ „ 4 of 1924.

„ „ „ 15 of 1925.

„ „ „ 20 of 1929.

„ „ „ 4 of 1930.

„ „ Acts 25 and 26 of 1930.

„ „ Act 12 of 1931.

„ „ „ 23 of 1931.

„ „ „ 14 of 1934.

„ „ „ 9 of 1935.

„ „ „ 34 of 1935.

„ „ „ 11 of 1936.

„ „ „ 14 of 1936.

„ „ „ 15 of 1936.

„ „ „ 24 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1899, Pt. V, p. 133; for Report of Select Committee, see *ibid*, 1900, p. 1; and for Proceedings in Council, see *ibid*, 1899, p. 216; *ibid*, 900, p. 33; *ibid*, 1901, pp. 123, 134, 155 and 174.

Sections 76, 77, 79, 80 and Schedule D have been extended to the cantonment of Ahmednagar subject to certain restrictions, and modifications, see *Gazette of India*, 1905, Pt. I, p. 19.

An Act for the better management of municipal affairs in mofussil towns and cities.

WHEREAS it is expedient to consolidate and amend the law relating to the management of municipal affairs in cities and towns in the Bombay Presidency other than the City of Bombay; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. (1) This Act may be cited as the Bombay District Municipal Act, 1901.

Local extent. (2) It extends to the whole of the Presidency of Bombay, except the ¹City of Bombay.

Commence-
ment. (3) It shall come into force on the first day of April, 1901.

Repeal. 2. (1) The Bombay District Municipal Acts of 1873 and 1884 are hereby repealed : Bom.
VI of
1873.
Bom.
II of
1884.

Provided that—

Saving
clause. (a) the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments ;

(b) all municipalities constituted, municipal commissioners appointed or elected, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into, and suits and other proceedings instituted, under the said Acts or under any enactments thereby repealed, shall, so far as may be, be deemed to have been respectively constituted, appointed, elected, established, defined, made, issued, imposed, entered into and instituted under this Act ;

(c) any enactment of the Governor of Bombay in Council, or document referring to any such repealed enactment, shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

(2) Of the ²Bombay Prevention of Adulteration Act, 1899, in section 5 Bom.
the whole of sub-section (2), and clause (b) of sub-section (3), and in II of
1899. section 6, the whole of sub-section (2) are hereby repealed.

¹ As to the City of Bombay, see the City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).

² On the coming into operation of the provisions of Bom. 5 of 1925, in any local area in respect of any article of food, so much of the Bombay Prevention of Adulteration Act, 1899 (Bom. 2 of 1899) as has not already been repealed, except section 6, shall be deemed to have been repealed. See Bom. 5 of 1925, section 20.

3. In this Act and in the schedules, unless there be something Definitions.
repugnant in the subject or context,—

(1) "City Municipality" shall mean any Municipality which

(a) is one of those specified in Schedule E, or

(b) has been declared under sub-section (1) of section 181
a City Municipality,
and which has not ceased, under sub-section (2) of section 181, to be
a City Municipality.

(2) "Councillor" shall mean any person legally a member of
a Municipality constituted under this Act.

(3) "Commissioner" shall mean the Commissioner of a Division
appointed under the ¹Bombay Land Revenue Code, 1879, and in Sind,
the ²[Provincial Government]; ³* * * * *

⁴[(3A) "Municipal Commissioner" shall mean a person appointed
under the provisions of section 186A, and shall include a person
appointed to act as Municipal Commissioner under sub-section (3)
of section 186D.]

(4) "Judge" shall mean District Judge, Joint Judge, Assistant
Judge, Judge of a Court of Small Causes, Subordinate Judge, Joint
Subordinate Judge or a Judge appointed under the Dekkhan
Agriculturists' Relief ⁵[Acts] 1879 to 1895.

(5) "Municipal district" shall mean any local area which is at
present a municipal district, and any local area which may hereafter
be constituted a municipal district under section 4, if such municipal
district has not ceased to exist under the provisions of the said
section.

(6) "Land" shall include land which is built upon or covered with
water.

(7) "Building" shall include any hut, shed or other enclosure,
whether used as a human dwelling or otherwise, and shall include also
walls, verandahs, fixed platforms, plinths, door-steps, and the like.

(8) "Owner" shall include the person for the time being receiving
the rent of lands and buildings or either of them, whether on his own
account or as agent or trustee for any other person or for any society,

¹ Vol. II of this Code.

² The words "Provincial Government" were substituted for the words "Commis-
sioner in Sind" by the Adaptation of Indian Laws Order in Council.

³ The proviso to clause (3) of s. 3 was omitted by *ibid.*

⁴ This clause was inserted by s. 2 of the Bombay District Municipal Amendment Act,
1914 (Bom. 8 of 1914).

⁵ The word "Acts" was substituted for the word "Act" by s. 2 of the Bombay
District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant: Provided that no person receiving the rent of any land or building as agent or trustee for another person, shall be liable to do anything by this Act required to be done by the owner of such land or building which may involve expenditure on the part of such owner, unless he have funds of, or due to, the owner sufficient to pay for the same; nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of, or due to, the owner sufficient to defray the expense of doing the act required.

(9) "Salaried ¹[servant of the Crown]" shall not include a retired ¹[servant of the Crown] in receipt of a pension, or a person in receipt of a salary ²[from the Crown] who is not a full-time ¹[servant of the Crown].

(10) "Official year" shall mean the year commencing on the first day of April.

(11) "Annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situated therein or thereon, might reasonably be expected to let from year to year.

(12) "Street" shall mean any road, footway, square, court, alley, or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not;

and shall include every vacant space, notwithstanding that it may be private property, and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon, and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

(13) "Public street" shall mean any street—

(a) over which the public have a right of way, or

(b) heretofore levelled, paved, metalled, channelled, sewerred or repaired, out of municipal or other public funds, or

(c) which under the provisions of section 90 is declared by the Municipality to be, or under any other provisions of this Act becomes a public street.

¹ The words "servant of the Crown" were substituted for the words "servant of Government" by the Adaptation of Indian Laws Order in Council.

² The words "from the Crown" were substituted for the words "from Government" by *ibid.*

(14) "Tax" shall include any toll, rate, cess, fee or other impost leviable under this Act.

(15) "Nuisance" shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(16) "Dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered.

(17) "Vehicle" shall include bicycles, tricycles and automotor cars, and every wheeled conveyance which is used or capable of being used on a public street.

(18) "Public securities" shall mean—

(a) securities of the ¹[Central Government],

(b) stocks, debentures or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council ²[or the Central or any Provincial Government],

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India, or

(d) a security expressly authorized by any order which the ²[Provincial Government] makes in this behalf.

(19) In Sind the words "Sind Official Gazette" shall be deemed to be substituted for the words "⁴[Official Gazette]" wherever they occur in this Act.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(1) Municipal Districts.

4. (1) Subject to the provisions of sections 6, 7 and 8, the ³[Provincial Government] may, from time to time, by notification in the ⁴[Official Gazette], declare any local area to be a municipal district, and may from ^{of municipal districts.}

¹ The words "Central Government" were substituted for the words "Government of India" by the Adaptation of Indian Laws Order in Council.

² The words "or the Central or any Provincial Government" were inserted by *ibid.*

³ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

⁴ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

time to time, by a like notification, extend, contract or otherwise alter the limits of any municipal district, or declare that any local area shall, from a date to be specified in the notification, cease to be a municipal district.

Limits to be specified in notification.

(2) Every such notification constituting a new municipal district, or altering the limits of an existing municipal district, shall clearly set forth the local limits of the area to be included in or excluded from such municipal district, as the case may be.

Erection and maintenance of boundary-marks.

(3) It shall be the duty of the Municipality in every municipal district already existing, and of every Municipality newly constituted under this Act, and of every Municipality whose local limits are altered as aforesaid, to cause, at their own cost, to be erected or set up, if and when so required by the Collector, and thereafter to maintain, at their own cost, substantial boundary marks of such description and in such positions as shall be approved by the Collector, defining the limits or the altered limits of the municipal district subject to its authority, as set forth in the notification.

Property and rights of Municipality which has ceased to exist to vest in His Majesty.

(4) When any local area ceases to be a Municipal district, the Municipality constituted therein shall cease to exist, and the property and rights vested in any such Municipality shall, subject to all charges and liabilities affecting the same, vest in His Majesty, and the proceeds thereof, if any, shall be expended under the orders of the¹[Provincial Government] for the benefit of the local areas in which such Municipality had jurisdiction.

Municipal districts to be periodical or permanent.

5. Municipal districts constituted under section 4 may be either periodical or permanent.

What local areas may be declared to be periodical municipal districts.

6. Any local area in which a periodical fair is held or which is visited periodically by pilgrims, together with any neighbouring local area to which the people attending such fair or the pilgrims resort whilst such fair or pilgrimage lasts, may be declared a periodical municipal district at and throughout certain specified recurring seasons.

What local areas may be declared to be permanent municipal districts.

7. (1) Any local area which comprises—

(a) a city, town or station, or two or more neighbouring cities, towns and stations, with or without any village, suburb, or land adjoining thereto, or

(b) a village or suburb or two or more neighbouring villages and suburbs,

may be declared a permanent municipal district: Provided that, except—

(a) in the case of hill-stations, or

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(b) for exceptional reasons, which shall be clearly set forth in the proclamation under section 8 and in the notification issued under section 4,

it shall not be lawful—

(i) to include any city, town, station or suburb in a permanent municipal district with any other city, town, station or suburb from which it is separated by an extent of more than one mile of land unoccupied by houses ; or

(ii) to constitute any municipal district in any area of which the population is less than two thousand.

(2) When two or more places bearing different names are formed into one municipal district, the name of the municipal district shall be determined by the Commissioner.

Naming of municipal districts comprising two or more places.

8. (1) Not less than two months before the publication of any notification declaring any local area a permanent municipal district, or altering the limits of any such district, or declaring that any local area shall cease to be a municipal district, the ¹[Provincial Government] shall cause to be published in the ²[*Official Gazette*], in English, and in at least one of the local newspapers, if any, in the language of the district in which such local area is situated, and to be posted up in conspicuous spots in the said local area in the language of the said district, a ³proclamation announcing that it is proposed to constitute such local area a municipal district, or to alter the limits of the municipal district in a certain manner, or to declare that such local area shall cease to be a municipal district, as the case may be, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor, in writing to the Collector within two months from the date of the said proclamation, and whenever it is proposed to add to or exclude from a municipal district any inhabited area, it shall be the duty of the Municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

Permanent municipal districts.

(2) The Collector shall, with all reasonable despatch, forward every objection so submitted to ⁴[the Provincial Government].

(3) No such notification as aforesaid shall be issued by the ¹[Provincial Government] unless the objections, if any, so submitted are, in ⁵[its] opinion insufficient or invalid.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

³ For instance of such a proclamation, see *Bombay Government Gazette*, 1908, Pt. I-A., p. 21.

⁴ The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

⁵ The word " its " was substituted for the word " his " by *ibid.*

(2) Municipalities.

Constitution and incorporation of Municipalities.

9. In every municipal district there shall be a Municipality, and every such Municipality shall be a body corporate by the name of "The Municipality of—", and shall have perpetual succession and a common seal, and may sue and be sued in their corporate name.

Municipalities to consist of elected and nominated councillors.

10. (1) Except as is hereinafter otherwise provided, every such Municipality shall consist of—

(a) elected councillors ;

(b) nominated councillors, if any, that is to say, such persons, as from time to time,

(i) are by name appointed in this behalf by, or

(ii) are executing the functions of any office from time to time notified in this behalf by the Commissioner :

In specified proportions.

Provided that the number of elected councillors shall be not less than one-half of the whole number, inclusive of the president, and that not more than one-half of the nominated councillors shall be salaried ¹[servants of the Crown].

Failure to elect.

(2) Any vacancies due to failure to elect the full number of elected councillors which under this section might be elected, may, notwithstanding anything in this Act contained, be filled up by nomination by the Commissioner.

The Provincial Government may determine number of councillors; fix proportion of elected and nominated councillors and make rules for regulating elections.

²11. (1) The ³[Provincial Government] shall from time to time, generally or specially for each Municipality,—

(a) determine the number of councillors ;

(b) fix, subject to the provisions of the last preceding section, the proportion of the councillors, if any, who shall be nominated ;

(c) make rules consistent with this Act, for

(i) fixing the dates and the time and manner of holding elections, general or casual, of councillors to be elected ;

(ii) prescribing the number to be elected by the rate-payers, or by sections of the inhabitants, or by public bodies or associations, if any, and the qualifications of candidates and of voters other than as hereinafter provided ;

(iii) preparing and revising the list of voters from time to time, fixing the date after which no application for enrolment in any such

¹ The words "servants of the Crown" were substituted for the words "servants of Government" by the Adaptation of Indian Laws Order in Council.

² Section 11 was re-numbered as section 11, sub-section (1), by Sch. 1 of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

³ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

list under preparation or revision shall be received, declaring the manner in which the right to vote of any undivided family, or any company or firm, or any other association or body of individuals or any trustees of any building or land, being two or more in number, entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give ;

(iv) determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie ;

(v) prescribing the date, subject to the provisions of sub-section (1) of section 13 for the publication of the Municipal Election Roll ;

(vi) regulating generally such elections.

¹[(2) The ²[Provincial Government] may from time to time delegate to the Commissioner any or all of the powers granted to the ²[Provincial Government] by clause (c), sub-clauses (i), (iii), (iv), (v) and (vi) of ³[sub-section (1)], subject to such restrictions or conditions, if any, as the ²[Provincial Government] may attach to the delegation.]

⁴[12. Subject to the provisions of section 13 and section 13A and to the disqualifications mentioned in section 15, section 21, sub-sections (3) and (6) of section 22, and sub-section (3) of section 22A, ⁵[and subject to any disqualification imposed under any other law for the time being in force],

Persons qualified as candidates are to be entered in the list of voters.

(1) (a) every Honorary Magistrate, and

(b) every Fellow and every Graduate of any University, and

(c) every Advocate of the High Court and every Pleader holding a sanad from the High Court, and

(d) every juror and assessor,

who, for a period of not less than six months next preceding the date on which by the rules referred to in clause (c) ⁶[of sub-section (1)] of section 11 a list of voters is required to be prepared or revised in a municipal district for election purposes, has been resident in such district,

¹Sub-section (2) was inserted by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

²The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³The words, figure and brackets "sub-section (1)" were substituted for the words "this section" by Bom. 12 of 1931, s. 2 (i).

⁴Section 12 was substituted for the original section by s. 3 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

⁵These words were inserted by s. 5 (1) of the Bombay Municipal and Local Boards (Amendment) Act, 1917 (Bom. 6 of 1917).

⁶The words, figure and brackets "of sub-section (1)" were inserted by Bom. 12 of 1931, s. 2 (ii).

shall be qualified as a candidate and to be entered in the list of voters for such district ; and

(2) every person who for the like period has paid the qualifying tax, shall be qualified to be entered in the list of voters for such district ; and he shall also be qualified as a candidate if he has been resident for the like period in such district or within seven miles of the limits thereof.

Explanation 1.—For the purposes of this section a person shall be deemed to be resident in or within seven miles of the limits of a municipal district if he ordinarily resides or has his principal place of residence in or within seven miles of the limits of such district.

Explanation 2.—For the purposes of this section ‘ the qualifying tax ’ means a tax, other than octroi, toll and the tax on vehicles and animals plying for hire or kept for the purpose of being let for hire, imposed in a municipal district, of an amount not less than such minimum as shall for the time being be fixed for such district by the ⁴[Provincial Government] in the case of City Municipalities and by the Commissioner in other cases.]

Operation
of lists.

13. (1) When, in accordance with rules framed under sub-clauses (iii) and (iv) of clause (c) ²[of sub-section (1)] of section 11, a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such date as may be prescribed by the rules, and shall continue in operation for a period of twelve months from that day :

Provided that if a new Election Roll is not published in any year before the date prescribed, the roll then in operation shall continue in operation until the new roll is published.

Right to
vote to
depend on
entry in roll.

(2) At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (1) shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote.

Enrolment
in Municipal
Election
Roll necessary
for
elected
councillor.
Representative
of an
Association.

³[13A. A person shall not be qualified to be elected a councillor unless he is enrolled in the Municipal Election Roll :

Provided that if any company, body corporate, or other association of individuals is enrolled in the Municipal Election Roll, any one person

¹The words “ Provincial Government ” were substituted for the words “ Governor in Council ” by the Adaptation of Indian Laws Order in Council.

²The words, figure and brackets “ of sub-section (1) ” were inserted by Bom. 12 of 1931, s. 2 (ii).

³Section 13A was inserted by s. 4 of the Bombay District Municipal Amendment Act 1914 (Bom. 8 of 1914).

duly authorised in this behalf to represent such association shall be deemed to be qualified to be elected a councillor.]

14. (1) (a) Nothing in the ¹[four] sections last preceding shall apply to any permanent municipal district at a hill-station, or to any permanent municipal district to which, owing to the smallness of such district, or to the backward state or indifference of its inhabitants, or for other such exceptional reason, the ²[Provincial Government] shall, in a notification setting forth such reasons and published in the ³[*Official Gazette*], at any time declare the provisions of the said sections to be unsuitable.

Constitu-
tion of
Municipalities in
exceptional
cases.

(b) In any such municipal district the Municipality shall consist either entirely of nominated councillors or partly of nominated and partly of elected councillors, in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions, as the ²[Provincial Government] in the notification published under clause (a), or in any subsequent notification published as aforesaid, shall think fit to prescribe.

(c) It shall be competent to the ²[Provincial Government] at any time to alter or rescind any notification issued by ⁴[it] under this section; and in the event of any notification under clause (a) being rescinded, the Municipality affected thereby shall, from a date to be fixed in this behalf by the ²[Provincial Government], be constituted in accordance with the ¹[four] sections last preceding.

(2) The powers and duties conferred and imposed by this Act on Municipalities shall, in a periodical municipal district, be respectively exercised and discharged by a neighbouring Municipality nominated in this behalf by ⁵[the Provincial Government], or by a Municipality specially constituted for the time being and consisting of such councillors nominated in such manner as the ²[Provincial Government] directs.

Periodical
municipal
districts.

(3) If in any periodical municipal district, any tax has been or shall have been imposed, or any rule or by-law has been or shall have been made, under the provisions of this Act or any Act hereby repealed, such tax, unless and until it has been modified, suspended or abolished, shall be leviable, and such rule or by-law, unless and until it has been altered or rescinded, shall have effect, in such district, throughout each recurring season during which the district is, by virtue of a declaration under section 6, a periodical municipal district.

Taxes, rules
and by-laws
in periodical
municipal
districts.

¹ This word was substituted for the word "three" by s. 2 and Sch. I of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The words "*Official Gazette*" were substituted for the words "Bombay Government Gazette" by *ibid.*

⁴ The word "it" was substituted for the word "him" by *ibid.*

⁵ The words "the Provincial Government" were substituted for the word "Governor" by *ibid.*

General
disqualifica-
tions for
becoming a
councillor.

(3) *Municipal Councillors.*

15. (1) No person may be a councillor—

¹(a) who

(i) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired ;

or

(ii) has been removed from office under section 16, unless he has, by an order which the ²[Provincial Government] is hereby empowered to make, ³[it] shall think fit, in this behalf, been relieved from the disqualification arising on account of such sentence or removal from office, or

(b) who is an uncertificated bankrupt or an undischarged insolvent,

or

(c) who is less than twenty-one years of age, * * * * *

or

(d) who is a Judge ;

and no person

(e) who is a subordinate officer or servant of a Municipality, or

(f) who, save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a Municipality, or in any contract or employment with or under, or by, or on behalf of, a Municipality,

may be a councillor of such Municipality :

Provided that a person shall not be deemed to have incurred such disqualification or to have any share or interest in any such work or in any such contract or employment, by reason only of his—

(i) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same,

(ii) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Municipality, or

(iii) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Municipality may be inserted, or

¹ Clause (a) was substituted for the original clause by Bom. 15 of 1925, s. 2.

² The word " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The word " it " was substituted for the word " he " by *ibid.*

⁴ The words " or who is of the female sex," were repealed by Bom. 4 of 1924, s. 2,

(iv) holding a debenture or being otherwise interested in any loan raised by or on behalf of the Municipality, or

(v) being professionally engaged on behalf of the Municipality as a legal practitioner, or

¹[(vi) having a share or interest in the occasional sale to the Municipality of any article in which he regularly trades, or in the purchase from the Municipality of any article, to a value in either case not exceeding in any official year five hundred rupees, or such higher amount not exceeding two thousand rupees as the Municipality with the sanction of ²[the Provincial Government] may fix in this behalf, or]

¹[(viA) having a share or interest in the occasional letting out on hire to the Municipality, or in the hiring from the Municipality, of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the Municipality with the sanction of ²[the Provincial Government] may fix in this behalf, or]

(vii) being a party to any agreement made with the Municipality under the provisions of ³[section 71] or of proviso (a) to sub-section (I) of section 156.

(2) If any councillor during the term for which he has been elected or appointed—

Disabilities
from
continuing a
councillor.

(a) becomes disqualified under sub-section (I), or

(b) acts as a councillor in any matter—

(i) in which he has directly, or indirectly, by himself or his partner, any such share or interest as is described in clause (i), (ii), (iii), (vi) or (vii) of the proviso to sub-section (I), or

(ii) in which he is professionally interested on behalf of a client, principal or other person, or

(c) departs beyond the limits of the presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(d) by becoming a salaried ⁴[servant of the Crown] causes the number of nominated commissioners who are salaried ⁴[servants of the Crown] to exceed the proportion prescribed in the proviso of sub-section (I) of section 10, or

¹ These provisos were substituted for the original proviso by s. 5 (2) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ This word and figures were substituted for the word and figures "section 73" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

⁴ The words "servant of the Crown" and "servants of the Crown" were substituted for the words "servant of Government" and "servants of Government" respectively by the Adaptation of Indian Laws Order in Council.

¹[(e) not being a president or vice-president or a salaried ²[servant of the Crown], absents himself during four successive months from the meetings of the Municipality, except with the leave of the municipality,]

³[(f) fails to pay any arrears of any kind due by him to the municipality within three months after a special notice in this behalf has been served upon him];

he shall be disabled from continuing to be a councillor and his office shall become vacant.

Powers of Provincial Government and of the Commissioner to decide whether vacancy has occurred.

(3) If any question or dispute arises whether a vacancy has occurred under this section, the orders of the ⁴[Provincial Government] in the case of City Municipalities, and of the Commissioner in other cases, shall be final for the purpose of deciding such question or dispute.

Resignation.

⁵[15A. Any councillor may resign his office by giving notice in writing to that effect to the president, and the president may resign his office by giving notice in writing to that effect to the Commissioner.]

Liability to removal from office.

16. The ⁴[Provincial Government] ⁶[in the case of City Municipalities, and the Commissioner in other cases], if ⁷[it or he] thinks fit, on the recommendation of the Municipality, may remove any councillor elected or appointed under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a councillor.

Term of office.

17. ⁸(I) Councillors nominated or elected at a general election under this Act shall, save as provided in the next following section, or unless they become in the meantime disabled, or are removed from office under section 16, or section 179, hold office for a term of three years, extensible by order of the Commissioner to a term not exceeding in the aggregate four years, if on any occasion the Commissioner shall think fit, for reasons which shall be notified together with the order in the ⁹[Official Gazette], so to extend the same.

¹ This clause was substituted for the original clause by section 5 (3) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words "servant of the Crown" were substituted for the words "servant of Government" by the Adaptation of Indian Laws Order in Council.

³ Clause (f) was inserted by Bom. 12 of 1931, s. 2 (iii).

⁴ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁵ Section 15A was inserted by s. 6 of the Bombay District Municipal (Amendment) Act, 1914 (Bom. 8 of 1914).

⁶ These words were inserted by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

⁷ The words "it or he" were substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

⁸ Section 17 was renumbered as section 17 (I) by Bom. 26 of 1930, s. 2 (I).

⁹ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

¹[Provided that before such order is made the Commissioner shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal district concerned.]

²[(2) (a) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present; and]

(b) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.

18. In the event of the death, resignation, disqualification, disability or removal of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or appointed would have held it if the vacancy had not occurred. Casual vacancies how to be filled up.

19. A person who has already been elected or appointed a councillor on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment. Re-eligibility of councillors.

20. The names of all councillors finally elected to any Municipality, as well as the names of the nominated councillors, if any, appointed thereto, shall be published, as soon as conveniently may be, in the ³[*Official Gazette*]. Publication of names of councillors in the Official Gazette.

(4) *Municipal Elections.*

21. No person who is less than twenty-one years of age shall be entitled to vote at any municipal election. General disqualifications of voters.

22. (1) If the validity of any election of a councillor is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held. Determination of validity of elections.

¹ This proviso was added by Bom. 26 of 1930, s. 2 (1).

² Sub-section (2) was inserted by *ibid.*, s. 2 (2).

³ The words "*Official Gazette*" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

Powers of
Judge
holding
inquiry.

(2) ¹[An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by the ²[Provincial Government] either specially for the case or for such cases generally, and such Judge] may, after such inquiry as he deems necessary, and subject to the provisions of sub-section (3), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses, and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

³(2A) All applications received under sub-section (1)—

(a) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge; and

(b) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward or a public body or association constituted or entitled to elect councillors.

(2B) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (a) any application to be ^{v of} compromised or withdrawn or (b) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive. 1908.

Declaration
in case of
corrupt
practice
by a
candidate.

(3) (a) The Judge, if satisfied that a candidate has, within the meaning of sub-section (4), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election, and of such fresh election as may be held under sub-section (2), and shall set aside the election of such candidate if he has been elected.

¹ These words were substituted for the words "The District Judge or such other Judge as may be appointed by the Governor in Council on this behalf" by s. 5 (2) of the Bombay Municipal and Local Boards (Amendment) Act, 1917 (Bom. 6 of 1917).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ Sub-sections (2A) and (2B) were inserted by Bom. 14 of 1936, s. 2 (1).

(b) If in any case to which clause (a) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected :

Scrutiny of votes and declaration in other cases.

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(4) A person shall be deemed to have committed a corrupt practice within the meaning of the last preceding sub-section,

What is a corrupt practice.

(i) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury, to any person,
or,

(ii) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Candidate when deemed to have committed corrupt practice.

Explanation.—A “promise of individual profit” includes a promise for the benefit of the person himself, or of any one in whom he is interested. It does not include a promise to vote for or against any particular municipal measure.

Promise of individual profit.

(5) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (c) ¹[of sub-section (I)] of section 11, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Mere irregularities and informalities not to invalidate election.

(6) If the Judge sets aside an election under clause (a) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal district for a term of years not exceeding seven, and the Judge’s decision shall be conclusive : provided, however, that such person may by an order which the ²[Provincial Government] is hereby empowered to make

Disqualification of candidate for corrupt practice.

¹ The words, figure and brackets “ of sub-section (I) ” were inserted by Bom. 12 of 1931. s. 2 (ii).

² The words “ Provincial Government ” were substituted for the words “ Governor in Council ” by the Adaptation of Indian Laws Order in Council.

if ¹[it] shall think fit, in that behalf, be at any time relieved from such disqualification.

Corrupt
practices :
criminal
offences and
procedure.

²[22A. (1) (a) Whoever in any election under this Act, directly or indirectly, by himself or by any other person on his behalf, shall, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offer or give any money or valuable consideration or hold out any promise of individual profit or hold out any threat of injury to any person, and

(b) whoever shall give, procure, or abet the giving of a vote in the name of a voter, who is not the person giving such vote,

shall be liable to a fine not exceeding two hundred rupees for every such offence.

(2) Whoever, being qualified to vote at any election under this Act or claiming to be so qualified, accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person any money or valuable consideration or any individual profit as a motive or reward for giving or forbearing to give his vote in any such election shall be liable to a fine not exceeding one hundred rupees for every such offence.

Explanation.—In sub-section (1) and sub-section (2) “individual profit” includes a benefit accruing to the person himself or to any one in whom he is interested. It does not include a promise to vote for or against any measure which may come before a Municipality for consideration.

(3) Every person convicted under sub-section (1) or sub-section (2) shall; for such period not exceeding seven years from the date of the conviction as the Court may direct, be disqualified from voting at any municipal election or at any election to a local board constituted under the ³Bombay Local Boards Act, 1884, and from being a councillor in any municipal district or a member of any such local board.

Bom
I of
1884

(4) An offence under this section shall not be triable by a Criminal Court inferior to that of a Magistrate of the first class and shall not be triable in a summary way.

(5) No Court shall take cognizance of any offence under this section except on the complaint of the Judge who has held an inquiry under section 22, or before whom such inquiry is pending.

¹ The word “it” was substituted for the word “he” by the Adaptation of Indian Laws Order in Council.

² Section 22A was inserted by s. 2 of the Bombay Municipal and Local Boards (Amendment) Act, 1917 (Bom. 6 of 1917).

³ See now the Bombay Local Boards Act, 1923 (Bom. 6 of 1923).

(6) No prosecution for an offence under this section shall be instituted except within the six months next after the date of the declaration of the result of the election.

(7) An appeal shall lie to the Court of Session against any sentence or order passed by a Magistrate under sub-section (1), sub-section (2) or sub-section (3).]

(5) *Presidents and Vice-Presidents.*

23. (1) Every Municipality shall be presided over by a president who shall be selected from among the councillors. Selection of president.

(2) Every president shall be either—

(a) appointed by the ¹[Provincial Government] by name ; or

(b) an *ex-officio* president, that is to say, a person executing the functions of any office which the ¹[Provincial Government] from time to time notifies in this behalf ; or President how appointed or when to be elected.

(c) if the ¹[Provincial Government] so directs, elected by the Municipality.

(3) There shall be a vice-president for every Municipality elected by the councillors from among their number, but if the president is appointed by the ¹[Provincial Government] or is president *ex-officio*, the result of the election shall, if, the ¹[Provincial Government] by general or special order from time to time so directs, be subject to the approval of the ¹[Provincial Government], or of the Commissioner. Election of vice-president, subject in certain cases to confirmation.

(4) When an office has been notified under clause (b) of sub-section (2), the person from time to time executing the functions of that office shall be and shall continue to be president, unless and until such notification is altered or rescinded by the ¹[Provincial Government.] Effect of notification of *ex-officio* president.

(5) Except in the case of a salaried ²[servant of the Crown] who is either an appointed or an *ex-officio* president, every president, who for a period exceeding three months, and every vice-president who for a period exceeding fifteen days, shall absent himself from the municipal district in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted— Consequences of absence of president or vice-president without leave.

(a) by the ³[Commissioner], in the case of a president appointed under clause (a) of sub-section (2),

(b) by the Municipality, in the case of an elected president or of a vice-president :

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " servant of the Crown " were substituted for the words " servant of Government " by *ibid.*

³ This word was substituted for the words " Governor in Council " by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

Provided that such leave to a vice-president shall be subject to the approval

(i) of the ¹[Provincial Government], in the case of a vice-president elected subject to the approval of the ¹[Provincial Government], or

(ii) of the Commissioner, in the case of a vice-president elected subject to the approval of the Commissioner.

Limit to grant of leave, and arrangements pending absence of vice-president.

(6) Leave under the last preceding sub-section shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section a councillor shall be elected, subject to the conditions to which the election of the vice-president so absenting himself was subject, to perform all the duties and exercise all the powers of a vice-president during the period for which such leave is granted.

Liability of president and vice-president to removal and term of office.

(7) Every president and every vice-president shall be removable from his office as such president or vice-president by the ¹[Provincial Government] for misconduct, or neglect of or incapacity to perform his duty, and the term of office of every president, and of every vice-president, shall cease on the expiry of his term of office as councillor.

President and vice-president to continue to carry on certain duties until their successors take over charge.

²(7A) On the expiry of the term of office of a municipality the president and vice-president shall continue to carry on the current administrative duties of their offices until such time as a new president and vice-president shall have been appointed or elected and shall have taken over charge of their duties :

Provided that ³[on the constitution of a new municipality after the general election], a meeting for the election of a new president shall be called by the president of the retiring municipality. The president of the retiring municipality shall preside at such meeting and the new municipality shall then elect its own chairman for that meeting. In case of an equality of votes the result of the election of the chairman shall be decided by lot to be drawn in the presence of the president of the retiring municipality in such manner as he may determine. The meeting shall then proceed to elect the new president.

⁴(7B) On the dissolution of a municipality otherwise than on the expiry of its term of office and after a general election or on the re-establishment of a municipality under section 179 after its supersession or when a municipality is constituted under this Act for the first time,

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² Sub-section (7A) was inserted by Bom. 26 of 1930, s. 3 (a).

³ These words were substituted for the words " in the case of a new municipality constituted under this Act " by Bom. 12 of 1931, s. 2 (iv) (a).

⁴ Sub-section (7B) was inserted by *ibid.*, s. 2 (iv) (b).

the Collector shall call a meeting for the purpose of an election under clause (c) of sub-section (2) and shall appoint a person to preside at such meeting until the municipality elects its own chairman for that meeting. In case of an equality of votes the result of the election of the chairman shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. The meeting shall then proceed to elect the new president.

(8) In the event of the death, resignation or removal from office of a president, other than an *ex-officio* president, or of a vice-president, or of his becoming incapable of acting in such office or having ceased to be a councillor under sub-section (2) of section 15, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up by the appointment or election, as the case may be, of some other councillor thereto.

¹(9)***

²(10) ³[Except in the cases provided for in sub-section (7B)] when the president and vice-president are unable or for any reason fail to call a meeting for the purpose of an election under clause (c) of sub-section (2), or under sub-section (8), within fifteen days from the commencement of the term or the occurrence of the vacancy the Collector may exercise the powers of the president for the purpose of calling such meeting.

⁴23A. (1) Except as in this Act otherwise expressly provided the municipal government of a municipal district vests in the Municipality.

(2) In a municipal district for which there is a Municipal Commissioner the executive power for the purpose of carrying out the provisions of this Act vests in the Municipal Commissioner subject, wherever it is in this Act expressly so directed, to the approval or sanction of the Municipality and subject also to all other restrictions, limitations and conditions imposed by this Act.

24. (1) It shall be the duty of the president of a Municipality to—

(a) preside, unless prevented by reasonable cause, at all meetings of the Municipality, and subject to the provisions of the rules for the time being in force under clause (a) of section 46 to regulate the conduct of business at such meetings ;

¹ Sub-section (9) was repealed by Bom. 26 of 1930, s. 3 (b).

² Sub-section (10) was substituted for the original sub-section by *ibid.*, s. 3 (c).

³ These words were inserted by Bom. 12 of 1931, s. 2 (iv) (c).

⁴ Section 23A was inserted by s. 7 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(b) watch over the financial and executive administration of the Municipality, and, subject to the rules of the Municipality at the time being in force, to perform such executive functions as may be performed by or on behalf of the Municipality over which he presides ;

(c) exercise supervision and control over the acts and proceedings of all officers and servants of the Municipality in matters of executive administration and in matters concerning the accounts and records of the Municipality ; and, subject to the rules of the Municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances ;

(d) furnish to the Collector, or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the Municipality and any extract from the minutes of the proceedings of the Municipality or of any committee or other document or thing which the Collector from time to time calls for under section 173 :

Functions of Municipal Commissioner.

¹[Provided that in a municipal district for which there is a Municipal Commissioner, the duties and powers of the president under clauses (b), (c) and (d) of this sub-section shall, subject to the provisions of this Act and save where it is otherwise expressly provided in this Act, be performed and exercised by such Municipal Commissioner.]

President in what cases to have only a casting vote.

(2) When the president of a Municipality is a salaried ²[servant of the Crown], and is either an *ex-officio* president or has been appointed to be president by the ³[Provincial Government], he shall not vote upon any questions which come before such Municipality for decision unless there is an equality of votes of the other councillors present for and against the proposition under consideration, in which case he shall have a casting vote.

Functions of vice-president.

25. It shall be the duty of the vice-president of a Municipality—

(a) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the Municipality and he shall when so presiding exercise the same authority as is vested in the president under ⁴[clause (a) of] sub-section (1) of section 24 ;

¹ This proviso was added by s. 8 of the Bombay District Municipal (Amendment) Act, 1914 (Bom. 8 of 1914).

² The words "servant of the Crown" were substituted for the words "servant of Government" by the Adaptation of Indian Laws Order in Council.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

⁴ These words, letter and brackets were inserted by s. 1 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

(b) to exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him; and

(c) pending the succession, appointment, or election of a president, or during the absence of a president on leave, to exercise the powers and perform the duties of the president.

CHAPTER III.

CONDUCT OF BUSINESS.

(1) *Municipal meetings.*

26. The following provisions shall be observed with respect to the meetings of a Municipality :—

Provisions in regard to meetings of a Municipality.

(1) Except in periodical Municipalities and in Municipalities at hill-stations, there shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. In Municipalities at hill-stations there shall be held one ordinary general meeting on or about the tenth day of April, and not less than one other ordinary general meeting for the purpose aforesaid, in each year. In every periodical Municipality there shall be such and so many ordinary general meetings, as the president thereof shall from time to time determine. It shall be the duty of the president to fix the dates for all ordinary general meetings.

Ordinary general meetings.

(2) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors, call a special general meeting.

Special general meetings.

(3) Seven clear days' notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be circulated to the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal district. The said notice shall include any motion or proposition which a councillor shall have given written notice not less than ten days previous to the meeting of his intention to bring forward thereat, and, in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting.

Notice to be given of meetings.

Municipal meetings to be held at municipal office.

(4) Every meeting of a Municipality shall, except for reasons to be specified in the notice convening the meeting, be held in the building used as a municipal office by such Municipality.

Every meeting how presided over in the absence of the president and the vice-president.

(5) Every meeting shall, in the absence of both the president and vice-president, be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (a) of sub-section (1) of section 24.

Meeting must ordinarily be open to the public.

(6) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the Municipality such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

Number of councillors required to form a quorum.

(7) If in a City Municipality less than one-third, and in any other Municipality less than one-half, of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix, and a notice of such adjournment shall be fixed up in the municipal office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

What business to be transacted at meetings and order of business how to be settled.

(8) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been mentioned in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business that may be transacted or any proposition that may be discussed at any meeting in accordance with this sub-section, shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business, or to any particular proposition shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

Minutes of proceedings to be kept.

(9) In every City Municipality there shall be kept in English, and, if the Municipality so resolve, in the vernacular language also, and in every other Municipality there shall be kept in the vernacular language, and if the Municipality so resolve in English, either in lieu of or in addition to the vernacular, minutes of the names of the

councillors and of the ¹[servants of the Crown], if any, present under the provisions of sub-section (14), and of the proceedings at each general meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the presiding authority of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district.

(10) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority, save as provided in sub-section (2) of section 24, having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (a) of section 46.

All questions to be decided by a majority of votes.

(11) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

Adjournments of meetings.

(12) No resolution of a Municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors, and passed at the general meeting whereof notice shall have been given, fulfilling the requirements of sub-section (3) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting, and the motion or proposition for the modification or cancellation of such resolution.

Modification and cancellation of resolutions.

(13) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed for the Municipality by a Government Executive Engineer, or to any educational matter, shall be transacted at any meeting of a Municipality unless, at least fifteen days previous to such meeting, a letter has been addressed to the said Executive Engineer or to the Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(14) (a) The members of the Sanitary Board, and the Executive Engineer, Educational Inspector and Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a

Certain servants of the Crown may attend meetings of Municipalities.

¹ The words "servants of the Crown" were substituted for the words "Government officers" by the Adaptation of Indian Laws Order in Council.

Municipality within the district, shall have the right of being present at any meeting of such Municipality, and, with the consent of the Municipality, each of them may take part at such meeting in the discussion or consideration of any question, on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such Municipality :

Provided that the said officers shall not, unless they are members of the Municipality, be entitled to vote upon any such question.

Municipalities may require the presence of the said servants of the Crown at their meetings.

(b) If it shall appear to a Municipality that the presence of the Executive Engineer, Educational Inspector, Deputy Sanitary Commissioner or Civil Surgeon of or in the district, is desirable for the purpose aforesaid at any future meeting of such Municipality, it shall be competent to such Municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat ; and the said officer unless prevented by sickness, or other reasonable cause, shall be bound to attend such meeting :

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative, instead of appearing thereat in person.

Right of Municipal Commissioner to be present and to speak at municipal meetings.

¹[26A. A Municipal Commissioner shall have the same right of being present at a meeting of the Municipality and of taking part in the discussions thereat as a councillor and with the consent of a majority of the councillors present, ascertained by a show of hands, without discussion, may at any time make a statement or explanation of facts, but he shall not be at liberty to vote upon, or to make any proposition at such meeting.]

(2) Committees.

Managing committees.

27. (1) In every Municipality there shall be a committee called the managing committee, consisting of such number of councillors not exceeding nine or less than four, as may have been elected for a period not exceeding one year, in accordance with rules under clause (a) of section 46 :

Provided that in any municipal district where there is a Chamber of Commerce, such Chamber shall, if the ²[Provincial Government] so directs be entitled to elect one councillor to be a member of the managing committee.

Powers of managing committees.

(2) The managing committee shall, subject

(i) to any limitations prescribed by the Municipality specially in this behalf and generally by rules made under clause (a) of section 46, and

¹ Section 26A was inserted by s. 9 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council,

(ii) to the provisions of Chapter XIII ¹[and Chapter XIII A], exercise all the powers of the Municipality :

Provided that no managing committee shall exercise—

(a) any powers in connection with any school or educational institution in respect of which a committee is appointed under section 28, or

(b) any powers with which any committee appointed under section 29 is vested,

²[(c) any powers of the Pilgrim Committee appointed under section 27A.]

³[27A. (1) In every municipality notified by ⁴[the Provincial Govern- Pilgrim
ment] in this behalf there shall be a committee called the Pilgrim Com- Committee.
mittee consisting of three councillors of whom one shall be the president of the municipality and the other two shall be elected in accordance with rules made under clause (a) of section 46 and of three persons nominated by the Commissioner of whom not more than two may be salaried ⁵[servants of the Crown].

(2) The members of the Pilgrim Committee shall hold office for the term of office of the councillors and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section. In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the Commissioner. Such Committee shall consist of six persons nominated by the Commissioner and shall continue until the municipality is re-established, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or, in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is re-established.

(3) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (c) to section 51 and shall exercise the powers and perform the duties of the municipality in respect of the said fund, subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause (aa) of section 46.

(4) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(5) In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred ;

¹ These words, figures and letter were inserted by s. 10 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² This clause was added by Bom. 4 of 1930, s. 2 (i).

³ Section 27A was inserted by *ibid.*, s. 2 (ii).

⁴ The words " the Provincial Government " were substituted for the word " Govern- ment " by the Adaptation of Indian Laws Order in Council.

⁵ The words " servants of the Crown " were substituted for the words " servants of Government " by *ibid.*

(6) Section 36 shall not apply to the Pilgrim Committee; provided that the municipality shall have power, at any time, to call for any extract from any proceedings of the Pilgrim Committee, and for any return, statement of account or report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(7) The provisions of sections 170, 171 and 172 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget, follow the following procedure, namely:—

“ The Pilgrim Committee shall in sufficient time submit its annual budget and all alterations therein to the municipality for consideration, and, if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee, for reconsideration, either in whole or in part, together with any alterations which they may recommend, and if the Pilgrim Committee agrees to these alterations, the budget so altered shall be incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in dispute shall be referred by the municipality to the Commissioner, whose decision on such points shall be final.”

(8) The provisions of sections 173, 174, 175, 178 and 179 shall apply to a Pilgrim Committee, and in their application to a Pilgrim Committee the said sections shall be construed, so far as may be, as if for the word ‘municipality,’ occurring in the said sections the words ‘Pilgrim Committee’ were substituted, and as if the words “other than a city municipality in such taluka” occurring in sub-section (2) of section 173 were omitted.]

School
committees.

28. The Municipality may appoint, subject to such limitations as are prescribed by the rules for the time being in force under section 46 and subject also to the proviso contained in ¹[section 58], a committee consisting of such councillors as they think fit, for managing all or any primary or other schools vested in or maintained by the Municipality, or for conducting the business of the Municipality in respect of any educational institutions aided by the Municipality.

Other
executive
committees.

29. Subject to the limitations prescribed by the rules aforesaid, the Municipality may appoint, for a period not exceeding one year, any such committee or such or so many committees consisting of such councillors as they think fit for any purpose or respectively for any of the purposes, other than those specified in section 28, for which a managing committee may, under section 27, exercise the powers of a Municipality, and may invest each committee so appointed with such of the said powers as may be necessary or expedient for the fulfilment of the purpose for which it is appointed ²[not being, where a Pilgrim Committee is appointed, powers or duties referred to in section 27A];

¹ This word and figures were substituted for “section 59” by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

² These words, figures and letter were inserted by Bom. 4 of 1930, s. 2 (iii).

30. The Municipality may from time to time appoint such or so many other committees consisting of such councillors as they think fit, and may refer to such committees for inquiry and report, or for opinion, such special subjects relating to the purposes of this Act as the Municipality shall think fit, and may at any time discontinue, or alter the constitution of, any such committee. The Municipality may direct that the report of any such committee shall be made to the managing committee, instead of to the Municipality.

Consultative committees.

31. Notwithstanding anything contained in this Act, it shall be lawful for the Municipality from time to time, by a resolution supported by not less than one-half of the whole number of councillors, to appoint, as members of any committee under section 28, 29 or 30, any persons of either sex, who are not councillors, but who may in the opinion of such Municipality possess special qualifications for serving on such committee : provided that the number of persons so appointed on any committee shall not exceed one-third of the total number of the members of such committee.

When persons other than councillors may serve on committees.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall, * * * * * be applicable so far as may be to such persons.

Duties, etc., of such persons.

32. A vacancy occurring in a managing committee shall, as soon as possible, and a vacancy occurring in any other committee may be filled up by the election of a member from among the general body of councillors subject to the same provisions as those under which the member whose place is to be filled up, was elected. A councillor shall be eligible at any time for re-election as a member of any such committee notwithstanding that he has previously been a member of that committee.

Casual vacancies—re-eligibility.

33. (1) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

When chairman to be *ex-officio*.

²[Provided that in the case of a Pilgrim Committee the revenue officer of the highest rank who is a member of such committee shall be *ex-officio* chairman thereof.]

(2) The Municipality may appoint a chairman for every committee of which there is no *ex-officio* chairman.

When no *ex-officio* chairman, Municipality may appoint chairman.

(3) Every committee, of which there is an *ex-officio* chairman or a chairman appointed by the Municipality, shall, at each meeting which such chairman does not attend as chairman, appoint from its members a chairman for such meeting.

When *ex-officio* or appointed chairman does not attend meeting, committee may appoint chairman of meeting.

¹ The words " save as regards the disqualification on the ground of sex, " were repealed by Bom. 4 of 1924, s. 4.

² This proviso was added by Bom. 4 of 1930, s. 2 (iv).

If there is no chairman *ex-officio* or appointed by the Municipality, committee may appoint chairman.

(4) Every committee, of which there is no *ex-officio* chairman or chairman appointed by the Municipality, shall appoint from time to time its own chairman from among its own members.

Procedure at meetings.

34. (1) The provisions of sub-sections (4), (9), (10) and (14) of section 26 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a Municipality contained in those provisions, and as if for the word "Municipality", where it occurs in the proviso to clause (a) of sub-section (14) of section 26, there were substituted the word "committee":

¹[Provided that, notwithstanding anything to the contrary contained in sub-section (9) of section 26, committees may record their proceedings either in English or in the vernacular language, as they may think fit.]

Committees may meet when they think proper.

(2) Committees may meet and adjourn as they think proper, but the chairman of the committee may, whenever he thinks fit, and shall, upon the written request of the president of the Municipality or of not less than two members of a committee, call a special meeting of such committee.

Number of members required to form a quorum at committee meetings.

(3) No business shall be transacted at any committee meeting unless more than one-half of the members of the committee be present thereat.

Procedure by circular.

35. (1) Notwithstanding anything contained in the preceding section the chairman of the committee, whenever it appears to him unnecessary to convene a meeting, may, instead of so doing, circulate a written proposition of his own, or of any other member of the committee, or of any executive officer of the Municipality, for the observations and votes of the members of the committee.

Propositions when to be sent to servants of the Crown for remarks.

(2) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (13) of section 26, shall obtain thereupon the remarks, if any, which any ²[servant of the Crown], not a councillor, whose presence the Municipality would be entitled to require under the provisions of clause (b) of sub-section (14) of section 26, desires to record.

¹ This proviso was added by s. 11 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words "servant of the Crown" were substituted for the words "Government officer" by the Adaptation of Indian Laws Order in Council.

(3) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

Decisions how to be taken on propositions circulated; and how to be recorded.

(4) Every decision arrived at by the committee under this section shall be recorded in the minute-book kept under sub-section (9) of section 26.

(5) Notwithstanding anything in this Act contained, the [Commissioner] may by notification authorize the adoption by any Municipality specified in such notification not being a City Municipality, of the procedure prescribed by this section for the disposal of any business, whenever the president of such Municipality may deem it unnecessary to convene a general meeting for the purpose of such business.

Procedure by circular when applicable to other municipal business.

36. (1) Every committee shall conform to any instructions that may from time to time be given to them by the Municipality; the Municipality may, at any time, call for any extract from any proceedings of any committee, and for any return, statement or account or report concerning or connected with any matter with which any committee has been authorized or directed to deal, and every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

Subordination of committees to instructions of Municipality and compliance with requisitions of Municipality.

(2) Every order passed by a managing committee or by a committee appointed under section 28 or 29, other than orders under sub-section (3) of section 65, shall be subject to such revision, and open to such appeal as may be required or allowed in respect thereof by any rules of the Municipality for the time being in force under section 46.

Order subject to revision and appeal.

(3) *Delegations of powers to individuals.*

37. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the Municipality may be delegated in accordance with rules to be made by the Municipality in this behalf, to the president or to the vice-president, or to the chairman of the managing, school, or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on a chief officer in a City Municipality under Chapter XIII or on any committee by or under section 27, ²[27A], 28 or 29; and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein :

Powers, duties and functions may be delegated to officers whose expenses may be paid.

¹This word was substituted for the words "Governor in Council" by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

²The figures and letter "27A" were inserted by Bom. 4 of 1930, s. 2 (r).

¹[Provided that in a municipal district for which there is a Municipal Commissioner the powers or duties or executive functions under this Act or under any rule or by-law made hereunder conferred or imposed upon or vested in the Municipal Commissioner shall not be delegated save as provided in section 186-M.]

(4) *Validity of proceedings.*

Acts and proceeding of Municipality and committees not vitiated by disqualifications, etc., of members thereof.

38. (1) No disqualification of, or defect in the election or appointment of, any person acting as councillor, or as the president or presiding authority of a general meeting or as chairman of a committee appointed under this Act, shall be deemed to vitiate any act or proceeding of the Municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act.

Proceedings of meetings to be good and valid, until the contrary is proved.

(2) Until the contrary is proved, every meeting of the Municipality, or of a committee appointed under this Act, in respect of the proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held, and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute.

Vacancy not to affect Municipality's proceedings.

(3) During any vacancy in a Municipality or committee the continuing councillors or members may act as if no vacancy had occurred.

(5) *Joint transactions with other bodies.*

Joint committees of two or more Municipalities or other local bodies.

39. A Municipality may from time to time—

(a) join with any other Municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for an area notified under Chapter XIV, or with more than one such Municipality, board, authority or committee—

(i) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee; and

(ii) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by either or any of such bodies; and

¹This proviso was added by s. 12 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(iii) in framing and modifying rules for regulating the proceedings of any such committee relating to the purpose for which the committee is appointed; and

(b) enter, subject to the sanction of the ¹[Provincial Government], Agreement for joint levy of octroi. into an agreement with a Municipality, cantonment authority, ²[local board] or committee appointed for an area notified as aforesaid ³[or with a combination of any such bodies], regarding the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area ⁴* * * * subject to the control of the said bodies.

⁵[Explanation.—For the purpose of this clause, octroi duty includes a terminal tax.]

⁶[Where a municipality has requested the concurrence of any other local authority under the provisions of the preceding paragraph in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid; and such other local authority shall comply with such orders.]

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the ¹[Provincial Government], or of such officer as ²[it] appoints in this behalf, shall be final :

³[Provided that where] one of the local bodies concerned is a cantonment authority, any such decision shall be subject to the concurrence of the Central Government.]

(6) Contracts.

40. (1) Every Municipality shall be competent, subject to the ⁹[restriction] contained in sub-section (2), to lease, sell or otherwise trans- Competency of Municipality to lease, sell and contract; fer any moveable or immoveable property which may, for the purposes

¹The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

²The words "local board" were inserted by Bom. 14 of 1934, s. 2 (1) (i) (a).

³These words were inserted by *ibid.*, s. 2 (1) (i) (b).

⁴The words "comprising the districts" were deleted by *ibid.*, s. 2 (1) (i) (c).

⁵This Explanation was inserted by s. 2 of the Bombay District Municipal Amendment Act, 1920 (Bom. 3 of 1920).

⁶This paragraph was inserted by Bom. 14 of 1934, s. 2 (1) (ii).

⁷The word "it" was substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

⁸This proviso was inserted by *ibid.*

⁹This word was substituted for the word "restrictions" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

of this Act, have become vested in or been acquired by them, and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as they may consider necessary or expedient in order to carry into effect the said provisions and purposes.

subject in certain cases to sanction of Commissioner.

(2) In the case ¹[of every lease or sale of land under sub-section (1) of section 90 and] of every lease of immoveable property for a term exceeding seven years, and of every sale or other transfer, of any such property the previous sanction of the Commissioner is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(3) In the case—

(a) of a lease for a period exceeding one year, or of a sale or other transfer, or contract for the purchase of any immoveable property,

(b) of every contract which will involve expenditure, not covered by a budget grant,

(c) of every contract the performance of which cannot be completed within the official year current at the date of the contract,

the sanction of the Municipality by a resolution passed at a general meeting is required.

Sanction of Municipality when requisite in other cases;

(4) In the case of a contract for the purchase of moveable property, or for the sale of any moveable property belonging to a Municipality, if the expenditure which the purchase would involve, or the value of the property to be sold as estimated in the municipal accounts, exceeds

(a) in the case of a City Municipality, Rs. 500,

(b) in the case of any other Municipality, Rs. 250,

the sanction of the Municipality is required.

Sanction by committees and individuals empowered.

(5) In the case of every contract not otherwise provided for in the preceding sub-sections of this section the sanction of the managing committee, or of such other committee, or of such individual as under the provisions of this Act or of the rules for the time being in force thereunder, is empowered on this behalf, is required.

Mode of executing contracts.

(6) Every contract entered into, by or on behalf of a Municipality other than a contract to which sub-section (5) applies, shall be in writing, and shall be signed by the president or vice-president and two other councillors, and shall be sealed with the common seal of the Municipality. Every contract to which sub-section (5) applies shall be executed by the chairman of the managing committee, or by the chairman of such other committee, or by such other individual, as is empowered in that behalf in such manner and form as, according to the law for the time being in force, would bind such chairman or individual if such contract were executed by him on his own behalf.

¹ These words, figures and brackets were inserted by Bom. 26 of 1930, s. 4.

(7) No contract shall be binding on a Municipality in any case referred to in this section, unless all such requirements as are specified in sub-section (2), (3), (4) or (5) in respect of such case are fulfilled, and unless it is executed in accordance with the provisions of sub-section (6) applicable thereto.

Invalidity of contracts unless requirements of this section are fulfilled.

¹[(8) The provisions of this section shall be subject to the provisions of Chapter XIII A.]

This section to be subject to the provisions of Chapter XIII A.

(7) *Compulsory acquisition of land.*

of 894. 41. When there is any hindrance to the permanent or temporary acquisition, upon payment, of any land or building required for the purposes of this Act, the ²[Provincial Government] may, after obtaining possession of the same for ³[the Provincial Government] under ⁴Land Acquisition Act, 1894, or other existing law, vest such land or building in the Municipality on their paying the compensation awarded, and on their repaying to ³[the Provincial Government] all costs incurred by ³[the Provincial Government] on account of the acquisition.

Recourse to the Land Acquisition Act, 1894.

(8) *Liabilities of councillors, officers and servants.*

42. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through or been facilitated by, gross neglect of his duty as a councillor, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property ⁵[of the Crown] :

Councillors to be held responsible for misapplied funds.

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred, by, or on behalf of, the Municipality ; the funds at the disposal of each Municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Municipal funds ordinarily liable for all costs and expenses incurred.

¹ Sub-section 8 was added by s. 13 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The words " the Provincial Government " were substituted for the word " Government " by *ibid.*

⁴ Central Acts.

⁵ The words " of the Crown " were substituted for the words " of Government " by the Adaptation of Indian Laws Order in Council.

Officer or servant of any Municipality not to be interested in any contract with such Municipality.

43. (1) Any person who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a Municipality, or in any employment with, under, by or on behalf of a Municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such Municipality.

Effect of acquiring such interest.

(2) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant and his office shall become vacant.

Saving clause.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, under, by or on behalf of a Municipality as under clauses (ii) and (iv) of the proviso to sub-section (1) of section 15 it is permissible for a person to have without his being thereby disqualified for being a councillor.

Penalty for councillor, officer or servant of a Municipality being interested in any contract, etc., with that Municipality.

44. (a) Any councillor, who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, under, by or on behalf of a Municipality of which he is a member, not being a share or interest such as, under section 15, it is permissible for a person to have, without being thereby disqualified for being a councillor, and

(b) any municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with under, by or on behalf of a Municipality of which he is an officer or servant not being a share or interest such as, under clauses (ii) and (iv) of the proviso to sub-section (1) of section 15, it is permissible for a person to have without being thereby disqualified for being a councillor,

shall be liable, on conviction before a Criminal Court, to a fine which may extend to five hundred rupees.

Councillors, etc., to be deemed public servants.

145. (1) Every municipal commissioner, councillor, officer or servant, and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee for the levy of any municipal tax shall be deemed to be a public servant within the meaning of section of 21 of the Indian Penal Code. XLV
1860.

(2) The word "Government" in the definition of 'legal remuneration', in section 161 of that Code shall, for the purposes of sub-section (1) of this section, be deemed to include a municipality.

¹ Section 45 was substituted for the original section by Bom. 26 of 1930, s. 5.

CHAPTER IV.

RULES AND BY-LAWS.

46. Every Municipality shall, as soon as conveniently may be after the constitution thereof, ¹[and subject to the provisions of Chapter XIII A,] make and may from time to time alter or rescind rules, but not so as to render them inconsistent with this Act, Municipalities to make rules;

(a) regulating the conduct of their business and the delegation of any of their powers or duties and, subject to the provisions of ²[sections 27 and 27-A], the appointment and constitution of committees; regulating the conduct of business;

³(aa) prescribing the limitations and restrictions subject to which the Pilgrim Committee shall exercise the powers and perform the duties of the municipality in respect of the pilgrim fund;

(b) determining

(i) the executive functions to be performed by the president, vice-president, the chairman of any committee, and, subject to the provisions of Chapter XIII, in City Municipalities by the chief officer, ⁴[and, subject to the provisions of Chapter XIII A, by the Municipal Commissioner] and the delegation of any of their powers or duties to such persons; fixing the functions of the president and the establishment;

(ii) the staff of officers and servants to be employed by the Municipality and the respective designations, duties, salaries, fees and absentee or other allowances of such officers and servants, and the powers and duties delegated to them under section 37;

(c) generally for the guidance of their officers and servants in all matters relating to the municipal administration; for general guidance of municipal servants;

(d) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security; fixing the amount of the security to be furnished;

¹ These words, figures and letter were inserted by s. 14 (1) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words, figures and letter "sections 27 and 27-A" were substituted for the word and figures "section 27" by Bom. 4 of 1930, s. 2 (vi) (1).

³ Clause (aa) was inserted by *ibid*, s. 2 (vi) (2).

⁴ These words, figures and letter were inserted by s. 14 (2) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

determining mode of appointing etc., municipal servants ; delegating power to appoint, etc. ;

(e) subject to the provisions of section 184, determining the mode and conditions of appointing, punishing, or dismissing any ¹*officer or servant, and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any ¹*officer or servant ;

granting leave to municipal servants ;

(f) regulating the grant of leave to officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave ;

fixing pensions, etc. ;

(g) regulating the period of service of all officers and servants, and determining the conditions under which such officers and servants, or any of them, shall receive pensions, gratuities or compassionate allowances on retirement, or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty ;

contributing to provident fund ;

(h) authorizing the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules to any pension or provident fund which may be established by the Municipality or with the approval of the Municipality, by the said officers and servants,

prescribing the taxes, etc., to be levied for municipal purposes ;

(i) prescribing, subject to the provisions of Chapter VII, the taxes to be levied in the municipal district for municipal purposes, the grounds on which exemptions are to be recognized, the conditions on which and the extent to which remissions may be granted, and the system on which refunds are to be allowed and paid, in respect of such taxes, and the limits of the charges or payments to be fixed in lieu of any tax under section 71, and the fees to be charged for licenses or permissions granted under section 70, and the times at which and the mode in which the same shall be levied or recovered or shall be payable, and prescribing the fees for notices demanding payments due on account of any tax, and for the ²[issue and] execution of warrants of distress, and the rates to be charged for maintaining any livestock distrained, and designating the persons authorized to receive payment of any sums so leviable ;

¹ The word "such" was repealed by s. 2 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

² The words "issue and" were inserted by Bom. 12 of 1931, s. 2 (v) (a).

(j) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable, and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the managing committee : for writing off amounts due and remitting fees.

Provided that—

(a) No rule made, or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved, in the case of City Municipalities, by the ¹[Provincial Government], or in other cases by the Commissioner. ²[Provided that, in the case of City Municipalities, the approval may be given by the Commissioner, instead of by ³[the Provincial Government], in respect of rules framed under clause (b) (ii), subject to the condition that any such rules relating to Chief Officers, Health Officers or Engineers, or to the salaries, fees or absentee or other allowances of such officers shall require the sanction of ³[the Provincial Government].]

Approval required to rules.

(b) If an officer serving or having served under a Municipality has been or is transferred from or to the service of the ⁴[Crown], or is partly employed by the ⁴[Crown] and partly by a Municipality, the Municipality shall ⁵[make such contributions to his pension and leave allowances as may be required, by the conditions of his service under the Crown, to be made by him or on his behalf.]

Proviso as to officers transferred from or to the service of the Crown.

(c) The Municipality shall not, unless with the assent of ⁶[the Government concerned], dispense with the services of any such officer transferred from the service of ⁷[the Crown] to the service of the Municipality or employed partly by ⁷[the Crown] and partly by the Municipality, or finally dismiss from the service of the Municipality any officer transferred from the service of the Municipality to the service of ⁷[the Crown], without giving ⁶[the Government concerned] six months' previous notice.

Notice required in certain cases of dismissal.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² These words, figures and letter were added by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

³ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁴ The word "Crown" was substituted for the word "Government" by *ibid.*

⁵ These words were substituted for the words "contribute to his pension and leave allowances to the extent required by the rules in force for the time being, made by the Governor in Council in this behalf" by *ibid.*

⁶ The words "the Government concerned" were substituted for the word "Government" by *ibid.*

⁷ The words "the Crown" were substituted for the word "Government" by *ibid.*

Discretionary power to make rules.

¹[46-A. A Municipality may, at their discretion, make rules, not inconsistent with this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of their officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances :

Provided that no rule made, or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved, in the case of City Municipalities, by the ²[Provincial Government], or in other cases by the Commissioner.]

Power to suspend, reduce or abolish any existing tax.

47. Subject to the requirements of clause (a) of the proviso to section 46, every Municipality may, except as otherwise provided in clause (b) of the proviso to section 74, at any time for any sufficient reason, suspend, reduce or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax under the provisions of clause (i) and of the first clause of the proviso to section 46.

Power to make by-laws :

48. (1) Every Municipality may from time to time, with the previous sanction, in the case of City Municipalities, of the ³[Provincial Government] or in other cases of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this act,

for markets and slaughter-houses, etc., etc. ;

(a) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein ; and for fixing the rents and other charges to be levied, for the use of any of them which belong to the Municipality ;

for licensing, regulating and inspecting certain businesses ;

(b) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the Municipality,

(i) as a slaughter-house,

(ii) as a market or shop for the sale of animals intended for human food, or of meat, or of fish, or as a market for the sale of fruit or vegetables,

(iii) for any of the purposes mentioned in sub-section (1) of section 151,

and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom ;

¹ Section 46A was inserted by Bom. 20 of 1929, s. 2.

² The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

³ The words " Provincial Government " were substituted for the words " Governor in Council " by *ibid.*

¹[(bb) prescribing the conditions on or subject to which, and the circumstances in which, and the areas or localities in respect of which, licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen or persons employed ;] for licensing the use of steam whistles, etc. ;

(c) prohibiting the stalling or herding of horses, camels, cattle, donkeys, sheep or goats, otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health ; regulating the stalling of cattle, etc. ;

(d) (i) for the inspection of milch-cattle ; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water-supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk-sellers ; for regulating dairies and cattle-sheds ;

(ii) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter ; milk-stores, etc. ;

²[(e) for the inspection of weights and measures under section 143 ;] for inspection of weights and measures ;

^{2 3}[(ee) for defining the standard weights and measures used within the municipal district ;] for defining standard weights and measures ;

(f) for the registration of births, deaths and marriages, ⁴[* * * *] within the municipal district and for enforcing the supply of such information as may be necessary to make such registration ⁵[* *] effective ; registration of births, etc. ;

(g) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead ; regulating the disposal of the dead ;

¹ This clause was inserted by s. 15 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² Clauses (c) and (ee) shall be deemed to be repealed in those areas only where Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932), has been brought into force vide s. 47 and Second Sch., Part II, of the said Act).

³ This clause was inserted by s. 3 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

⁴ The words " and the taking of a census " were omitted by the Adaptation of Indian Laws Order in Council.

⁵ The words " or census " were omitted by *ibid.*

for enforcing supply of information as to epidemics ;
for enforcing information as to liability to municipal taxation ;

(h) for enforcing the supply of information as to any cases of dangerous disease, and carrying out the provisions of sections 144 and 145 ;

(i) for enforcing the supply of such information by inhabitants of the municipal district as may be necessary to ascertain their respective liabilities to any tax imposed therein ;

octroi by-laws ;

(j) fixing octroi limits and stations ; providing for the exhibition of tables of octroi ; regulating, subject to any general or special orders which the ¹[Provincial Government] may make in this behalf, the system under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the municipal district ; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained, and the minimum amount for which any claim to refund may be made ;

for protecting water ;

(k) for conserving and preventing injury to sources and means of water-supply and appliances for the distribution of water, whether within or without the limits of the municipal district ; and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the Municipality or not ;

regulating public baths, etc.,

(l) regulating the use of public bathing and washing places within municipal limits ;

for conservancy.

(m) regulating sanitation and conservancy and the disposal of carcasses of dead animals ;

regulating structures and buildings ;

(n) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on, public streets or for projections over public streets and regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health ;

for providing for streets ;

(o) for preventing the erection of buildings without adequate provision being made for the laying out and location of streets ;

¹ The words " Provincial Government " were substituted for the words " Governor General in Council " by the Adaptation of Indian Laws Order in Council.

(p) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air ;

(q) in a City Municipality, prescribing the qualifications of surveyors or persons by whom plans required under section 96 are to be prepared, or of plumbers ; for licensing persons to be surveyors or plumbers, and fixing the fees chargeable for such licenses ; and for modifying the provisions of, or revoking such licenses ; and prohibiting any alterations or repairs or fittings to water or drainage-pipes or house-connections being carried out or made, except by such persons ;

(r) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals, and drainage or sewerage works of every description whether the property of the Municipality or not ;

(s) determining the information and plans to be required by the Municipality under sections 91 and 96 ;

(t) prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such machinery or other unwieldy objects as may be deemed likely to cause injury to the roadway, or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction of locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed, either generally in such by-laws, or in special licenses to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws ;

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibition shall have been posted up by the Municipality in conspicuous places at or near both ends of such street or portion of a street ;

(u) generally for the regulation of all matters relating to municipal administration.

And every Municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for the infringement of any such by-law.

¹[(1a) Every Municipality may, from time to time, with the previous sanction, in the case of city municipalities, of the Central Government, and in other cases of the Commissioner, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal district and for enforcing the supply of such information as may be necessary to make the census effective.]

Publication of drafts of proposed by-laws.

(2) Every Municipality shall, before making any by-law under this section, publish in such manner as shall in their opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the by-law receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified.

Objections and suggestions to be submitted to Central Government, Provincial Government or Commissioner as the case may be.

(3) When any by-law made by a Municipality is submitted to the ²[Central Government], ³[Provincial Government] or Commissioner for sanction, a copy of the notice published as aforesaid, and of every objection or suggestion so made, shall be submitted for the information of the ²[Central Government], ³[Provincial Government] or Commissioner along with the said by-law.

Rules and by-laws to be printed and sold.

49. The rules and by-laws for the time being in force shall be kept open for public inspection at the municipal office at all reasonable times, and printed copies thereof and of this Act in the vernacular language of the district, and in City Municipalities in English as well as in the vernacular, shall be kept on sale at cost price.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

Power to acquire and hold property.

50. (1) Every Municipality may acquire and hold property both moveable and immoveable, whether within or without the limits of the municipal district.

Property vested in the Municipality.

(2) All property of the nature hereinafter in this section specified, and not being specially reserved by the ³[Provincial Government] shall be vested in and belong to the Municipality, and shall, together with all other property, of what nature or kind soever, not being specially reserved by the ³[Provincial Government], which may become vested in the

¹ Sub-section (1a) was inserted by the Adaptation of Indian Laws Order in Council.

² The words " Central Government " were inserted by *ibid.*

³ The words " Provincial Government " were substituted for the words " Governor in Council " by *ibid.*

Municipality, be under their direction, management and control, and shall be held and applied by them as trustees, subject to the provisions and for the purposes of this Act; that is to say—

(a) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description.

(b) All public streams, tanks, reservoirs, cisterns, wells, springs aqueducts, conduits, tunnels, pipes, pumps and other water-works, and all bridges, buildings, engines, works, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well.

(c) All public sewers and drains, and all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any streets, and all works, materials and things appertaining thereto, as also all dust, dirt, dung, ashes, refuse, animal matter, or filth, or rubbish of any kind collected by the Municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(d) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(e) All lands transferred to them by the ¹[Crown], or by gift or otherwise, for local public purposes.

(f) All public streets, and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements and things provided for such streets.

²50A. (1) In any municipal district to which a survey of lands other than lands ordinarily used for the purposes of agriculture only has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the Municipality, or by any person as against the Municipality, it shall be lawful for the Collector after formal inquiry, of which due notice has been given, to pass an order deciding the claim.

Decision of claims to property by or against the Municipality.

(2) Any suit instituted in any Civil Court after the expiration of one year from the date of any order passed by the Collector under sub-section (1), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204 of the ³Bombay Land Revenue Code, 1879, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order, provided that the plaintiff has had due notice of such order.

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¹ The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

² Section 50A was inserted by section 1 of the Bombay District Municipal Amendment Act 1912 (Bom. 10 of 1912).

³ Vol. II of this Code.

(3) (a) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the ¹Bombay Land Revenue Code, 1879.

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(b) The formal inquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

(c) Any person shall be deemed to have had due notice of an inquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the ²[Provincial Government].

Municipal
Fund.

51. All moneys received by or on behalf of the Municipality by virtue of this or any other Act; all taxes, tolls and other imposts, fines, fees, penalties paid to or levied by them under this Act ³[other than fines imposed by a Court]; all proceeds of land or other property sold by the Municipality, and all rents accruing from their land or property; as also all interest, profits and other moneys accruing by gifts or transfers from the ⁴[Crown] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property mentioned in ⁵[section 50]:

Provided that—

Provision
as to
special
trusts.

(a) nothing in this section, or in ⁵[section 50], shall in any way affect any obligations accepted by or imposed upon any Municipality by any declarations of trust executed by or on behalf of such Municipality, or by any scheme settled under the ⁶Charitable Endowments Act, 1890, for the administration of any trust;

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1890.

When special
trusts may
be created.

(b) a Municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on them by section 54, 55 or by or under section 61, or 72, or Chapter XII, credit to a separate heading in the municipal accounts any portion of the municipal fund received by them specially for, or devoted by them to, the purposes of schools or dispensaries or of water-works or fire-brigades, or other such purposes as the Commissioner in this behalf approves, and, provided that there shall be credited to such special heading such sums only as expressly relate to the object for which the fund designated by such heading was created, the Municipality may apply the sums so credited exclusively to the respective objects to which they are so credited.

¹ Vol. II of this Code.

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The words " other than fines imposed by a court " were inserted by *ibid.*

⁴ The word " Crown " was substituted for the words " Secretary of State for India in Council " by *ibid.*

⁵ This word and these figures were substituted for the words " the last preceding section " by s. 2 of the Bombay District Municipal Amendment Act, 1912 (Bom. 10 of 1912).

⁶ Central Acts.

¹(c) (1) Every municipality in a municipal district in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (2), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the 'Pilgrim Fund Account'.

(2) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for

(i) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under section 61 or 72 or chapter XII;

(ii) such general duties of the municipality as are connected with the health, convenience and safety of the said pilgrims; and

(iii) the cost of collection of the said tax.

(3) The sums credited under clause (1) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

52. All property vested in the Municipality under this Act, and all funds received by them in accordance with the provisions of this Act, and all sums accruing to them under the provisions of any law for the time being in force, shall be applied, subject to the provisions and for the purposes of this Act, within the limits of the municipal district :

Provided always that it shall be lawful for the Municipality, with the sanction of the ²[Provincial Government] or any officer duly authorized by ³[it] in this behalf,—

(a) to incur expenditure beyond the said limits,—

(i) in the acquisition of land, or

(ii) in the construction, maintenance or repair of works,

for the purpose of obtaining a supply of water required for the inhabitants of the municipal district, or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals beyond the said limits, or for drainage-works, or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said district; or

¹ This clause was inserted by Bom. 4 of 1930, s. 2 (vii).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The word " it " was substituted for the word " him " by *ibid.*

(b) to make a contribution towards expenditure incurred by any other Municipality, or in any area subject to the authority of a local board or cantonment authority, or Sanitary Board or Committee, or of a Committee appointed under section 188 for an area notified under section 187, or incurred out of any public funds for measures affecting the health, instruction or convenience of the public and calculated to benefit the residents within the limits of the contributing Municipality; or

(c) to create scholarships tenable outside the limits of the municipal district :

Provided, further, that nothing in this section, or in any other provision of this Act, shall be deemed to make it unlawful for a Municipality when with such sanction as aforesaid they have constructed works beyond the limits of the said district for the supply of water or for drainage as aforesaid,

(a) to supply or extend to, or for the benefit of, any person or buildings or lands in any place ¹ * * * *, whether such place is or is not within the limits of the said district, any quantity of water not required for the purposes of this Act within the said district, or the advantages afforded by the system of such drainage-works, on such terms and conditions, with regard to payment and to the continuance of such supply or advantages, as shall be settled by agreement between the Municipality and such person or the occupier or owner of such buildings or lands, or

(b) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes, or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to
deposit
and invest
surplus
funds.

53. (1) It shall be lawful for the Municipality to deposit ² * * * with the ³[Imperial Bank of India], or such other bank as may hereafter be appointed to conduct the business of His Majesty's Treasury at Bombay, or with the sanction of the ⁴ [Provincial Government] in any bank in the Presidency of Bombay, any surplus funds in their hands which may not be required for current charges, and to invest such funds in public securities in the name of the Municipality, and from time to time to dispose of such securities as may be necessary.

¹ The words " throughout the line of country in which such works are situate, or contiguous to such line of country " were repealed by s. 1 of the Bombay District Municipal Amendment Act, 1903 (Bom. 3 of 1903).

² The words " at interest " were deleted by Bom. 23 of 1931, s. 2 (i) (a).

³ The words " Imperial Bank of India " were substituted for the words " Bank of Bombay " by *ibid.*, s. 2 (i) (b).

⁴ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

(2) All surplus funds over and above what may be required for current expenses shall, unless deposited or invested as provided for in sub-section (1), be deposited in the [Provincial Government] Treasury or such other place of security as may be sanctioned in the rules of the said Municipality.

Surplus not so deposited or invested how to be dealt with.

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

54. It shall be the duty of every Municipality to make reasonable provision,

Duties of Municipalities.

(1) for the following matters within the municipal district under their authority, namely :

- (a) lighting public streets, places and buildings ;
- (b) watering public streets and places ;
- (c) cleansing public streets, places and sewers, and all spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or not ; removing noxious vegetation ; and abating all public nuisances ;
- (d) extinguishing fires, and protecting life and property when fires occur ;
- (e) regulating or abating offensive or dangerous trades or practices ;
- (f) removing obstructions and projections in public streets or places, and in spaces not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Municipality or belong to His Majesty ;
- (g) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;
- (h) acquiring and maintaining, changing and regulating places for the disposal of the dead ;
- (i) constructing, altering and maintaining public streets, culverts, municipal boundary-marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;
- (j) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply when such supply or additional supply can be obtained at a reasonable cost ;

¹ The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

- (k) naming streets and numbering houses ;
- (l) registering births and deaths ;
- (m) public vaccination ;
- (n) suitable accommodation for any calves, cows or buffaloes required within the municipal district for the supply of animal lymph ;
- (o) establishing and maintaining public hospitals and dispensaries and providing public medical relief ;
- (p) establishing and maintaining primary schools ;
- (q) printing such annual reports on the municipal administration of the district as the ¹[Provincial Government] by general or special orders requires the Municipality to submit ;
- (r) paying the salary and the contingent expenditure on account of such police or guards as may be required by the Municipality for the purposes of this Act or for the protection of any municipal property ²* * *

and subject to such reasonable provision as aforesaid,

(2) for the following special matters, namely :

- (a) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak of, or to suppress and prevent the recurrence of the disease ;
- (b) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal district.

Provision
for
lunatics
and
lepers.

55. Every Municipality shall also, out of the municipal property and fund, make payments at such rates as the ¹[Provincial Government] from time to time by general or special orders prescribes, for the maintenance and treatment either in the municipal district or at any asylum, hospital or house, whether within or without such district, which the ¹[Provincial Government] declares by notification to be suitable for such purpose,

(a) of lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in ^{V of} force, and 1898.

(b) of ³lepers,

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words and figures " and providing such accommodation as may be required by Government under section 77 of the Bombay District Police Act, 1890 " were repealed by a. 3 and Sch. II, Pt. II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

³ For the law in force in British India generally dealing with the control of lepers, see the Lepers Act, 1898 (3 of 1898), General Acts.

1* * * under any enactment for the time being in force removed from, such district :

2[Provided that where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by a municipality shall be made without an opportunity being given to such municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him :

Provided further that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal district for at least one year.

The officer in charge of an asylum to which lunatics or lepers for whose maintenance and treatment a municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of such person detained in the asylum and shall furnish a copy thereof to the municipality.]

56. Municipalities may, at their discretion, provide out of the said property and fund, either wholly or partly, for

- Discretionary
powers of
expenditure
of Municipa-
lities.
- (a) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, including the land requisite for the construction of buildings or curtilages thereof, to abut on such streets ;
 - (b) constructing, establishing or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamshalas, rest-houses and other public buildings ;
 - (c) furthering educational objects other than those set forth in sub-clause (p) of ³[section 54] ;
 - (d) planting and maintaining roadside and other trees ;
 - (e) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics ;
 - (f) making a survey ;
 - (g) the salaries and allowances, rent and other charges incidental to the maintenance of the Court of any stipendiary or Honorary Magistrate, or any portion of any such charges ;

¹ The words "habitually resident within, or" were deleted by Bom. 15 of 1936, s. 3 (1).

² These provisoes were substituted for the original proviso by *ibid.*, s. 3 (2).

³ This word and these figures were substituted for the word and figures " clause 54 " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(h) arrangements for the destruction or the detention and preservation of such dogs within the municipal district as may be dealt with under section 49 of the Bombay District Police Act, 1890 ;

Bom.
IV of
1890.

(i) securing or assisting to secure suitable places for the carrying on of the offensive trades mentioned in sub-section (I) of section 151 ;

(j) supplying, constructing and maintaining, in accordance with a general system approved by the Sanitary Board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the Municipality ;

(k) establishing and maintaining a farm or factory for the disposal of sewage ;

(l) any other measure not specified in section 54 likely to promote the public safety, health, convenience or education ; and

(m) with the previous concurrence ¹* * * of the Collector, any public reception, ceremony, entertainment or exhibition within the municipal district.

Arrangement
purporting
to be binding
permanently
or for a term
of years.

57. When a Municipality have entered into any arrangement or made any promise, purporting to bind themselves or their successors, for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Municipality or their successors, with the sanction in the case of a City Municipality of the ²[Provincial Government], and in the case of any other Municipality of the Commissioner, to cancel such arrangement or promise, or to discontinue or to diminish such yearly contribution, provided that they shall have given at least twelve months' notice of their intention so to do to the manager or managers of such institution.

Manage-
ment of
public
institutions
maintained
by Municipa-
lities
to vest
in them.

58. The management, control and administration of every public institution exclusively maintained out of municipal property and funds shall vest in the Municipality by which it is maintained :

Provided that the extent of the independent authority of any Municipality in respect of public education and their relations with the ³[Educational Department of the Provincial Government] shall from time to time be prescribed by the ⁴[Provincial Government].

¹ The words " in the case of City Municipalities, of the Commissioner, or in other cases " were repealed by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The words " Educational Department of the Provincial Government " were substituted for the words " Government Educational Department " by *ibid.*

CHAPTER VII.

MUNICIPAL TAXATION.

(1) Imposition of Taxes.

59. Subject to any general or special orders which the ¹[Provincial Government] may make in this behalf, any Municipality Taxes which may be imposed.

(a) after observing the preliminary procedure required by ²[section 60] and

(b) with the sanction of the ¹[Provincial Government] in the case of City Municipalities, and in other cases of the Commissioner, and subject to such modifications or conditions as under section 61 the ¹[Provincial Government] or the Commissioner, respectively, in accord- ing such sanction, deems fit,

may impose, for the purposes of this Act, any of the following taxes : that is to say,

(i) a rate on buildings or lands or both, situate within the municipal district ;

(ii) a tax on all or any vehicles, boats, or animals used for riding, draught or burden, kept for use within the said district ;

(iii) a toll on vehicles, ³[(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] and animals used as aforesaid, entering the said district, but not liable to taxation under the clause last preceding ;

Bom.
XXIV
of
1935.

(iv) an octroi on animals or goods, or both, brought within the octroi limits for consumption or use therein ;

(v) a tax on dogs kept within the said district ;

(vi) a special sanitary cess upon private latrines, premises or com- pounds cleansed by municipal agency, after notice given as hereinafter required ;

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² This word and these figures were substituted for the word and figures " section 61 " by s. 2 of the Bombay District Municipal Act, (1901) Amendment Act, 1902 (Bom. 3 of 1902).

³ These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

(vii) a general sanitary cess for the construction or maintenance, or both construction and maintenance, of public latrines, and for the removal and disposal of refuse ;

(viii) a water-rate or water-rates, for water supplied by the Municipality, which may be imposed in the form of a rate assessed on buildings and lands, or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of ¹[cases] or of any individual case ;

(ix) a lighting tax ;

(x) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal district ;

²(x-A) * * * * *

³(xi) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) :

Bom.
XXXIV
of
1935.

Provided that

(a) no tax imposed as aforesaid, other than a special sanitary cess or a water-rate, shall, without the express consent of ⁴[the Provincial Government], be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll shall be leviable for the passage of troops or the conveyance of ⁵[Crown stores] or of any other ⁶[Crown property], or for the passage of Military or Police-officers on duty, or the passage or conveyance of any person or property in their custody ;

(b) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds unless and until the Municipality have

(i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

¹ The word " cases " was substituted for the word " case " by Bom. 24 of 1936, s. 2, Sch.

² Clause (x-A) was omitted by the Adaptation of Indian Laws Order in Council.

³ Clause (xi) was substituted for the original clause by *ibid.*

⁴ The words " the Provincial Government " were substituted for the word " Government " by *ibid.*

⁵ The words " Crown stores " were substituted for the words " Government stores " by *ibid.*

⁶ The words " Crown property " were substituted for the words " Government property " by *ibid.*

(ii) issued either severally to the persons to be charged, or generally to the inhabitants of the district or part of the district to be charged, with such cess, one month's notice of the intention of the Municipality to perform such cleansing and to levy such cess ;

(c) the Municipality in lieu of imposing separately any two or more of the taxes described in clauses (i), (vii), (viii) and (ix)¹ * * * may impose a consolidated tax assessed as a rate on buildings or lands, or both situate within the municipal district.

¶(2) Nothing in this section shall authorise the imposition of any tax which the Provincial Legislature has no power to impose in the Province under the Government of India Act, 1935 :

Provided that a municipality which immediately before the commencement of Part III of the said Act was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by the Central Legislature.]

60. Every Municipality before imposing a tax shall observe the following preliminary procedure :

Procedure
of Muni-
cipality
preliminary
to imposing
tax.

(a) They shall, by resolution passed at a general meeting,

(i) select for the purpose one or other of the taxes specified in section 59 ;

(ii) prepare rules for the purposes of clause (i) of section 46 prescribing the tax selected ;

and shall by such resolution and in such rules specify

(iii) the class or classes of persons or of property, or of both, which the Municipality desire to make liable, and any exemptions which they desire to make ;

(iv) the amount for which, or the rate at which, it is desired to make such classes liable ;

(v) all other matters, which the ³[Provincial Government] may so require to be specified.

(b) When such resolution has been passed, the Municipality shall publish the form of rules so prepared with a notice in the form of Schedule A prefixed thereto.

(c) Any inhabitant of the municipal district objecting to the imposition of the said tax, or to the amount or rate proposed, or to the

¹ The words, figure and brackets " of sub-section (1) " were repealed by s. 4 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

² This sub-section and proviso were inserted by the Adaptation of Indian Laws Order in Council.

³ The words " Provincial Government " were substituted for the words " Governor in Council " by *ibid.*

class of persons or property to be made liable hereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the Municipality, and the Municipality shall take all such objections into consideration, or shall authorize a committee to consider the same and report thereon, and, unless they decide to abandon or to modify the proposed tax in accordance with such objections, shall submit the same with their opinion thereon, together with the notice and rules aforesaid, in the case of a City Municipality, to the ¹[Provincial Government] and in the case of any other Municipality to the Commissioner.

Power to sanction, modify and impose conditions.

61. The ¹[Provincial Government], or the Commissioner, as the case may be, may either refuse to sanction the rules submitted, or may return them to the Municipality for further consideration ; or if no objection, or no objection which is in ²[its or his] opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either—

(a) without modification, or

(b) subject

(i) to such modifications not involving an increase of the amount to be imposed, or

(ii) to such conditions as to the application within the municipal district to any purpose or purposes of this Act specified in such conditions, of the whole or any part of the proceeds of such tax,

as ³[it or he] deems fit.

Publication of sanctioned rules with notice.

62. All rules sanctioned under section 61 with all modifications subject to which the sanction is given, shall be published by the Municipality in the district for which they are prescribed together with a notice reciting the sanction and the date and serial number thereof, and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the Municipality in accordance with all conditions, if any, subject to which under section 61 the sanction was given :

Provided that

(a) a tax leviable by the year

(i) shall not come into force except on one of the following dates, viz., the first day of April—the first day of July—the first day of October—the first day of January—⁴[in any year], and

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " its or his " were substituted for the word " his " by *ibid.*

³ The words " it or he " were substituted for the word " he " by *ibid.*

⁴ These words were substituted for the words " in the official year on which such notice is published " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(ii) if it comes into force on any day other than the first of April, it shall be leviable by the quarter, till the first day of April then next ensuing ;

(b) on or before the day on which a notice is issued under this section, the Municipality shall publish such further detailed rules as may be required, and as may have been approved by the ¹[Provincial Government] or by the Commissioner, as the case may be, under the first clause of the proviso to section 46, prescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof, shall be payable ;

(c) if the levy of a tax, or of a special portion of a tax, has been sanctioned, for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period..

(2) *Assessment of and liability to rates.*

63. (1) When a rate on buildings or lands or both is imposed, the Municipality shall cause an assessment-list of all buildings, or lands, or buildings and lands in the municipal district to be prepared containing ^{Preparation of an assessment-list.}

(a) the name of the street or division in which the property is situated ;

(b) the designation of the property, either by name or by number, sufficient for identification ;

(c) the names of the owner and occupier, if known ;

(d) the annual letting value or other valuation on which the property is assessed ; and

(e) the amount of the tax assessed thereon.

(2) For the purpose of making such assessment on property as aforesaid, the Municipality may from time to time appoint any person or persons, whether councillors or not, and whether remunerated or not ; and any person or persons so appointed may for such purpose make an inspection of any such property : ^{Power to inspect.}

²[Provided that in a municipal district for which there is a Municipal Commissioner such Municipal Commissioner may make such inspection.]

(3) On the requisition of the Municipality or of such person ³[or of the Municipal Commissioner, as the case may be,] the owner or occupier of any such building or land shall, within such reasonable period as shall be ^{Returns to be furnished.}

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² This proviso was added by s. 16 (1) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

³ These words were inserted by s. 16 (2), *ibid.*

specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature—

(a) as to the name and place of abode of the owner or occupier or of both ;

(b) as to the dimensions of such building or land and the annual letting value or other valuation thereof.

Publication of notice of assessment-list.

64. When the assessment-list has been completed the Municipality shall give public notice thereof, and of the place where the list or a copy thereof may be inspected : and every person claiming to be either owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for revising assessment-list.

65. (1) The Municipality shall at the time of the publication of such assessment-list give public notice of a time, not less than one month thereafter, when they will proceed to revise the valuation and assessment : and in all cases in which any property is for the first time assessed or the assessment is increased, they shall also give notice thereof to the owner or occupier of the property, if known.

Objections how to be made.

(2) All objections to the valuation and assessment shall be made to the Municipality, before the time fixed in the notice, by application in writing, stating the grounds on which the valuation and assessment are disputed, and all applications so made shall be registered in a book to be kept by the Municipality for the purpose.

Hearing of objections.

(3) ¹[In a municipal district for which there is a Municipal Commissioner, such Municipal Commissioner, and elsewhere] the managing committee, or any committee or committees to which the Municipality delegate the powers and functions of the managing committee in this behalf, or any ²[servant of the Crown] to whom, with the permission of the Commissioner, the municipality delegate, and they are hereby empowered so to delegate, the powers and functions of the managing committee in this behalf, shall, after allowing the applicant an opportunity of being heard in person or by agent,

(a) investigate and dispose of the objections,

(b) cause the result thereof to be noted in the book kept under subsection (2) and

(c) cause any amendment necessary in accordance with such result to be made in the assessment-list.

¹ These words were inserted by s. 17 (1) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words "servant of the Crown" were substituted for the words "officer of Government" by the Adaptation of Indian Laws Order in Council.

(4) When all objections made under this section have been disposed of, and all amendments required by sub-section (3) have been made in the assessment-list, the said list shall be authenticated <sup>Authentica-
tion of list.</sup> [in a municipal district for which there is a Municipal Commissioner by the signature of the Municipal Commissioner, and elsewhere] by the signatures of the chairman and at least one other member of the managing committee, or if the Municipality have delegated the powers and functions of the managing committee in this behalf to any other committee or to ²[a servant of the Crown] by the signatures of not less than two members of such committee or of the officer aforesaid, and the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.

(5) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property specified therein, or to the agents of such persons, and a notice that it is so open shall be forthwith published. <sup>Custody and
inspection of
list.</sup>

(6) Subject—

(a) to such alterations as may thereafter be made therein, under the provisions of the next following section, and

<sup>Authentica-
ed list how
far
conclusive.</sup>

(b) to the result of any appeal made under section 86, the entries in the list so authenticated and deposited shall be accepted as conclusive evidence,

(i) for the purposes of all municipal taxes, of the annual letting value or other valuation of all buildings and lands to which such entries respectively refer, and

(ii) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon throughout the official year to which such list relates.

66. (1) The Municipality may at any time alter the said list by inserting the name of any person whose name ought to have been inserted, or by inserting any property which ought to have been inserted, or by altering the valuation of or assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake, after giving notice to any person interested in the alteration, of a time, not less than one month from the date of service of such notice, at which the alteration is to be made. <sup>Amendment
of assess-
ment-list.</sup>

(2) Every objection made by any persons interested in any such alteration, before the time fixed in the notice, and in the manner provided by sub-section (2) of the last preceding section, shall be dealt with in all respects as if it were an application under the said section. <sup>Objections
how dealt
with.</sup>

¹ These words were inserted by s. 17 (2) of the Bombay District Municipal Amendment Act, 1914, (Rom. 8 of 1914).

² The words "a servant of the Crown" were substituted for the words "an officer of Government" by the Adaptation of Indian Laws Order in Council.

Effect of amendment.

(3) Every alteration made under this section shall, subject to the result of an appeal under section 86, have the same effect as if it had been made on the earliest day in the current official year in which the circumstances justifying the alteration existed.

New assessment-list need not be prepared every year.

67. (1) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Municipality may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(2) But the provisions of sections 64, 65 and 66 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

68. Every tax imposed in the form of a rate on buildings or lands or on both, shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or land or holds them on a building or other lease from the ¹[Crown] or from the Municipality, or on a building lease from any person. Otherwise the said tax shall be primarily leviable as follows, namely :

(a) if the property is let, from the lessor ;

(b) if the property is sublet, from the superior lessor ;

(c) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater.

Remedy of occupier in such case.

Provided, further, that for any sum paid by, or recovered from, any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

Remission of tax in case of vacancies when obligatory.

69. (1) When any building or land which is assessed to a rate payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year, or throughout the period in respect of which any

¹ The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

such instalment is payable, the Municipality shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be :

Provided that no such remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Municipality, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(2) When any such building or land as aforesaid,

When discretionary.

(a) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(b) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(c) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value,

the Municipality may remit or refund such portion, if any, of the rate or instalment as they may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

Burden of proof on claimant.

(4) For the purposes of this section ¹[(a) a dwelling-house within the limits of a municipality notified by ²[the Provincial Government] as a hill-station municipality shall, if otherwise unoccupied, be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it; and (b)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

Explanatory clause.

(3) Power to charge fees.

70. (1) When any license is granted by the Municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Municipality, the Municipality may charge a fee for such license or permission.

Municipality may charge fees for certain licenses.

(2) The Municipality may also charge such fees as may be fixed by by-laws under clause (a) of sub-section (1) of section 48 for the use of such places mentioned in that sub-section as belong to the Municipality.

Market and other fees.

¹ These words, letters and brackets were inserted by Bom. 12 of 1931, s. 2 (vi).

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Effect of amendment.

(3) Every alteration made under this section shall, subject to the result of an appeal under section 86, have the same effect as if it had been made on the earliest day in the current official year in which the circumstances justifying the alteration existed.

New assessment-list need not be prepared every year.

67. (1) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Municipality may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(2) But the provisions of sections 64, 65 and 66 shall be applicable every year as if a new assessment-list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

68. Every tax imposed in the form of a rate on buildings or lands or on both, shall be leviable primarily from the actual occupier of the property upon which the said taxes are assessed, if he is the owner of the buildings or land or holds them on a building or other lease from the [Crown] or from the Municipality, or on a building lease from any person. Otherwise the said tax shall be primarily leviable as follows, namely :

(a) if the property is let, from the lessor ;

(b) if the property is sublet, from the superior lessor ;

(c) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the buildings or lands in respect of which it is due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater.

Provided, further, that for any sum paid by, or recovered from, any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum.

69. (1) When any building or land which is assessed to a rate payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year, or throughout the period in respect of which any

¹ The word " Crown " was substituted for the words " Secretary of State for India in Council " by the Adaptation of Indian Laws Order in Council.

such instalment is payable, the Municipality shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be :

Provided that no such remission shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Municipality, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(2) When any such building or land as aforesaid,

When discretionary.

(a) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(b) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(c) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value,

the Municipality may remit or refund such portion, if any, of the rate or instalment as they may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

Burden of proof on claimant.

(4) For the purposes of this section ¹[(a) a dwelling-house within the limits of a municipality notified by ²[the Provincial Government] as a hill-station municipality shall, if otherwise unoccupied, be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it; and (b)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

Explanatory clause.

(3) Power to charge fees.

70. (1) When any license is granted by the Municipality under this Act, or when permission is given by them for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Municipality, the Municipality may charge a fee for such license or permission.

Municipality may charge fees for certain licenses.

(2) The Municipality may also charge such fees as may be fixed by by-laws under clause (a) of sub-section (1) of section 48 for the use of such places mentioned in that sub-section as belong to the Municipality.

Market and other fees.

¹ These words, letters and brackets were inserted by Bom. 12 of 1931, s. 2 (vi).

² The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

(4) *Special provisions relating to certain taxes.*

Fixed charges and agreements for payment in lieu of taxes for water supplied.

71. (1) The Municipality may, instead of imposing a water-rate or, in individual cases, of levying a rate imposed in respect of the supply of water belonging to the Municipality to, or for use in connection with, any private lands or buildings,

(a) fix at rates not exceeding such as shall be specified in the rules in force under section 46, charges for such supply according to the quantity used, as ascertained by measurement,

(b) arrange with any person, on his application, to supply on payment, periodical or otherwise, water belonging to the Municipality in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade, manufacture or otherwise, on such terms and subject to such conditions as they shall fix by agreement with such person :

Provided that—

(a) the meters, connection-pipes and all other works necessary for and incidental to such supplies, and all future repairs, extensions and alterations of such works shall be under the control of the Municipality, and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the Municipality, be defrayed by the persons liable in respect of such supplies, and

(b) all such supplies of water shall be, and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof, and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 48.

Power to fix a special rate in lieu of special sanitary cess.

(2) When the Municipality have made provision for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, they may, instead of levying in respect thereof any special sanitary cess imposed under this chapter, fix a special rate and the dates and other conditions for periodical payments thereof, which shall be determined either,

(i) in accordance with the rules for the time being in force under section 46, or

(ii) by written agreement with the person who would have been otherwise liable for the cess, provided that, in fixing the amount, proper regard be had to the probable cost to the Municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(3) When the Municipality have imposed a tax on vehicles or animals kept for use within the municipal district they may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire, for the payment of a lump sum, for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

(4) Every sum claimed by the Municipality as due under sub-section (1) as a charge fixed by agreement or otherwise on account of water-supply, or as expenses to be defrayed such as are referred to in that sub-section, or as a special rate under sub-section (2) or as a lump sum payable under sub-section (3), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter :

Recovery of sums claimed under this section.

Provided that nothing in this section shall affect the right or power of the Municipality to contract with any person to supply for use beyond the limits of the municipal district, at such rates and on such conditions as the Municipality may think fit, any quantity of water belonging to the Municipality but not required for the purposes of this Act.

72. If any tax imposed under this Act is a tax on pilgrims resorting periodically to a shrine within the limits of a municipal district, the Commissioner may require the Municipality of such district to assign and pay to the district local board, or to the taluka local board having authority in the taluka in which such municipal district is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit ; and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

Taxes on pilgrims may be assigned in part to local boards.

73. If it shall at any time appear to the ¹[Provincial Government], on complaint made or otherwise, that any tax, leviable by a Municipality, is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interest of the general public, ²[it] may require the said Municipality, within such period as ²[it] shall fix in this behalf, to take measures for removing any objection which appears to ³[it] to exist to the said tax, and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of the ¹[Provincial Government], ²[it] may, by notification in the ⁴[Official Gazette], suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

Power of Provincial Government to suspend levy of objectionable taxes.

The ¹[Provincial Government] may at any time, by a like notification, rescind any such suspension.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The word " it " was substituted for the word " he " by *ibid.*

³ The word " it " was substituted for the word " him " by *ibid.*

⁴ The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

Power of
Provincial
Government
to require
municipali-
ties to
impose taxes.

74. Whenever it appears to the ¹[Provincial Government] that the balance of the municipal fund of any Municipality is insufficient for meeting the expenditure incurred under section 175 or for the performance of any duties in respect of which they shall have been declared under section 178 to have committed default, the ¹[Provincial Government] may by notification require the Municipality to impose, within the municipal district, any such tax specified in the notification as may be imposed under section 59 if no such tax is at the time imposed therein, or to enhance any existing tax in such manner or to such extent as the ¹[Provincial Government] considers fit, and the Municipality shall forthwith proceed to impose or enhance in accordance with the requisition such tax under the provisions of this chapter, as if a resolution of the Municipality had been passed for the purpose under section 60 ;

Provided that—

(a) the ¹[Provincial Government] shall take into consideration any objection which the Municipality or any inhabitant of the municipal district may make against the imposition or enhancement of such tax,

(b) it shall not be lawful for the Municipality to abandon or modify or to abolish such tax when imposed, and

(c) the ¹[Provincial Government] may at any time cancel or modify any requisition made by ²[it] under this ³[section], and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

(5) *Octroi and Tolls.*

Octroi by-
laws to be
submitted
with proposal
for imposi-
tion of octroi.

75. Every Municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (j) of section 48, after observing the requirements of sub-sections (2) and (3) of that section.

Power to
examine
articles liable
to octroi.

76. (1) Every person bringing into, or receiving from beyond, the octroi limits of a municipal district any article on which octroi is payable shall, when required by an officer authorized in this behalf by the Municipality, and so far as may be necessary for ascertaining the amount of tax chargeable,

(a) permit that officer to inspect, examine and weigh, and otherwise deal with the article ; and

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The word " it " was substituted for the word " him " by *ibid.*

³ This word was substituted for the word " sub-section " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

⁴ Sections 76, 77, 79, 80 and Schedule D have been extended to the Cantonment of Ahmednagar subject to certain restrictions and modifications, see *Gazette of India*, 1905, Pt. I., p. 19.

(b) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to the article.

(2) If any person bringing into, or receiving from beyond, the octroi limits of a municipal district in which octroi is leviable any conveyance or package shall refuse, on the demand of an officer authorized by the Municipality in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains any articles in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the Municipality¹ as the [Provincial Government] appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Power to search where octroi is leviable.

77. (1) Every officer demanding octroi by the authority of the Municipality shall tender to every person introducing or receiving any article on which the tax is claimed, a bill specifying the article taxable, the amount claimed, and the rate at which the tax is calculated.

Presentation of bills for octroi.

(2) If goods passing into a municipal district are liable to the payment of octroi, then every person who, with the intention to defraud the Municipality, causes or abets the introduction of, or himself introduces or attempts to introduce within the octroi limits of the said district, any such goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the value of such octroi or to fifty rupees, whichever may be greater.

Penalty of evasion of octroi.

78. Every Municipality imposing any toll under this Act shall cause to be kept, at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules, including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments, and it shall be the duty of every person authorized to demand payment of a toll to show such table on the request of any person on whom such demand is made.

Tables of tolls to be shown on demand.

79. (1) In the case of non-payment on demand of any octroi or of any toll leviable by a Municipality, the person appointed to collect such octroi or toll may seize any article on which the octroi is chargeable or any vehicle or animal on which the toll is chargeable, or any part of its burden, which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or article seized, a list of the property together with a written notice in the form of Schedule D that the said property will be sold as shall be specified in such notice.

Power to seize vehicle or animal on non-payment of octroi or toll.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² See footnote 4 on p. 86 *supra*.

Power to sell property seized at once. (2) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

Release of property on payment. (3) If at any time before the sale has begun, the person whose property has been so seized tenders at the municipal office the amount of all expenses incurred, and of the octroi or toll payable, the Municipality shall forthwith release the property seized.

Sale. (4) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such octroi or toll and the expenses incidental to the seizure, detention and sale.

Surplus how dealt with. (5) If surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Municipality in writing within six months next after the sale, be paid to the person in whose possession the property was when seized, and, if no such application is made, shall be the property of the Municipality.

Power to keep account-current with firm or public body in lieu of levying octroi on introduction of goods. 180. The Municipality, if they think fit, instead of requiring payment of octroi, due from any mercantile firm or public body, to be made at the time when the articles in respect of which it is leviable are introduced within the octroi limits of the municipal district, may at any time direct that an account-current shall be kept on behalf of the Municipality of the octroi so due from any such firm or body as the Municipality specify in this behalf. Every such account shall be settled at intervals not exceeding one month, and such firm or public body shall make such deposit or furnish such security as the Municipality or any committee or officer authorized by them in this behalf shall consider sufficient to cover the amount which may at any time be due from such firm or body in respect of such dues. Every amount so due that the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under the said chapter.

Collection of octroi by one public body on behalf of others. 81. When any agreement such as is referred to in clause (b) of section 39 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary, for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of ²[the Act under which that body is constituted] relating

¹ See footnote 4 on p. 36 *supra*.

² These words were substituted for the words "this Act" by Bom. 14 of 1934, s. 2 (2) (i).

to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of ¹[that body], and the collections made and the costs thereby incurred shall, subject to the provisions of section 39, be divided between the funds respectively subject to the control of the bodies so entering into the agreement, in such proportions as shall have been determined in the said agreement.

²[81A. (1) It shall be lawful for the Municipality to lease the levy ^{Farming of tolls.} of any toll that may be imposed under this Act by public auction or private contract :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) Where any toll has been leased under this section any person ^{Person employed by lessee of toll to have power of seizure.} employed by the lessee to collect such toll shall, subject to the conditions of the lease, have the powers referred to in sub-sections (1) and (2) of section 79 :

Provided that no article distrained may be sold except under the orders of the Municipality.]

CHAPTER VIII.

RECOVERY OF MUNICIPAL CLAIMS.

82. (1) When any amount,

(a) which, by or under any provisions of this Act, is declared to be recoverable in the manner provided by this chapter, or ^{Presentation of bill for taxes.}

(b) which, not being leviable under sub-section (1) of section 79, or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal district,

shall have become due, the Municipality shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum claimed as due.

(2) Every such bill shall specify—

(a) the period for which, and ^{Contents of bill.}

(b) the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of—

(i) the liability incurred in default of payment, and of

¹ The words "that body" were substituted for the words "the body by which they are so established" by Bom. 14 of 1934, s. 2 (2) (ii).

² Section 81A was inserted by s. 18 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(ii) the time within which an appeal may be preferred as hereinafter provided against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(3) If the sum for which any bill has been presented as aforesaid is not paid into the municipal office, or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Municipality may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule B, or to the like effect.

In what cases warrant may issue.

83. (1) If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either—

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the Municipality, or ¹[of] such officer as the Municipality by rule may appoint in this behalf, or in a City Municipality ¹[of] the chief officer, if any, why he should not pay the same, or

(c) prefer an appeal in accordance with the provisions of section 86 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the Municipality in the form of Schedule C or to the like effect by distress and sale of the moveable property of the defaulter.

Warrant by whom to be signed.

(2) Every warrant issued under this section shall be signed by the president of the Municipality causing the same to be issued, ²[or by the Municipal Commissioner, if any,] or in the case of a City Municipality by the chairman of the managing committee, or by an officer to whom the Municipality have delegated their powers under section 37 or by the chief officer, if any.

To whom warrant should be addressed.

³[(2A) Where the property is in the Municipal district the warrant shall be addressed to an officer of the Municipality. Where the property is in another municipal district or is not in a municipal district the warrant shall be addressed to the vice-president of the Municipality in such other municipal district or to a ⁴[servant of the Crown] not lower in rank than a Mahalkari as the case may be: Provided that such vice-president or ⁴[servant of the Crown] may endorse such warrant to a subordinate officer. Where the property is in the City of Bombay the warrant shall

¹ This word was substituted for the word "to" by s. 5 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

² These words were inserted by s. 19 (1) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

³ Sub-section (2A) was inserted by s. 19 (2), *ibid.*

⁴ The words "servant of the Crown" were substituted for the words "Government officer" by the Adaptation of Indian Laws Order in Council.

be addressed to the ¹[Registrar of the Court of Small Causes of Bombay :]
²[provided that the Registrar may endorse such warrant to a subordinate officer].]

(3) It shall be lawful for ³[any officer] to whom a warrant issued under sub-section (2) is addressed, if the warrant contains a special order authorizing him in this behalf, but not otherwise, to break open, at any time between sunrise and sunset, any outer or inner door or window of a building, in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance: Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove. Power of entry under special order.

(4) It shall also be lawful for such officer to distrain, wherever it may be found, any moveable property of the person therein named as defaulter, subject to the following conditions, exceptions and exemptions, namely: Warrant how to be executed.

(a) The following property shall not be distrained:—

(i) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(ii) the tools of artizans,

(iii) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood.

(b) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible proportionate in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a person authorized by or under sub-section (2) to sign a warrant, should not have been so distrained they shall forthwith be returned.

(c) The officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form of Schedule D that the said property will be sold as shall be specified in such notice.

¹ These words were substituted for the words "Municipal Commissioner for the City of Bombay" by s. 3 of the Bombay District Municipal (Amendment) Act, 1920 (Bom. 3 of 1920).

² This proviso was added by *ibid.*

³ These words were substituted for the words "any municipal officer" by s. 19 (3) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

Sale of goods
distrained.

84. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or chairman or officer by whom the warrant was signed shall at once give notice to the person in whose possession the property was when seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Application
of proceeds
of sale.

(2) If not sold at once under sub-section (1), the property seized or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Municipality, and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental costs as aforesaid.

Surplus, if
any, how
dealt with.

(3) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person from whose possession the property was taken, but if the same be claimed by written application to the municipality within one year from the date of the ¹[notice] a refund thereof shall be made to such person. Any sum not claimed within one year from the ²[date] of such notice shall be the property of the municipality.

Distrain and
sale outside
the district.

³[84A. Where the warrant is addressed outside the municipal district the authority issuing the warrant may by endorsement direct the officer ⁴[or Registrar of the Court of Small Causes of Bombay] to whom the warrant is addressed to sell the property distrained and in such case it shall be lawful for such officer ⁴[or Registrar] to sell the property and to do all things incidental to the sale and the foregoing provisions shall be modified accordingly. ⁵[Such officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the authority by whom it was issued].]

Fees and
costs charge-
able.

85: Fees for--

(a) every notice issued under sub-section (3) of section 82,

⁶(b) every warrant issued under sub-section (1) of section 83 or distress made under sub-section (4) of the said section, and

¹ This word was substituted for the word "sale" by s. 6 (a) of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

² This word was substituted for the word "sale" by s. 6 (b), *ibid.*

³ Section 84A was inserted by s. 20 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

⁴ These words were inserted by s. 4 (a) of the Bombay District Municipal (Amendment) Act, 1920 (Bom. 3 of 1920).

⁵ These words were added by s. 4 (b), *ibid.*

⁶ Clause (b) was substituted for the original clause by Bom. 12 of 1931, s. 2 (vii) (a).

(c) the costs of maintaining any live stock seized under ¹[sub-section (4) of section 83], shall be chargeable at the rates respectively specified in such behalf in the rules of the Municipality, and shall be included in the costs of recovery to be levied under ²[section 83].

86. Appeals against any notice of demand issued under sub-section (3) of section 82 may be made to any Magistrate or Bench of Magistrates by whom under the directions of the ³[Provincial Government], or of the District Magistrate, such class of cases is to be tried. Appeals to Magistrates.

But no such appeal shall be heard and determined unless—

(a) the appeal is brought within fifteen days next after service of the notice of demand complained of ; and

(b) an application in writing, stating the ground on which the claim of the Municipality is disputed, has been made to the Municipality as follows, that is to say :

(i) in the case of a rate on buildings or lands, within the time fixed in the notice given under section 65 or 66 of the assessment or alteration thereof, according to which the bill is prepared,

(ii) in the case of any other claim for which a bill has been presented under sub-section (1) of section 82 within fifteen days next after the presentation of such bill ; and

(c) the amount claimed from the appellant has been deposited by him in the municipal office.

87. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both, mentioned in section 68, shall, subject to prior payment of land-revenue, if any, due to ⁴[His Majesty] thereupon, be a first charge upon the building or land, in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax or taxes : Liability of land, buildings, etc., for rates.

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due for more than one year or for a period during which such occupier was not in occupation.

¹ These words, figures and brackets were substituted for the words " the said sub-section " by Bom. 12 of 1931, s. 2 (vi) (b).

² This word and these figures were substituted for the word and figures " section 84 " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

³ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

⁴ These words were substituted for the words " the Secretary of State for India in Council " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

Suspension of power to recover by distress and sale.

88. The ¹[Provincial Government may at any time by notification suspend the operation of sections 83 and 84 in any municipal district, in which there is not a City Municipality, and from such date as shall be fixed in this behalf in the notification, every amount due on account of any tax theretofore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (2) of section 161 for the recovery of such fines as are therein referred to, and not otherwise.

Receipts to be given for all payments.

89. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving the same.

CHAPTER IX.

MUNICIPAL POWERS AND OFFENCES.

(1) Powers in respect of streets.

Power regarding streets, etc.

90. (1) It shall be lawful for the Municipality to lay out and make new public streets, and to construct tunnels and other works subsidiary to the same, and to widen, open, enlarge or otherwise improve any such streets, and to turn, divert, discontinue or stop up any such streets, and, subject to the provisions of sub-section (2) of section 40 ²[to lease or sell] any such land, theretofore used or acquired by the Municipality for the purposes of such streets as may not be required for any public street or for any other purposes of this Act.

(2) In laying out or making or in turning, diverting, widening, opening enlarging, or otherwise improving any public street, in addition to the land required for the carriage-way and footways and drains thereof, the Municipality may purchase the land necessary for the houses and buildings to form the said street, and, subject to the provision contained in sub-section (2) of section 40, may sell and dispose of the same in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as they may think fit.

Power to require repair of streets,

(3) When the Municipality consider that in any street, not being a public street, or in any part of such street, within the municipal district, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channeling, draining, lighting or cleaning thereof, the Municipality may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

and to declare such streets public.

(4) After such work has been carried out by such owners or, as provided in section 156, by the Municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "to lease or sell" were substituted for the words "to sell" by Bom. 26 of 1930, s. 6.

joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the Municipality, to be a public street.

(5) A Municipality may, at any time, by notice fixed up in any street or part of a street not maintainable by the Municipality, give intimation of their intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the Municipality may by notice in writing put up in such street, or such part, declare the same to be a public street. Power to declare any street a public street, subject to objections by the owners.

91. (1) Every person intending to lay out or make any new street, shall give notice in writing thereof to the Municipality, and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, if required by the Municipality to do so, and the level, means of drainage, direction and width of every such street shall be fixed or approved by the Municipality. New streets.

(2) Before passing orders under sub-section (1), the Municipality may either issue, Power of Municipality to pass orders.

(a) a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) a demand for further particulars.

(3) If

(a) within one month from the receipt of the notice given under sub-section (1) the Municipality have neither Right to proceed in certain cases.

(i) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (1) with regard to level, means of drainage, direction and width of the street, nor

(ii) under sub-section (2), issued any provisional order or demand for further particulars, or if

(b) the Municipality, having issued such demand for, and having received, in accordance with the demand and with by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice, and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

(4) Whoever lays out, makes or builds upon any such street, either without giving the notice required by sub-section (1), or, except in accordance with the provisions of sub-section (3) without awaiting, or otherwise than in accordance with, the instructions issued by the Municipality, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder shall be punished with fine which may extend to two hundred and fifty rupees, and the Municipality may cause Penalty.

any street so laid out or made to be altered, and any building erected in such street contrary to their directions to be altered or removed, and the expense thereby incurred shall be paid to them by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

The regular
line of a
public street.

¹91A. (1) It shall be the duty of every ²[city municipality and of such other municipality as may be notified by ³[the Provincial Government] in this behalf] to prescribe a line on each side of every public street within the municipal district and the Municipality may from time to time prescribe a fresh line in substitution for any line so prescribed, or for any part thereof :

Provided that—

(a) at least one month previous to prescribing such line or such fresh line, as the case may be, the Municipality shall give public notice of the proposal and they shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed, and

(b) the Municipality shall consider any written objection or suggestion in regard to such proposal delivered at the office of the Municipality within such time as they may specify in such public or special notice.

(2) The line for the time being so prescribed shall be called 'the regular line of the public street'.

⁴(3) (a) Except under the provisions of section 113, no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the municipality under section 96.

(b) Where the municipality refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(c) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 160, shall be paid by the municipality to the owner of any land added to a street under clause (b) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the municipality under the said clause :

Provided that no such compensation shall be payable in cases to which section 119 applies.]

¹ Section 91A was inserted by s. 21 (1) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² These words were substituted for the word "Municipality" by Bom. 4 of 1924, s. 5.

³ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁴ Sub-section (3) was substituted for the original sub-section by Bom. 26 of 1930, s. 7.

(4) Whoever contravenes the provisions of sub-section (3) shall be punished with fine which may extend to one thousand rupees ; and the Municipality may—

- (a) direct that the building be stopped, and
- (b) by written notice require such building or portion thereof to be altered or demolished as they may deem necessary.]

(2) *Powers to regulate buildings, etc.*

92. (1) If any part of a building projects beyond the regular line of Setting back project- a public street either as existing or as determined upon for the future or ing build- beyond the front of the building on either side thereof, the Municipality ings. may,—

(a) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(b) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down,

require by written notice either that the part, or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. And the portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the Municipality.

(2) If any land, not vested in the Municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other such external structure, the Municipality after giving the owner of the land not less than fifteen clear days' written notice of their intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same ; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the Municipality.

(3) Compensation, the amount of which shall in case of dispute be Compensa- ascertained and determined in the manner provided in section 160, shall tion payable be paid by the Municipality to the owner of any land added to a street by the under sub-section (1) or acquired under sub-section (2) for the value of Municipality. the said land and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Municipality under either of the said sub-sections, provided that no such compensation shall be payable in cases to which section 119 applies.

93. The Municipality may, upon such terms as they think fit, allow Setting any building to be set forward for improving the line of any public street forward to in which such building is situated. regular line of street,

Roofs and external walls of buildings not to be made of inflammable materials.

94. (1) The external roofs and walls of buildings erected or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable materials except with the written consent of the Municipality, which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(2) The Municipality may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Municipality.

Penalty.

(3) Whoever without such consent as is required by sub-section (1) makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (2) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with a fine which may extend to twenty-five rupees, and with a further fine which may extend to ten rupees for every day on which the offence is continued, after the date of the first conviction.

Level of buildings.

95. No building shall hereafter be built upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Municipality, or into some stream or river, or into the sea, or some cesspool, or other suitable place which may be approved of by the Municipality.

Notice of new buildings.

96. (1) Before beginning to erect any building, or to alter externally or add to any existing building, or to ¹[construct or] reconstruct any projecting portion of a building in respect of which the Municipality is empowered by section 92 to enforce a removal or set-back, ²[or is empowered by section 91A to give permission to ¹[construct or] reconstruct it,] the person intending so to build, alter, ³[add or reconstruct] shall give to the Municipality notice thereof in writing, and shall furnish to them, at the same time if required by a by-law or by special order to do so,

- (a) the sanad, if any, in force relating to the site of such proposed building, issued under section 10 of ⁴Bombay Act IV of 1868 or received under section 133 of the ⁵Bombay Land Revenue Code, 1879, or other enactment relating to the survey of lands in towns and cities, and ^{Bom. V of 1879.}
- (b) a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Municipality, and all information

¹ These words were inserted by Bom. 26 of 1930, s. 8 (a) (i).

² These words, figures and letter were inserted by s. 21 (2) of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

³ These words were substituted for the words "or add" by Bom. 26 of 1930, s. 8 (a) (ii).

⁴ Rep. by Bom. 5 of 1879.

⁵ Vol. II of this Code.

they may require regarding the limits, design, ventilation and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets ¹[and the purpose for which the building will be used.]

(2) ²[Save as otherwise provided in this Act or the rules and bye-laws thereunder, the municipality] may either give permission to erect ³[alter, add to or reconstruct] the building according to the plan and information furnished or may impose in writing such conditions as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation ⁴[or to the number of storeys to be erected], or with reference to the location of the building in relation to any street existing or projected ⁵[or the purpose for which the building is to be used], as they think proper, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to their satisfaction.

Power of municipality to pass orders.

⁶[(2A) The municipality may, before any work has been commenced in pursuance of any permission granted by the municipality under sub-section (2), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and bye-laws made thereunder, with reference to the matters mentioned in the said sub-section, as they think proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to their satisfaction.]

Permission may be revoked and fresh permission given subject to conditions.

(3) Before issuing any orders under sub-section (2) the Municipality may, within one month from the receipt of such notice, either issue,

Or power of municipality to suspend the work or require further particulars.

(a) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) may demand further particulars.

(4) A building proposed in a notice given under sub-section (1) may be proceeded with in such manner, as may have been specified in such notice as is not inconsistent with any provision of this Act or of any

Right to proceed in certain cases.

¹ These words were added by Bom. 26 of 1930, s. 8 (a) (iii).

² These words were substituted for the words "The Municipality may issue such orders not inconsistent with this Act as they think proper with reference to the work proposed in such notice and" by *ibid.*, s. 8 (b) (i).

³ These words were substituted for the words "or alter or add to" by *ibid.*, s. 8 (b) (ii).

⁴ These words were inserted by *ibid.*, s. 8 (b) (iii).

⁵ These words were inserted by *ibid.*, s. 8 (b) (iv).

⁶ Sub-section (2A) was inserted by *ibid.*, s. 8 (c).

by-law for the time being in force thereunder in the following cases, that is to say :—

- (a) in case the Municipality, within one month from the receipt of the notice given under sub-section (1), have neither
- (i) passed orders under sub-section (2) and served notice thereof in respect of the intended work ; nor
- (ii) issued under sub-section (3) any provisional order or any demand for further particulars ;
- (b) in case the Municipality having issued such demand for and having received in accordance with the by-laws in force in this behalf, such further particulars, have issued no further orders within one month from the receipt of such particulars :

1[* * * * *]

Commence-
ment of work.

²[(4A) No person who becomes entitled under sub-section (2) or (4), to proceed with any intended work of which notice is required by sub-section (1) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of the preceding sub-sections.]

(5) Whoever begins ³[any construction, alteration, addition or reconstruction] without giving the notice required by sub-section (1) or without furnishing the documents or affording the information above prescribed, or except as provided in sub-section (4), without awaiting, or in any manner contrary to, such legal orders of the Municipality as may be issued under this section ⁴[or contrary to the provisions of sub-section (4) or (4A)], or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder shall be punished with fine which may extend to one thousand rupees : ⁵[and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to ten rupees for each day during which such contravention continues after conviction for the first such contravention] ; and the Municipality may

- (a) direct that the building, alteration ⁶[addition or reconstruction] be stopped, and
- (b) ⁷[upon a conviction being obtained under this sub-section by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.]

¹ The proviso to sub-section (4) was repealed by Bom. 26 of 1930, s. 8 (d).

² Sub-section (4A) was inserted by *ibid.*, s. 8 (e).

³ These words were substituted for the words " or makes any building or alteration or addition " by *ibid.*, s. 8 (f) (i).

⁴ These words, figures and letter were inserted by *ibid.*, s. 8 (f) (ii).

⁵ These words were inserted by *ibid.*, s. 8 (f) (iii).

⁶ The words " addition or reconstruction " were substituted for the words " or addition " by *ibid.*, s. 8 (f) (iv).

⁷ Clause (b) was substituted for the original clause by *ibid.*, s. 8 (f) (v).

(6) The Municipality or any officer deputed by them may at any time inspect the erection of any building without giving notice of their or his intention to do so, and ¹* * at any time during the erection of a building or the execution of any such work as aforesaid, or at any time not later than one month after being informed in writing by the person responsible for giving a notice under sub-section (1) that the erection of the building, or the execution of any such work as aforesaid, has been completed, may by written notice specify any matter in respect of which the erection of such building, or the execution of such work, may be in contravention of any provision of this Act or of any by-law made under this Act at the time in force, and require the person erecting or executing, or who has erected or executed, such building or work, or, if the person who has erected or executed such building or work is not at the time of notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision or by-law to be amended or to do anything which by any such provision or by-law he may be required to do but which has been omitted.

Explanation.—The expression “to erect a building” throughout this chapter includes—

- (a) any material alteration, enlargement or reconstruction of any building ²[or of any wall, verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not],
- (b) the conversion into a place for human habitation of any building not originally constructed for human habitation,
- (c) the conversion into more than one place for human habitation of a building originally constructed as one such place,
- (d) the conversion of two or more places of human habitation into a greater number of such places,
- (e) such alterations of the internal arrangements of a building as affect its drainage, ventilation or other sanitary arrangements, or its security, or stability, and
- (f) the addition of any rooms, buildings or other structures to any building,

and a building so altered, enlarged, reconstructed, converted, or added to, is, throughout this chapter, included under the expression “a new building”.

¹ The words “they may” were repealed by s. 7 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

² These words were added by Bom. 26 of 1930, s. 8 (g).

Regulation of huts.

97. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds, or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Municipality; and the Municipality may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of and between every two lines of such width as the Municipality may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and may require such huts to be provided with such number of privies and such means of drainage as to them may seem necessary. If any hut or shed or range or block be built without giving such notice to the Municipality, or otherwise than as required by the Municipality, the Municipality may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected, or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Municipality may think fit.

Improvement of huts.

98. (1) Whenever the Municipality are of opinion that any huts or sheds, whether used as dwellings or stables or for any other purposes, and whether existing at the time when this Act comes into operation or subsequently erected, are by reason

- (a) of insufficient ventilation or of the manner in which such huts or sheds are crowded together, or
- (b) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or
- (c) of the impracticability of scavenging,

attended with risk of disease to the inhabitants or the neighbourhood, they shall cause a notice to be affixed to some conspicuous part of each such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the Municipality for that purpose, to take down and remove such hut or shed, or to execute such operations as the Municipality may deem necessary for the avoidance of such risk.

(2) In case any such owner or occupier shall refuse or neglect to take down and remove such huts or sheds, or to execute such operations within the time appointed, the Municipality may cause the said huts or sheds to be taken down, or such operations to be performed in respect of such huts or sheds as they may deem necessary to prevent such risk.

(3) If such huts or sheds be pulled down by the Municipality, the Municipality shall cause the materials of each hut or shed to be sold separately, if such sale can be effected, and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner

be unknown or the title disputed, shall be held in deposit by the Municipality until the person interested therein shall obtain the order of a competent Court for the payment of the same :

Provided always that in case any huts or sheds, existing at the time when the land on which they are situated first became part of a municipal district, should be pulled down under this section by order of the Municipality, or in pursuance of their notice, compensation shall further be made to the owner or owners thereof, and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 160.

(3) *Powers connected with drainage, etc.*

99. (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal district shall be under the survey and control of the Municipality. Municipal control over drains, etc.

(2) All covered sewers and drains, and all cesspools, whether public or private, shall be provided by the Municipality or other persons to whom they severally belong, with proper traps, or other coverings or means of ventilation and the Municipality may by written notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

100. (1) In order to carry out any drainage scheme it shall be lawful for a Municipality to carry any drain, sewer, conduit, tunnel, culvert, pipe or water-course through, across or under any street, or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal district. Powers for making drains.

(2) The Municipality, or any officer appointed by them for such purpose, may enter upon and construct any new drain in the place of an existing drain in any land wherein any drain vested in the Municipality has been already constructed, or may repair or alter any drain vested in the Municipality.

(3) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid by the Municipality to any person who sustains damage by the exercise of such power.

101. (1) If any building or land be at any time undrained, or not drained to the satisfaction of the Municipality, the Municipality may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as they think necessary for the drainage of such building or land into Sufficient drainage of houses.

(a) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(b) a covered cesspool to be provided by such owner.

New buildings not to be erected without drains.

(2) It shall not be lawful newly to erect any building or to re-build any building, or to occupy any building newly erected or re-built, unless and until—

(a) a drain be constructed of such size, materials and description, at such level, and with such fall, as shall appear to the Municipality to be necessary for the effectual drainage of such building ;

(b) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Municipality to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land and of effectually flushing the drain of the said building and every fixture connected therewith.

(3) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place legally set apart for the discharge of drainage situated at a distance not exceeding fifty feet from such building ; but if there is no such drain or place within that distance, then such drain shall empty into such cesspool as the Municipality direct.

Powers of owners and occupiers of buildings or lands to drain into Municipal drains.

102. The owner or occupier of any building or land within the municipal district shall be entitled to cause his drains to empty into the sewers of the Municipality, provided that he first obtains the written permission of the Municipality, and that he complies with such conditions as the Municipality prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the Municipality and drains which are so vested.

How right to carry drain through land or into drain belonging to other persons may be obtained.

103. (1) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain, to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Municipality.

Such right how and on what conditions to be authorized by Municipality.

(2) The municipality thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in their opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to them to be adequate and equitable.

(3) Every such order shall be a complete authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner or occupier of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner or occupier reasonable notice in writing, to enter upon the land specified in the said order with assistants and workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary—

Written order of municipal authority for execution of necessary work.

- (a) for the construction or connection of the drain, as may be authorized by the said order,
- (b) for renewing, repairing or altering the same, as may be necessary from time to time, or
- (c) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

104. In executing any work under section 103, as little damage as possible shall be done, and the owner or occupier of the lands for the benefit of which the work is done, shall

Work how to be carried out.

- (a) cause the work to be executed with the least practicable delay ;
- (b) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work ; and
- (c) pay compensation to any person who sustains damage by the execution of the said work.

105. If the owner of any land into, through or under which a drain has been carried under section 103 whilst such land was unbuilt upon, shall at any subsequent time desire to erect a building thereon, the Municipality shall, if they sanction the erection of such building, by written notice require the owner or occupier of the building or land for the benefit of which such drain was constructed to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as they may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

106. (1) In case the Municipality shall be of opinion that any privy or cesspool, or additional privies, or cesspools, should be provided in or on any building or land, or, in any municipal district in which, with the approval of the sanitary board, a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be provided therein or thereon, the Municipality may by written notice call upon the owner of such building or land to provide such privies, cesspools or water-closets as the Municipality may deem proper.

Provision of privies, etc.

(2) The Municipality may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals as the Municipality may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The Municipality may by written notice require the owner or occupier of any land upon which there is a privy, to have such privy shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as they may direct any privy door or trap door which opens on to any street, and which they deem to be a nuisance.

Cost of altering, repairing and keeping in proper order privies, etc.

107. (1) All sewers, drains, privies, water-closets, house-gullies and cesspools within municipal district shall, unless constructed at the cost of the Municipality, be altered, repaired, and kept in proper order at the cost and charges of the owners of the land and buildings to which the same belong, or for the use of which they are constructed or continued, and the Municipality may by written notice require such owner to alter, repair, and put the same in good order in such manner as they think fit.

(2) The Municipality may by written notice¹ [require the owner to] demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Municipality is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

Power to close existing private drains.

108. When any building or land within the municipal district has a drain communicating with any cesspool or sewer, the Municipality, if they consider that such drain, though it may be sufficient for the drainage of such building or land, and though it may be otherwise unobjectionable is not adapted to the general sewerage of the district, may close such drain, and such cesspool or sewer, whether it is or is not on land vested in the Municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Municipality may do any work necessary for the purpose.

Power in respect of sewers, etc., unauthorisedly constructed, rebuilt or unstopped.

109. The Municipality may by written notice require that any such sewer, drain, privy, water-closet, house-gully or cesspool on any land within municipal limits constructed, rebuilt or unstopped—

- (a) after such land became part of a municipal district, and
- (b) either without the consent or contrary to the orders, directions or general regulations or by-laws of the Municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped.

¹These words were inserted by Bom. 4 of 1924, s. 6.

shall be demolished, amended or altered, as they may deem fit, by the person by whom it was so constructed, rebuilt or unstopped and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

110. (1) Whoever, without the written consent of the Municipality first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in the Municipality, shall be punished with fine which may extend to twenty-five rupees, and the Municipality may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as they may think fit.

Encroachments on municipal drains.

(2) No building shall be newly erected or rebuilt over any sewer, drain, culvert or gutter vested in the Municipality, without the written consent of the Municipality, and the Municipality may by written notice require the person who may have erected or rebuilt such building to pull down or otherwise deal with the same as they may think fit.

111. (1) The Municipality or any officer appointed by them for such purposes may, subject to the restrictions of this Act, inspect any sewer, drain, privy, water-closet, house-gully or cesspool, and for that purpose, at any time between sunrise and sunset, may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Inspection of drains, etc.

(2) The expense of such inspection, and of causing the ground to be closed and made good as before shall be borne by the Municipality, unless the sewer, drain, privy, water-closet, house-gully or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment, or of any by-laws of the Municipality in force at the time, in which case such expenses shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cesspool and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Expense of inspection when to be borne by the Municipality.

112. (1) The Municipality may, if they think fit, cause any work of the nature to which this sub-chapter applies to be executed by municipal or other agency under their own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

Municipality may execute certain works under this sub-chapter without allowing option to person concerned of executing the same.

Expenses
in such
cases by
whom to
be paid.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Municipality shall, by a general or special order or resolution, sanction, as they are hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

(3) Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of private buildings or lands shall, if supplied, constructed or erected at the expense of the Municipality, be deemed to be municipal property, unless the Municipality shall have transferred their interest therein to the owner of such buildings or lands.

(4) *Powers regarding external structures, etc.*

Permission
necessary
for certain
projec-
tions.

113. (1) The Municipality may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey thereof, at such height from the surface of the street as the Municipality may fix by by-laws from time to time, and to an extent not exceeding four feet beyond the line of the plinth or basement wall, and may prescribe the extent to which and the conditions under which, roofs, leaves, weather-boards, ¹[shop-boards] and the like may be allowed to project over such streets.

²(2) (a) Any such owner or occupier putting up any such projections as aforesaid without such permission or in contravention of such orders, shall be punished with fine which may extend to twenty-five rupees, and if any such owner or occupier fails to remove any such projection as aforesaid in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

³(b) Notwithstanding any proceedings which may be taken under clause (a) of this sub-section, the Municipality may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission of the Municipality.

Removal
of projec-
tions.

(3) The Municipality may by written notice require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether erected before or after the site of such building became part of a municipal district, shall have been erected or placed against or in front of such building, and which

(a) overhangs or juts into, or in any way projects or encroaches upon, any public street, so as to be an obstruction to safe and convenient passage along such street, or which

¹ These words were inserted by s. 8 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

² Sub-section (2) was renumbered as sub-section (2) (a) by Bom. 26 of 1930, s. 9.

³ Clause (b) was inserted by *ibid.*

- (b) projects and encroaches into or upon any uncovered aqueduct, drain or sewer in such street, so as to obstruct or interfere with such aqueduct, drain or sewer, or the proper working thereof :

Provided always that the Municipality shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district, or after such date with the written permission of the Municipality, make reasonable compensation to every person who suffers damage by such removal or alteration ; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 160.

114. The Municipality may by written notice require the owner of every building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as they may think fit, so that it shall not fall upon the persons passing along the street.

115. The Municipality may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the ¹Indian Electricity Act, 1887, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the ²Indian Telegraph Act, 1885, as amended by subsequent enactments, for telegraph wires or telephonic wires, or for the conduct of electricity for locomotive purposes or such pipes as they may deem necessary for the proper ventilation of sewers and water-works, and such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the said building or any others in the neighbourhood.

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Troughs and pipes for rain water.

Fixing of brackets, etc., to houses.

116. (1) The Municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end, corner or entrance to every street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

Naming streets and numbering houses.

(2) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the Municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

117. Any person

- (a) who without the consent of the owner or occupier affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or

Penalty for defacing building, etc.

¹ See now the Indian Electricity Act, 1910 (9 of 1910), General Acts.

² Central Acts.

(b) who without such consent as aforesaid writes upon, soils, defaces or marks any such building, wall, board, fence or pale with chalk or paint or in and other way whatsoever, shall be punished with fine which may extend to twenty-rupees.

Removal and trimming of hedges, tree, etc.

118. The Municipality may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet, and to cut down, lop, or trim all trees or shrubs which in any way overhang, endanger or obstruct, or which they deem likely to overhang, endanger, or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well, or other provision for water-supply as to pollute, or be likely to pollute, the water thereof.

(5) *Powers for promotion of public health, safety and convenience.*

Ruinous or dangerous buildings.

119. (1) If any building, or anything affixed thereon, be deemed by the Municipality to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof, or to passengers, the Municipality shall immediately, if it appears to them to be necessary, cause a proper hoard or fence to be put up for the protection of passengers; all expenses incurred by the Municipality under this sub-section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Action to be taken on default by owner or occupier.

(2) The Municipality shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Municipality shall cause all or so much of such building or thing, as they shall think necessary, to be taken down, repaired or otherwise secured:

Proviso if danger is not imminent.

Provided always that if the danger be not of hourly imminence, it shall be at the discretion of the Municipality, instead of themselves causing a hoard or fence to be put up, to issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Municipality consider sufficient in the circumstances of the case, Municipality shall at once cause such hoard or fence to be put up and thereafter proceed as provided in sub-sections (1) and (2).

120. (1) The Municipality may at any time by written notice require that the owner of, or any person who has the control over, any well, stream, channel, tank or other source of water-supply, shall, whether it is private property or not,
- (a) keep and maintain any such source of water-supply, other than a stream, in good repair, or
- (b) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or
- (c) in such manner as the Municipality prescribe, protect any such source of water-supply from pollution by surface drainage, or
- (d) within twenty-four hours of such notice, repair, protect or enclose in such manner as the Municipality approve, any such source of water-supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Municipality dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same, or shall
- (e) desist from using and from permitting others to use for drinking purposes any such source of water-supply which not being a stream in its natural flow, is proved to the satisfaction of the Municipality to be unfit for drinking; or
- (f) if notwithstanding any such notice under clause (e) such use continues and cannot in the opinion of the Municipality be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the Municipality consider sufficient to prevent such use, such source of water-supply as aforesaid;
- (g) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Municipality consider is injurious to health or offensive to the neighbourhood.
- (2) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time required by or under the provisions of sub-section (1), the Municipality may, and if in their opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred therein by the Municipality shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII;

Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

Remedy on non-compliance with directions issued.

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Municipality or necessarily incurred by such owner or person having such control, may, if the Municipality so direct, be paid from the municipal fund.

Displacing pavements, etc.

121. (1) Whoever displaces, takes up or makes any alteration in the pavement, gutter, flags or other materials, of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Municipality, or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(2) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials, or in the fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property of any public street, shall fail to replace or restore the same to the satisfaction of the Municipality after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in restoring the street, and such expense shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Obstructions and encroachments upon public streets and open spaces.

122. (1) Whoever in any place after it has become a municipal district, shall have built or set up, or shall build or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, in any public street, or shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing in such street, or in or over or upon, any open drain, gutter, sewer or aqueduct in such street, shall be punished with fine which may extend to twenty-five rupees ¹[and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.]

(2) The Municipality shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the Municipality or not, provided that if the space be vested in His Majesty the permission of the Collector shall have first been obtained, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

¹ These words were added by Bom. 26 of 1930, s. 10.

(3) Whoever, not being duly authorised, in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon, any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of an encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(4) Nothing contained in the section shall prevent the Municipality from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than four days, and in such manner as not to inconvenience the public or any individual.

¹ [(5) Nothing contained in this section shall apply to any projection duly authorized under sub-section (1) of section 113, or in any case where permission has been given under sub-section (4).]

123. (1) Every person intending to build or take down any building, or to alter or repair the outward part of any building, in such a position or in such circumstances as the work is likely to cause or may cause obstruction, danger or inconvenience in any street, shall before beginning such work, ^{Hoards to be set up during repairs, etc.}

(a) first obtain a license in writing from the Municipality so to do, and

(b) cause sufficient hoards or fences to be put up in order to separate the building where such works are being carried on from the street and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Municipality during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Municipality.

(2) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

124. (1) The Municipality shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings and shall cause such bars, chains or posts, to be fixed across or in any of the streets to prevent the passage of carriages, carts, or other vehicles, or of cattle or horses, while such works are carried on, as to them shall seem proper; and the Municipality shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be lighted with a sufficient light and guarded during the night. ^{Fencing and lighting during repairs, etc.}

¹ Sub-section (5) was added by s. 9 of the Bombay District Municipal (Amendment) Act, 1904 (Bom. 4 of 1904).

(2) Whoever takes down, alters or removes any of the said bars, chains or posts, or removes or extinguishes any such light, without the authority or consent of the Municipality, shall be punished with fine which may extend to fifty rupees.

Timber not to be deposited or hole made in a street without permission.

125. (1) No person shall, without the written permission of the Municipality or otherwise than in accordance with such conditions as may therein be prescribed, make a hole in any street or erect or deposit thereon, any timber, stone, brick, earth or other material that has been, or is intended to be, used for building; and such permission shall be terminable at the discretion of the Municipality; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, to the satisfaction of the Municipality, and shall cause the same to be sufficiently lighted during the night.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction.

Dangerous quarrying.

126. ¹* If in the opinion of the Municipality the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having legal access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Municipality may, by written notice, require the owner of the said quarry or place, or the person responsible for such working or removal, not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Municipality shall direct for the purpose of preventing danger or of abating the nuisance arising or likely to arise therefrom :

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of ²[any Government], or any person acting with the permission or under the authority of ²[any Government] or of any ³[servant of the Crown] acting as such, the Municipality shall not take such action unless and until the Collector has consented to their so doing :

Provided further that the Municipality shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if in any case referred to in this ⁴[section] it appears

¹ The figure "(1)" was deleted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

² The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ The words "servant of the Crown" were substituted for the words "officer of Government" by *ibid.*

⁴ This word was substituted for the word "sub-section" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

to them to be necessary in order to prevent imminent danger, and any expense incurred by the Municipality in taking action under this section shall be paid by such owner or other person as aforesaid, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(6) *Powers for the prevention of nuisances.*

127. (1) Whoever deposits, or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthen-ware or other rubbish, or any other thing that is or may be a nuisance, in any street or in any arch under a street, or in any drain beside a street or on any open space or on any quay, jetty or landing-place, or on any part of the sea-shore or the bank of a tidal river, whether above or below highwater mark, or on the bank of any river, water-course or nullah, except at such places, in such manner, and at such hours as shall be fixed by the Municipality, and whoever commits, or suffers any member of his family or household to commit, nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees. ^{Depositing dust, etc.}

(2) Whoever throws or puts, or causes or suffers any member of his household to throw or put, any of the matter above described, or, except with the permission of the Municipality, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance, or suffers any member of his family to commit nuisance, in any such drain, culvert, tunnel or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

128. Whoever causes or allows the water of any sink or sewer, or any other liquid or other matter which is, or which is likely to become offensive from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Municipality, or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees. ^{Discharging sewage, etc.}

129. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from, and to cleanse and purify, such receptacle, or keeps or allows to be kept in or upon such ^{Non-removal of filth, etc.}

building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees, for every day on which such offence is continued, after the date of the first conviction.

Removal of
night-soil.

130. (1) The Municipality may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(2) Whoever,

(a) when the Municipality have fixed such hours, and given public notice thereof by beat of drum, removes, or causes to be removed, along any street any such offensive matter at any time except within the hours so fixed, or

(b) at any time, whether such hours have been fixed by the Municipality or not,

(i) uses for any such purpose any cart, carriage, receptacle or vessel not having a covering proper for preventing the escape of the contents thereof, and of the stench therefrom, or

(ii) wilfully or negligently slops or spills any such offensive matter in the removal thereof, or

(iii) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(iv) places or sets down in any public place any vessel containing such offensive matter, or

(v) drives or takes or causes to be driven or taken any cart, carriage, receptacle or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Municipality by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy
buildings,
etc.

131. (1) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Municipality a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing by the Municipality to cleanse, clear or otherwise put the same in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued, after the date of the first conviction.

(2) Should the state of the building be such as in the judgment of the Municipality to render it unfit for human habitation, they may further by written notice prohibit the using thereof for that purpose until it is so rendered fit.

(3) If any building, by reason of dilapidation, neglect, abandonment, ^{Deserted and} disuse or disputed ownership, or of its remaining untenanted and thereby, ^{offensive} buildings.

- (a) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or
- (b) coming into use for any insanitary or immoral purpose, or
- (c) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the Municipality, if they consider such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal district who claims to be the owner of such building, by written notice directed to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed, and in the event of non-compliance with such requirement, the Municipality, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by them in so doing, and all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

132. It shall be lawful for the president, vice-president, or any councillor or officer authorized by the Municipality in this behalf, at any time between sunrise and sunset, on giving such notice as hereinafter provided, to enter into and inspect all buildings and lands, and by written notice to direct all or any part thereof to be forthwith internally and externally lime-washed or otherwise cleansed for sanitary reasons. ^{Power to enter and inspect, etc., buildings.}

133. (1) The Municipality may set apart sufficient public places, or any part of the sea-shore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, and for all purposes connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal district. ^{Bathing Places.}

(2) Copies of all orders passed and notices issued by the Municipality and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable times.

Regulation of washing of clothes by washermen. ¹[133A. (1) The Municipality may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the Municipality, except for such person himself or for the owner or occupier of such place.

Washing place to be provided by the Municipality for washermen. (2) The Municipality shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it.

(3) The Municipality shall, before issuing any public notice under sub-section (1), publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a list of washing places proposed to be provided under sub-section (2), together with a notice specifying a date on or after which the list will be taken into consideration; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.]

Fouling water.

134. (a) Whoever, in disobedience of any order of the Municipality under section 133, or of any by-laws, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the Municipality, or washes, or causes to be washed therein, any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought thereinto anything that is, or may become, a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted, and

(b) whoever without permission of the Municipality, steeps in any tank, stream, or ditch within, or on the boundary of, the municipal district any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance, shall be punished with fine which may extend to fifty rupees.

Abatement of nuisances.

135. When any pool, ditch, tank, pond, well, whole or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the Municipality to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the Municipality may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall, in their opinion, be necessary to abate or remove the nuisance.

Using offensive manure etc.

136. Whoever, except with the written permission of the Municipality, and in the way, if any, enjoined in such permission, stores or uses nightsoil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees.

¹ Section 133A was inserted by Bom. 12 of 1931, s. 2 (viii).

137. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, shall be punished with fine which may extend to twenty-five rupees. Tethering
cattle, etc.

[137A. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-refuse, filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees.] Feeding
animals
on filth.

138. (1) It shall be lawful for the Municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever within the limits of the municipal district, whether a steam-engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace. Consumption
of smoke.

(2) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented, or altered, or shall so negligently use, or permit to be used, any such furnace as that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, every person so offending, being the owner or occupier of the said works or buildings, or being an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees, and upon any subsequent conviction to five hundred rupees :

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(7) *Regulation of markets, sale of food, etc.*

139. (1) It shall be lawful for the Municipality to direct that no place shall be used as a market for the sale of animals, meat, fish, fruit or vegetables intended for human food, or as a slaughter-house, excepting the public markets or slaughter-houses constructed or opened by the Municipality, or such other markets or slaughter-houses as may have been licensed in writing by the Municipality, who may, at their discretion from time to time, grant, suspend, withhold or withdraw such licenses, either generally or in individual instances. Licensing
markets and
slaughter-
houses.

(2) No person shall, in any municipal district in which by-laws are in force prescribing the conditions on and subject to which, and the circumstances in which, licenses for shops for the sale of such commodities may be granted, refused, suspended or withdrawn, use without a license from the Municipality granted in accordance with by-laws made under clause

¹ Section 137A was inserted by s. 22 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(b) of sub-section (1) of section 48 any place as a shop for the sale of animals, meat or fish, intended for human food, except in a municipal or licensed market.

(3) Whoever, contrary to such direction or without the license required as aforesaid, or otherwise than in accordance with the conditions on or subject to which such license was granted, sells or exposes for sale any such animals or commodities, or uses or permits the use of a place as a shop for the sale thereof or uses any place as a slaughter-house, shall be punished with fine which may extend to twenty-five rupees.

(4) Upon a conviction being obtained in respect of any place which has, without, or during the suspension or after the withdrawal of, a license, been used or permitted to be used as a shop for such sale as aforesaid, the Magistrate shall, on the application of the Municipality, but not otherwise, order such place to be closed, and thereupon appoint persons, or take other steps, to prevent such place being so used, and every person, who so uses or permits the use of a place after it has been so ordered to be closed, shall be punished with a fine which may extend to five rupees for each day during which he continues so to use, or permit such use of, the place after it has been so ordered to be closed.

(5) Nothing contained in this section shall apply to the use of any hotel or eating house for the sale of food served for consumption on the premises.

Opening,
closing
and letting
of markets
and
slaughter-
houses.

140. (1) The Municipality may from time to time open or close any public market or slaughter-house. They may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in, or of otherwise using, any such market or slaughter-house.

(2) Any person who, without the permission or license of the Municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Slaughter-
houses,
etc.,
beyond
municipal
limits.

141. It shall be lawful for the Municipality, with the sanction of the Commissioner or, if authorized by him, of the Collector, to establish slaughter-houses or places for the disposal of carcasses of animals, beyond the limits of the municipal district, and all provisions of this Act and of by-laws in force thereunder relating to such places within municipal limits, shall have full force therein, as if such places were within the municipal limits.

Search for
and in-
spection of
unwhole-
some
articles.

142. (1) The president, vice-president or any councillor or officer authorized by the Municipality in this behalf—

(a) may at all reasonable times enter into any place for the purpose of inspecting, and may inspect, any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale, or deposited in, or brought to, any place for the purpose of sale or of preparation for sale, or may

enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

- (b) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may, under the orders of the president, vice-president or chairman of the managing committee or of a committee appointed under section 29 to exercise all or any of the powers vested in the Municipality under this sub-chapter ¹[or of the Municipal Commissioner, if any,] if in his opinion it is diseased, unsound, unwholesome or unfit for food, drink and medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the ²Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such article to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or medicine.

XLV
of
§60.

³(2) In every municipal district in which this sub-section is, by virtue of a notification ⁴[issued] under the Bombay Prevention of Adulteration Act, 1899, ⁵[as if the sub-section were part of section 5 of that Act,] for the time being in force, and applicable to food of all kinds or of any specified kind,

Adulterated
articles
for food or
drink.

4om.
1 of
§59.

if any article to which this sub-section is applicable as aforesaid, is intended for food or drink, and is in any place mentioned in sub-section (1), the president, vice-president or officer authorized as aforesaid, in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink, and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the ²Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

XLV
of
§60.

Explanation.—If such article having been exposed or stored in, or brought to any place mentioned in sub-section (1) for sale as ghee,

¹ These words were inserted by s. 23 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² Central Acts, Vol. I.

³ On coming into operation of the provisions of the Bombay Prevention of Adulteration Act, 1925 (Bom. 5 of 1925), in any local area in respect of any article of food, sub-section (2) shall be deemed to be repealed in that area in respect of such article. (See section 20 and Schedule B of Bom. 5 of 1925).

⁴ This word was inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

⁵ These words and figure were inserted by *ibid.*

contains any substance not exclusively derived from milk, it shall be deemed to be, for the purposes of this sub-section, an article which is not what it is represented to be :

Protection
to persons
acting in
good
faith.

Provided that when any article of food referred to in this sub-section appears to the Magistrate not to be what it is represented to be, solely by reason of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(a) that such substance has been added to the article of food, because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the food or conceal the inferior quality thereof, or

(b) that in the process of production, preparation or conveyance of such article of food, the extraneous substance has unavoidably become intermixed therewith, or

(c) that, by a label distinctly and legibly written or printed on or with the said article of food or by other means of public description, he has given sufficient notice that such substance has been so added, or

(d) that—

(i) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(ii) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(iii) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it.

Application
for summons
to be refused
if not applied
for within
reasonable
time.

False
weights
and
measures.

(3) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

¹143. The president, vice-president, or any councillor² or officer authorized by the Municipality in this behalf, may at all reasonable times enter into any place used for the sale of articles used for human food, and inspect the weights and measures in use, and if the person in charge be found in possession of any false or defective weights or measures, or of weights and measures by the use of which the public may be defrauded, he shall be punished with fine which may extend to two hundred and fifty rupees.

¹ On coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area, for section 143, the following shall be substituted, namely :—

“143. *Powers of inspection of weights and measures, etc.*—The president, vice-president, or any councillor or officer authorised by the municipality in this behalf may at all reasonable times enter into any place *[(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments.”
See S. 47, II Sch. of Bom. 15 of 1932.

*These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6.

² The comma after the word “councillor” was omitted by s. 24 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(8) *Prevention of dangerous diseases.*

144. (1) The ¹[Provincial Government] ²[in the case of City Municipalities, and the Commissioner in other cases,] may at any time confer by notification on any Municipality designated therein, all or any of the powers specified in sub-section (2), and such Municipality shall, subject to all such limitations, restrictions, and conditions, if any, as the ¹[Provincial Government] ²[or the Commissioner, as the case may be,] in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal district every power so conferred on them, for such period as may be specified in this behalf in any such notification, or if no period is so specified then until such power is withdrawn.

(2) The powers, all or any of which may be conferred under the preceding sub-section, are :—

- (a) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under the management or control of any such manager or head of a household, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the Municipality in that behalf ;
- (b) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorized to inspect, appears reasonable, any place in which any dangerous disease is reported or suspected to exist, and the taking of measures to prevent the spread of the disease beyond such place ;
- (c) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the Municipality, on the advice of a medical officer, likely to engender or cause the spread of any dangerous disease ;

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² These words were inserted by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

- (d) power to direct or cause the removal, on a certificate signed by any duly qualified medical practitioner authorized by the Municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of apartments occupied by more than one family, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment ;
- (e) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the Municipality in the circumstances of the case consider reasonable, at the expense of the Municipality ;
- (f) power to provide the means, and to prescribe places, for disinfecting or washing bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof ;
- (g) power—
- (i) to provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease, and
 - (ii) when such provision is made, to prohibit the conveyance of such persons in all or any public conveyances, and
 - (iii) to direct that any conveyances that may at any time be used for conveying any such person shall be immediately disinfected ;
- (h) power to prohibit—
- (i) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharamshala, theatre, market or other place of public resort, or
 - (ii) any person in charge of any person so suffering from so exposing such sufferer ;
- (i) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows, or has reason to believe, has been exposed to infection of any kind whatsoever from any dangerous disease ;

(j) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharamshala or serai, in which a person has, or in which there is reason to believe that a person has, been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the Municipality or of such officer as the Municipality appoint in this behalf ;

(k) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from dangerous disease.

(3) The Municipality may, in their discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the Municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(4) Any person who in a municipal district disobeys any order which is for the time being in force therein, and which has been passed by the Municipality in exercise of any power conferred on such Municipality under this section, or obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order, shall be punished with fine which may extend to two hundred rupees.

Penalties for disobedience to an order passed in exercise of such powers.

145. (1) In the event of the municipal district or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease the Municipality shall take all such measures as they deem necessary for the purpose of preventing, meeting, mitigating or suppressing such outbreak.

Duties of municipality on threatened or actual outbreak of dangerous disease.

(2) In such event as aforesaid the ¹[Provincial Government] ²[in the case of City Municipalities, and the Commissioner in other cases], may by special notification, declaring that such municipal district is threatened or visited with an outbreak of a dangerous disease, confer on the Municipality all or any of the additional powers specified in the following sub-section, and such Municipality shall, subject to such limitations, restrictions and conditions, if any, as the ¹[Provincial Government] ²[or the Commissioner, as the case may be] in the same or in any subsequent notification may prescribe, exercise every such power so conferred on them until the same is withdrawn by means of a like notification.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² These words were inserted by Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

(3) The powers all or any of which may be conferred under the preceding sub-section are—

(a) power to order, subject to the conditions,

(i) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(ii) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling, or of any part thereof, or of any building so used adjacent to such building, by the person or persons residing, whether habitually or temporarily, therein ;

(b) power to direct the examination by a medical officer of persons, and if necessary, the disinfection of the clothing, bedding or other suspicious articles belonging to persons, either arriving from places outside the municipal district, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such time and places as may be prescribed, for a period not exceeding ten days ;

(c) power to prohibit either generally, or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by the ¹[Provincial Government] on this behalf, such assemblages in such place, in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(4) The Municipality may in their discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section ; but except as allowed by the Municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

Penal clauses. (5) If in any municipal district in which such declaration under sub-section (2) as aforesaid is for the time being in force, any person—

(a) knowingly disobeys any order which for the time being is in force in such district and which has been passed by the Municipality in exercise of any power conferred on them under section 144 or under this section, or

(b) obstructs any officer of the Municipality or other person acting under the authority of the Municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

146. (1) The ¹[Provincial Government] ²[or the Commissioner as the case may be] may at any time

Withdrawal and modification of powers and orders.

- (a) withdraw any power conferred under section 144 or under section 145;
- (b) cancel or modify any limitation, restriction or condition prescribed in respect of any such powers, or
- (c) cancel any order passed by a Municipality in exercise of any such power.

(2) Every order passed by a Municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal district.

147. If in any municipal district any infectious disease amongst cattle, sheep or goats breaks out, or if the introduction of any such disease appears to be likely, the Municipality shall take all such measures as they deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof.

Duties of Municipality in respect of diseases among cattle, sheep or goats.

148. (1) Whenever the Municipality consider the interior of a building is so overcrowded as to be, or to be likely to become, dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the Municipality may cause proceedings to be taken before a Magistrate of the first class for the purpose of obtaining an order to prevent such overcrowding.

Proceedings to abate the overcrowding of the interiors of buildings.

(2) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease, or risk of disease, and after such further inquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

Procedure of Magistrate.

(3) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants, or other actual inmates of the same shall for the purposes of this ³[section] be deemed to be the owner of the building.

(4) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (2), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed thereby, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² These words were inserted by s. 2, Sch. I, Pt. II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

³ This word was substituted for the word "sub-section" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(5) Any owner who after the date specified in any requisition issued under sub-section (2) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (4), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

Special Powers which may be conferred by the Provincial Government in respect of over-crowded areas notified by the Provincial Government.

149. (1) If the ¹[Provincial Government] is of opinion that risk of disease has arisen or is likely to arise, either to any occupier in, or to any inhabitants in the neighbourhood of, any area by reason of any of the following defects, namely—

- (a) the manner in which either buildings, or blocks of buildings, already existing or projected therein, are, or are likely to become crowded together ; or
- (b) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected ; or
- (c) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid ; or
- (d) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings ;

²[it] may by notification confer on the Municipality, to which such area is subject, all or any of the powers specified in sub-section (2), and may, if ²[it] deem necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the Municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of the ¹[Provincial Government].

(2) The powers all or any of which may be conferred on a Municipality under sub-section (1) are as follows :—

- (a) power, when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (1), has given or is in the opinion of the Municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block, and addressed as the Municipality deem fit either to the owners thereof, or to the owners of the land on which such building or block is erected or is in course of erection, that the persons so addressed shall, within a reasonable time as shall be specified in the notice, either pull down or remove the said building or block, or execute

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The word " it " was substituted for the word " he " by *ibid.*

such works or take such action in connection therewith as the Municipality deem necessary to prevent all such risk of disease ;

(b) power by municipal or other agency, to pull down or remove the said building or block, or to execute such works or take such action, if the persons addressed in the said notice neglect so to do within the time specified therein ;

(c) power, subject to a right of appeal to the Commissioner, whose decision shall be conclusive, to prohibit by written notice addressed to the owner and occupier of any such site or space, and by general notice published in the manner provided in sub-section (3) of section 154, the erection of any building of or any building exceeding such dimensions as may be specified,

(i) on the site of any building which has, in whole or in part, in exercise of the power specified in clause (a), been pulled down, or

(ii) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the Municipality consider that in order to prevent such risk as aforesaid, such site or space should not be built upon, and either

(a) to acquire such site or space, or

(b) to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof :

Provided that in every case compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 160, shall be paid to any person whose rights are affected by such prohibition.

(3) When, in pursuance of any notice under sub-section (2), any building has been pulled down, the Municipality shall, unless it has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 160.

(4) In making any rule under sub-section (1) the ¹[Provincial Government] may prescribe a fine not exceeding five hundred rupees for every breach, and a further fine not exceeding twenty rupees a day for every continuing breach of any order made or conditions imposed by the Municipality in exercise of the powers conferred upon them under this section or in pursuance of such rules.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

Closing of
places for
disposal of
the dead.

150. (1) If the Municipality be of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, they may submit their opinion with the reasons therefor to the ¹[Commissioner] and the ¹[Commissioner] thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified on that behalf in the said notification.

(2) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(3) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

(9) *Nuisances from certain trades and occupations.*

Regulation
of certain
trades.

151. (1) If it be shown to the satisfaction of the Municipality that any building or place used or intended by any person to be used,

- (a) for boiling or storing offal, blood, bones or rags ;
- (b) for salting, curing and storing fish ;
- (c) for storing hides, horns or skins ;
- (d) for tanning ;
- (e) for the manufacture of leather or leather goods ;
- (f) for dyeing ;
- (g) for melting tallow or sulphur ;
- (h) for washing or drying wool or hair ;
- (i) as a brick, pottery or lime kiln ;
- (j) for soap-making ;
- (k) for oil-boiling ;
- (l) as a manufactory of sago ;
- (m) as a distillery ;
- (n) for storing hay, straw, fodder, wood, coal or other combustible material ;
- (o) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,

¹ This word was substituted for the words " Governor in Council " by Sch. I of the Bombay Decentralization Act, 1915 (Bom, 3 of 1915).

is, or is likely by reason of such use and of its situation to become, a nuisance to the neighbourhood, or is so used or is so situated as to be likely to be dangerous to life, health or property, the Municipality may by written notice require the owner or occupier—

- (i) at once to discontinue the use of, or at once to desist from carrying out, or allowing to be carried out, the intention so to use, such place, or
- (ii) to use it in such manner, or after such structural alterations, as the Municipality in such notice prescribes, so that it may not become, or may be no longer, a nuisance or dangerous.

(2) Whoever, after notice has been given under sub-section (1), uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction. Liability after notice

(3) Upon a conviction being obtained under this section the Magistrate shall, on the application of the Municipality but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (1).

(4) Whoever uses without a license, or during the suspension or after the withdrawal of a license, any place for any purpose mentioned in sub-section (1) in any municipal district in which by-laws are for the time being in force prescribing the conditions on ¹[or] subject to which, the circumstances in which, and the areas ¹[or] localities in respect of which, licenses for such use may be granted, refused, suspended ¹[or] withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction. Penalty for unlicensed places in district in which by-laws under section 48 (1) (b) (iii) are in force.

²[151A. (1) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a license from the Municipality. Prohibition of use of steam-whistles, etc.

(2) The Municipality may grant such license subject to such conditions as they may deem fit and may at any time withdraw such license on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the license, the license may be withdrawn without any such notice.

¹ This word was substituted for the word "and" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

² Section 151A was inserted by s. 25 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

(3) Whoever uses or employs any such whistle or trumpet as aforesaid without, or in contravention of any of the conditions of, or after the withdrawal of, such license shall be punished with fine which may extend to fifty rupees.]

Loitering or importuning for purposes of prostitution.

¹[152. Whoever in any street or public place within the limits of a municipal district loiters for the purpose of prostitution, or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police officer not below the rank of an officer in charge of a police-station and specially authorized in this behalf by the District Magistrate or by the Municipality.]

Brothels.

²[153. In any municipal district,

(a) any part of which is within three miles of a cantonment, or

(b) to which on the application of the Municipality the ³[Provincial Government] may by notification have declared this section to apply,

any Magistrate of the first class, on receiving information that a house within the limits of such district is used as a brothel, may summon the owner or occupier of such house, and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it, and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

Provided that action under this section shall be taken only

(a) with the sanction or by the order of the District Magistrate, or

(b) on the complaint of three or more inhabitants of the municipal district residing in the vicinity of the house to which the complaint refers.

(10) *Service of notices and penalties on non-compliance therewith.*

Service of notices, etc., addressed to individuals.

154. (1) The service of every notice, and the presentation of every bill under this Act, on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for therein, be effected by a municipal officer or servant or other person authorised by the Municipality in this behalf

(a) by giving or tendering this notice or bill to the person to whom it is addressed ; or

¹ In any municipal district to which section 3 of the Bombay Prevention of Prostitution Act, 1923 (Bom. 11 of 1923) may be extended under sub-section (2) of section 1 of the said Act, section 152 of Bom. 3 of 1901 shall be deemed to have been repealed from date of such extension. [Vide Bom. 11 of 1923, s. 13 (2).]

² For notification applying s. 153 to the Satara Suburban Municipal District, see *Bombay Government Gazette*, 1903, Part IA, p. 89.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

- (b) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal limits, or by giving or tendering the notice or bill to some adult male member or servant of his family ; or
- (c) if such person does not reside within the municipal limits, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post, under cover bearing the said address ; or
- (d) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either

Service of notices on "owners" or "occupiers" of buildings and lands.

- (a) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them ; or
- (b) if no such owner or occupier be found, then by giving or tendering the ¹[notice] to some male adult member or servant of the family of any such owner or occupier as aforesaid ; or
- (c) if none of the means aforesaid be available, then by causing the ¹[notice] to be fixed on some conspicuous part of the building or land to which the same relates.

(3) Every notice which this Act requires or empowers a Municipality to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in such other manner, as the Municipality in by-laws in this behalf prescribes.

Public and general notices how to be published.

(4) No notice or bill shall be invalid for defect of form.

Defective form not to invalidate notice.

(5) When any notice under this chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

Execution of acts required to be done by any notice.

¹ This word was substituted for the word " bill " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

(6) In the event of non-compliance with the terms of the notice it shall be lawful for the Municipality to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the Municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in ¹[section 160A].

Punishment for disobedience to orders and notices not punishable under any other section.

155. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by a Municipality under any power conferred by this chapter, or fails to comply with the conditions subject to which any permission was given to him by the Municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

Municipality in default of owner or occupier may execute works and recover expenses.

156. (1) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such work, the Municipality, whether any penalty is or is not provided for such default, may cause such work to be executed ; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to them by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the Municipality may seem fit :

Provided that—

Agreement for construction of drainage and water connections.

(a) whenever any drainage scheme or water-works scheme has been commenced by any Municipality, it shall be lawful for the Municipality, without prejudice to their powers under sub-section (1) or section 101 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the Municipality shall render, and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement, or, in default, in the manner described in sub-sections (2) and (3) :

¹ The word, figures and the letter "Section 160 A" were substituted for the word and figures "section 160" by s. 2 Sch. II, Pt. II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

Provided also that—

(b) when an order has been passed under sub-section (3) of section 90, sub-section (1) of section 91, ¹[sub-section (2)] or (6) of section 96 or under sections 99, 101, 106 or 107 or when permission has been given under section 102, or when an arrangement has been made under proviso (a) of this sub-section, the Municipality may, without prejudice to any other powers under this Act, if they think fit, declare any expenses incurred as aforesaid by the Municipality to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, shall be levied in such instalments as the Municipality decide, including interest at the rate of six per cent. per annum and shall be recoverable in the manner described in sub-sections (2) and (3). Improvement expenses.

(2) If the defaulter be the owner of the building or land, the Municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (3), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses. Power to levy charges on occupier who may deduct the same from his rent.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the Municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier: Occupiers not to be liable for more than the amount of rent due.

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

¹ This word, figure and brackets were substituted for the word, figure and brackets "sub-section (1)" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

Occupiers, in default of owner, may execute works and deduct expenses from his rent.

157. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the Municipality, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Proceedings if any occupier opposes the execution of the Act.

158. If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he think fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such work, such occupier shall, for every day during which he so continues to refuse, be punished with a fine which may extend to fifty rupees; and every such owner during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Entry for purposes of the Act.

159. It shall be lawful for the president or vice-president, or any councillor or officer authorized by the Municipality for such purposes, to enter for the purposes of this Act, between sunrise and sunset, into and upon any building or land, as well for the purpose of making any survey or inspection they may be entitled to make as for the purpose of executing any work authorized by this Act to be executed by them:

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier:

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

Arbitration in cases of compensation, etc.

160. (1) If a dispute arises with respect to any ¹[compensation or damages] which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed

¹ These words were substituted for the words "compensation, damages, costs or expenses" by s. 26 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

by the Municipality, two by the party ¹[to or from whom such ²[compensation or damages] may be payable or recoverable] and one, who shall be sir-panch, shall be selected by the members already appointed as above.

(2) If either party or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such ²[compensation or damages], such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(3) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the ³Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court :

Provided that—

(a) no application to the Collector for a reference shall be necessary, and

(b) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

⁴[160A. If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the Municipality and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.]

Costs or expenses how determined and recovered.

CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

161. (1) The Municipality ⁵[and, in the case of offences against any Municipality of the provisions of this Act mentioned in section 183 (d), the chief officer] may prosecute. may prosecute.

¹ These words were substituted for the words "to receive compensation" by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

² These words were substituted for the words "compensation, damages, costs or expenses" by s. 26 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

³ Central Acts.

⁴ Section 160A was inserted by s. 27 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

⁵ These words, figures and letter were inserted by s. 28, *ibid.*

order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund :

Provided that no prosecution for an offence under this Act shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate.

(2) Any prosecution under this Act or under any by-laws thereunder may, save as therein otherwise provided, be instituted before any Magistrate and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

Distress lawful though defective in form.

162. No distress levied by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him ; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Damage to municipal property how made good.

163. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of the Municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Alternative procedure by suit.

164. In lieu of proceeding by distress and sale, or in case of failure to realise by so proceeding the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages awarded under this Act, it shall be lawful for the Municipality to sue in any Court of competent jurisdiction the person liable to pay the same, as also any other person who may have in any other way caused, or may appear likely to cause, any injury to any property, rights or privileges of the Municipality.

165. (1) The Municipality may compound or compromise in respect of any suit instituted by or against them, or, in respect of any claim or demand arising out of any contract entered into by them under this Act, for such sum of money or other compensation as they shall deem sufficient: Power to compromise.

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(2) The Municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in them, their officers and servants under this Act.

166. For the purpose of the recovery of any amount due on account of rent from any person to a Municipality in respect of any land vested in [or otherwise held by] such Municipality, the Municipality shall be deemed to be superior holders, and every such person an inferior holder, of such land, within the meaning of sections 86 and 87 of the Bombay Land Revenue Code, 1879, and the Municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections superior holders are entitled for the recovery of rent or land-revenue payable to them by inferior holders. Assistance for the recovery of rent on land.

Bom.
of
879.

167. No suit shall be commenced against any Municipality, or against any officer or servant of a Municipality, or any person acting under the orders of a Municipality, for anything done, or purporting to have been done, in pursuance of this Act, without giving to such Municipality, officer, servant or person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of; Limitation of suits, etc.

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

168. (1) Any Police officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the Police Powers of Police officers.

¹These words were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station-house until his name and address shall be correctly ascertained ;

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(2) It shall also be the duty of all Police officers to give immediate information to the Municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all municipal officers and servants in the exercise of their lawful authority.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

169. (1) Every Municipality shall have prepared and laid before them, at their periodical general meetings, complete accounts of the receipts and expenditure of the Municipality since the 1st day of April last preceding, and at a general meeting which shall, if possible, be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the Municipality, a complete account of the actual and expected receipt and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the Municipality for the financial year to commence on the 1st April next following.

Presentation
of accounts.

Budget
Estimates.

(2) The Municipality shall thereupon decide upon the appropriations, and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable, at a special general meeting called for the purpose.

(3) The Municipality shall at the general meeting in April, or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past year.

170. ¹[(1) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the municipal accounts Bom. may be audited at such intervals and by such agency as may be prescribed ^{XXV} of in the rules of the municipality.] 1930.

Audit of
accounts.

¹Sub-section (1) was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (1) (a).

(2) The auditor, or auditors, shall, for the purposes of their office, have access to all the accounts and other records of the Municipality.

(3) The Municipality shall pay from the Municipal fund such charges for the audit as may be agreed upon.¹ * * * * *

171. The Municipality shall as soon as the annual accounts have been finally passed by them, transmit to the ³[Provincial Government] or any officer duly authorized by ⁴[it,] in this behalf, a copy thereof, or an account in such form as the ³[Provincial Government] may prescribe, and shall furnish such details and vouchers relating to the same as the ³[Provincial Government] or such officer may from time to time direct. Transmission of accounts to Provincial Government.

172. The quarterly and annual accounts of receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in the vernacular language of the district in such manner as the Municipality may prescribe in this behalf. Publication of accounts.

CHAPTER XII.

CONTROL.

173. (1) The Collector shall have power--

(a) to enter on and inspect, or cause to be entered on and inspected, any immoveable property occupied by any Municipality, or any work in progress under them or under their direction; Collector's powers of inspection and supervision.

(b) to call for any extract from the proceedings of any Municipality or of any committee or for any book, or document in the possession of or under the control of a Municipality, and any return, statement, account, or report which he may think fit to require such Municipality to furnish ;

(c) to require a Municipality to take into their consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such Municipality, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the Municipality, and to make a written reply to him within a reasonable time stating their reasons for not desisting from doing, or for not doing, such thing.

(2) All or any of the powers given to the Collector by this section may be delegated by him to the Assistant or Deputy Collector in charge of a taluka in so far as concerns any Municipality other than a City Municipality in such taluka.

¹ The full stop was substituted for the comma by Bom. 25 of 1930, s. 16 (1) (b) (ii).

² The words " or if the auditor is a Government auditor, then such charge as may be prescribed by the Governor in Council " were repealed by *ibid.*

³ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

⁴ The word " it " was substituted for the word " him " by *ibid.*

Collector's powers of suspending execution of orders, etc., of Municipalities.

174. (1) If, in the opinion of the Collector, the execution of any order or resolution of a Municipality, or the doing of anything which is about to be done or is being done by or on behalf of a Municipality, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, or ^{1*} is unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

Collector's order to be reported to Commissioner, who may confirm or modify it.

(2) When a Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the Municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Every case under this section to be reported to Provincial Government for their final orders.

(3) The Commissioner shall forthwith submit to the ²[Provincial Government] a report of every case occurring under this section, and the ²[Provincial Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

Extra-ordinary powers of Collector in case of emergency.

175. (1) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a Municipality are empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the Municipality.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the Municipality, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) The provisions of sub-sections (2) and (3) of section 174 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

176. If in the opinion of the Commissioner the number of persons who are employed by a Municipality as officers or servants, or whom a Municipality propose to employ, or the remuneration assigned by the Municipality to those persons, or to any particular person, is excessive, the Municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons :

¹ The word " which " was repealed by s. 10 of the Bombay District Municipal Amendment Act, 1904 (Bom. 4 of 1904).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

Provided that the Municipality may appeal against any such requirement to the ¹[Provincial Government], ²[decision of which] shall be conclusive.

177. (1) It shall be lawful for the ¹[Provincial Government]—

(i) to require, if in ³[its] opinion at any time such an appointment is necessary, the appointment of a chief officer or of a health officer, or of an engineer, or any one or more of such appointments, to be made by any City Municipality ;

(ii) to make in ³[its] discretion an order vetoing the appointment, or continuance in any such office, of any person selected therefor or appointed thereto by any such Municipality, and the tenure of such office by any such person shall cease and determine on and from the date on which such order is communicated to the Municipality ;

(iii) to require that any person appointed to be a chief officer ⁴[or a Municipal Commissioner] shall be invested by any such Municipality with all or any of the powers which can under this Act or under any rules in force at the time be lawfully delegated to him, in addition to such powers as are conferred on him by section 183 ⁴[or by Chapter XIII A, as the case may be] ;

(iv) to require that all or any of the powers referred to in section 144 or in section 145 (if the conditions under which that section comes into operation exist) shall be delegated by any such Municipality, whether there be a chief officer or not, to the president, vice-president or any such councillor as the ¹[Provincial Government] may deem fit.

(2) Any requisition issued to the Municipality under clause (i), (iii) or (iv) of sub-section (1) above shall be complied with within such time as the ¹[Provincial Government] may in each case prescribe in that behalf.

178. (1) When the ¹[Provincial Government] is informed, on complaint made or otherwise, that a Municipality have made default in performing any duty imposed on them by or under this Act, or by or under any enactment for the time being in force, the ¹[Provincial Government], if satisfied after due inquiry that the Municipality have been guilty of the alleged default, may direct the Commissioner to fix a period for the performance of that duty.

(2) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Municipality.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " decision of which " were substituted for the words " whose decision " by *ibid.*

³ The word " its " was substituted for the word " his " by *ibid.*

⁴ These words were inserted by s. 29 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

¹(3) If the expense and remuneration are not so paid, the Commissioner may make an order directing the bank in which any moneys of the municipality are deposited or the person in charge of the ²[Provincial Government] Treasury or of any other place of security in which the moneys of the municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum or sums so paid by it or him out of the moneys of the municipality so deposited with such bank or person.

Power of Provincial Government to supersede Municipality in case of incompetency, default or abuse of powers.

179. (1) If, in the opinion of the ³[Provincial Government], any Municipality are not competent to perform, or persistently make default in the performance of, the duties imposed on them by or under this Act, or otherwise by law, or exceed or abuse their powers, the ³[Provincial Government] may, by an order published, with the reasons for making it, in the ⁴[*Official Gazette*] declare the Municipality to be incompetent or in default, or to have exceeded or abused their powers, as the case may be, and ⁵[may dissolve such municipality or] supersede them for a period to be specified in the order.

⁶(2) On the dissolution of a Municipality under sub-section (1) the term of office of the councillors of such municipality shall terminate and elections of councillors shall be held under the provisions of this Act or rules made thereunder applicable thereto, on or before a date to be specified by ⁷[the Provincial Government] in this behalf in the aforesaid order.]

Consequences of supersession.

⁸(3) When the Municipality are ⁹[superseded under sub-section (1)] the following consequences shall ensue :—

(a) all councillors of the Municipality shall, as from the date of the order, vacate their offices as such councillors;

(b) all powers and duties of the Municipality shall, during the period of supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in that behalf;

(c) all property vested in the Municipality shall, during the period of supersession, vest in His Majesty.

¹ Sub-section (3) was substituted for the original sub-section by Bom. 23 of 1931, s. 2 (ii).

² The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

⁴ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

⁵ These words were inserted by Bom. 4 of 1924, s. 7 (1).

⁶ Sub-section (2) was inserted by *ibid.*, s. 7 (2).

⁷ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁸ Sub-sections (2), (3) and (4) were renumbered (3), (4) and (5) by Bom. 4 of 1924, s. 7 (4) (a).

⁹ These words, figure and brackets were substituted for the words "so superseded" by *ibid.*, s. 7 (3) (a).

¹(4) If, after inquiry made, the ²[Provincial Government] so directs, ^{Power after inquiry to continue period of supersession.} the period of supersession with all the consequences aforesaid shall from time to time be continued by an order published as aforesaid until such date as may be fixed by the ²[Provincial Government] for the re-establishment of the Municipality.

¹(5) The Municipality shall be re-established by the election or appointment of new councillors under the provisions of this Act applicable thereto,

(a) if no direction has been made under sub-section ³[(4)], then on the expiration of the period specified in the order of supersession under sub-section (1), and

(b) if a direction has been made under sub-section ³[(4)], then on such date as is fixed under that section for the re-establishment of the Municipality.

180. In all matters connected with this Act, the ²[Provincial Government], each Commissioner and each Collector shall, respectively, have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, as ⁴[it or he] has and exercises over them in the general and revenue administration. ^{Powers of Provincial Government and of the Commissioners over Collectors, etc.}

CHAPTER XIII.

SPECIAL PROVISIONS FOR CITY MUNICIPALITIES.

181. (1) The ²[Provincial Government] may, at any time, in respect of any municipal district which contains a population of not less than fifteen thousand inhabitants, declare, by notification, the Municipality thereof, which shall be specified in the notification, to be a City Municipality. ^{Constitution of City Municipalities.}

(2) The ²[Provincial Government] may, in respect of any Municipality so declared, or in respect of any Municipality specified in Schedule E, direct by notification, specifying such Municipality, that from such date as shall be fixed by the notification containing such direction, the Municipality specified shall cease to be a City Municipality and such Municipality shall, on the date fixed, cease to be a City Municipality accordingly.

182. (1) Any City Municipality may, if they think fit, appoint a chief officer and a health officer and an engineer, or any one or more of such officers or such Municipality may in their discretion appoint one person, whether temporarily or permanently, to discharge the duties of any two or of all of such offices. ^{City Municipality may appoint a chief officer, health officer, and engineer.}

¹ Sub-sections (2), (3) and (4) were renumbered (3), (4) and (5) by Bom. 4 of 1924, s. 7 (4) (a).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The figure "4" was substituted for the figure "3" by Bom. 4 of 1924, s. 7 (4) (b).

⁴ The words "it or he" were substituted for the word "he" by the Adaptation of Indian Laws Order in Council.

(2) No such officer shall, save with the previous sanction of the ¹[Provincial Government], be removable from office unless by the votes of at least three-fourths of the whole number of councillors.

(3) When a chief officer shall have been appointed, all other officers and servants employed by the Municipality shall be subordinate to him.

Powers of
chief officer.

183. The chief officer in a City Municipality shall exercise the powers hereinafter specified, and such other powers as may be delegated to him by the Municipality under the provisions of this Act :

(a) he shall have power, subject to the provisions of this Act and of the by-laws for the time being in force thereunder, to grant, give and issue under his signature all licenses and permissions which may be granted or given by a Municipality under this Act, other than licenses for markets or slaughter-houses ; and

(b) he may, subject to the provisions aforesaid, at his discretion suspend; withhold or withdraw any license, in any case in which he is empowered as aforesaid to grant or give a license, and in which the Municipality may under the provisions aforesaid suspend, withhold or withdraw such license ;

(c) he shall receive and recover and credit to the municipal fund all fees payable for licenses and permissions granted or given by him under the powers aforesaid ;

(d) he may make such requisitions by written notice, give such written consent or permission, issue such orders and prohibitions, and exercise all such powers as may be made, given, issued or exercised by a Municipality under any provisions contained in—

- (i) sub-section (2) of section 91,
- (ii) ²[sub-section (2)], sub-section (3) or clause (a) of sub-section (5) of section 96,
- (iii) section 102,
- (iv) sub-section (1) of section 110,
- (v) section 111,
- (vi) section 114,
- (vii) section 115,
- (viii) section 118,
- (ix) section 119,
- (x) section 121,
- (xi) section 122,
- (xii) section 123,
- (xiii) section 124,
- (xiv) section 125,
- (xv) section 126,
- (xvi) section 127,
- (xvii) section 128,
- (xviii) section 130,

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² This word, figure and brackets were substituted for the word, figure and brackets " sub-section (1) " by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

- (xix) sub-section (1) of section 131,
- (xx) section 132,
- (xxi) section 134,
- (xxii) section 142,
- (xxiii) section 143,
- (xxiv) clause (b) of sub-section (2) of section 144.

184. The chief officer shall have, independently of such powers as may be delegated to him by the Municipality in this behalf, power—

Chief officer's power of appointment and punishment.

(a) to appoint—

(i) without the previous sanction of the Municipality, to any post the monthly salary for which as fixed by rules made under clause (b) of section 46 does not exceed Rs. 15, and

(ii) with such previous sanction in each case, to any post under the Municipality other than that of the health officer, engineer or chief accountant, and

(b) to fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 15, and, subject to the provisions of the rules for the time being in force, any other municipal officer or servant not being the health officer, engineer, or chief accountant, provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal to the Municipality.

185. The chief officer may, with the sanction of the Municipality, delegate any of the powers conferred on him to any officer subordinate to him.

Delegation of chief officer's powers.

186. The chief officer may, with the permission of the president, or in virtue of a resolution passed in this behalf at any meeting of the Municipality or of any committee, make an explanation in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at any such meeting.

Chief officer may take part in discussions.

CHAPTER XIII.

THE MUNICIPAL COMMISSIONER, HIS POWERS AND DUTIES.

186A. (1) Notwithstanding anything contained in Chapter XIII, the ¹[Provincial Government] may make an appointment of a Municipal Commissioner—

Appointment of Municipal Commissioner.

(a) for any municipal district which contains a population of not less than one hundred thousand inhabitants; and

¹ Chapter XIII was inserted by s. 30 of the Bombay District Municipal Amendment Act, 1914 (Bom. 8 of 1914).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(b) for any other municipal district on the application of the Municipality in this behalf, provided that such application has been previously supported by not less than two-thirds of the whole number of councillors.

Population how ascertained.

(2) The population of a municipal district shall be deemed to be the population as ascertained in the latest census taken in such municipal district, unless the ¹[Provincial Government] thinks fit to direct that a special census may be taken in such municipal district for the purpose of ascertaining the population, whereupon the population shall be deemed to be the population as ascertained in such special census.

Subsequent reduction of population.

(3) When the appointment of a Municipal Commissioner has been once made for a municipal district which contained at that time a population of not less than one hundred thousand inhabitants as ascertained in sub-section (2), such appointment shall not cease by reason only of the fact that the population of such municipal district has fallen short of one hundred thousand inhabitants.

Appointment of chief officer to cease on appointment of a Municipal Commissioner.

(4) On the appointment of a Municipal Commissioner the appointment of a chief officer, whether made under section 177 or section 182, shall forthwith terminate: provided that the appointment of a Municipal Commissioner shall not be made until such notice has been given to the chief officer, if any, as the terms of his appointment entitle him to receive and until the expiry of the period specified in such notice.

Discontinuance of appointment.

(5) The ¹[Provincial Government] may at any time discontinue the appointment of a Municipal Commissioner for any municipal district for which such appointment has been made.

Term of office.

186B. (1) A Municipal Commissioner shall hold office for a period of three years, in the first instance, and thereafter for such further period as the ¹[Provincial Government] may in each case determine.

Removal from office.

(2) A Municipal Commissioner may be removed from office at any time by the ¹[Provincial Government] if it shall appear to the ¹[Provincial Government] that he is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal expedient.

(3) A Municipal Commissioner shall be forthwith removed from office by the ¹[Provincial Government] on the application of the Municipality in this behalf, provided that such application has been previously supported by not less than three-fourths of the whole number of councillors.

Salary of Municipal Commissioner.

186C. (1) A Municipal Commissioner shall receive from the municipal fund such monthly salary as the Municipality shall, subject to the approval of the ¹[Provincial Government], from time to time determine.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(2) A Municipal Commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Act or in any other enactment for the time being in force, and shall not engage in any other profession, trade or business whatsoever : Prohibition of engagement in other business.

Provided that he may at any time, with the sanction of the Municipality, serve on any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

186D. (1) The ¹[Provincial Government] may, from time to time, with the assent of the Municipality, grant leave of absence for such period as ²[it] thinks fit to a Municipal Commissioner. Leave of absence.

(2) The allowance to be paid to a Municipal Commissioner, while absent on leave, shall be of such amount, not exceeding his salary, as shall be fixed by the ¹[Provincial Government] : Leave allowance.

Provided that, if the Municipal Commissioner is a salaried ³[servant of the Crown], the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowances of salaried ⁴[servants of the Crown] of his class.

(3) During any absence on leave, or other temporary vacancy in the office, of a Municipal Commissioner the ¹[Provincial Government] may appoint a fit person to act as Municipal Commissioner. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by or under this Act or by any other enactment for the time being in force on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable. Appointment of substitute.

186E. (1) When a salaried ³[servant of the Crown] is appointed to be a Municipal Commissioner, the Municipality shall, unless specifically exempted wholly or in part from liability by the ⁵[Government in whose service he was employed immediately before the appointment], contribute to his pension and leave allowances to the extent required by proviso (b) to section 46. Contributions from Municipality towards pension and leave allowances of Municipal Commissioner.

(2) When a person other than a salaried ³[servant of the Crown] is appointed to be a Municipal Commissioner, the Municipality shall pay from the municipal fund the whole of his leave allowances fixed, as hereinbefore provided, by the ¹[Provincial Government], and may, with the sanction of the ¹[Provincial Government], grant him a pension or gratuity on retirement, or grant a compassionate allowance to his family on his death.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The word "it" was substituted for the word "he" by *ibid.*

³ The words "servant of the Crown" were substituted for the words "servant of Government" by *ibid.*

⁴ The words "servants of the Crown" were substituted for the words "servants of Government" by *ibid.*

⁵ The words "Government in whose service he was employed immediately before the appointment" were substituted for the words "Governor General in Council" by *ibid.*

Power of Municipality to require returns, reports or production of documents.

186F. (1) The Municipality may require the Municipal Commissioner to furnish them with—

(a) any return, statement, estimate, statistics or other information regarding any matter appertaining to the administration of this Act or to the municipal government of the municipal district ;

(b) a report on any such matter ;

(c) a copy of any document in his charge.

(2) The Municipal Commissioner shall comply with every such requisition without unreasonable delay.

Powers of Municipal Commissioner and limitations thereon.

186G. A Municipal Commissioner shall exercise the powers hereinafter specified, and such other executive powers as may be delegated to him by the Municipality under the provisions of this Act :—

(1) he shall exercise all the powers specifically conferred on the chief officer in a City Municipality by the provisions of this Act ; and

(2) he may make such requisitions by written notice, give such written consent or permission, issue such orders and prohibitions, exercise all such powers and perform all such duties as may be made, given, issued, exercised and performed by a Municipality under any of the provisions contained in the following sections or sub-sections, namely :—

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79, sub-sections (3), (4) and (5),

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91A,
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105,
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107,
108,
109,
110, sub-section (2),
112, sub-section (1),
113,
116,
120,
135,
136,
139, sub-section (1),
144,
145,
146,
147,
148,
151,
152,
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157,
159,
160A, and
161 :

Provided as follows :—

(a) the powers conferred on the Municipality by or under the provisions contained in section 71, section 90, section 91, section 91A, sub-section (1) of section 106, sub-section (1) of section 116, and, in the case of a well, section 135 shall not be exercised by the Municipal Commissioner except subject to the general or special orders of the Municipality or, in the absence of such orders, with the previous approval of the Municipality ;

(b) the powers conferred on the Municipality by or under any of the provisions of this Act—

(i) to make rules or by-laws, and

(ii) to authorize the president, or the vice-president, or a committee or a councillor to do anything shall not be exercised by the Municipal Commissioner ;

(c) property, whether moveable or immovable, vested in or belonging to or otherwise held by the Municipality shall not be deemed to vest in or to belong to or otherwise to be held by the Municipal Commissioner ;

(d) the power conferred by section 161 to direct a prosecution or to order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections shall not be exercised by the Municipal Commissioner except with the previous approval of the Municipality :—

section 44,

section 45,

sub-section (4) of section 91,

sub-section (4) of section 91A,

section 138, and

sub-section (4) of section 149.

Municipal Commissioner deemed to be authorized in certain matters although not expressly so authorized.

186H. When a Municipality empowered by any of the provisions of this Act or by any by-laws made hereunder to authorize an officer to exercise any power whatever or to do anything, have so authorized any officer, they shall be deemed so to have authorized the Municipal Commissioner, notwithstanding that they have not expressly so authorized him.

Punishment for person disobeying lawful direction given by Municipal Commissioner.

186I. Whoever disobeys or fails to comply with a lawful direction given by the Municipal Commissioner in any matter shall be punishable in the same manner as a person who disobeys or fails to comply with a lawful direction given by the Municipality in the same matter.

186J. (1) A Municipal Commissioner shall have, independently of such powers as may be delegated to him by the Municipality in this behalf, power without the sanction of the Municipality—

Powers of
Municipal
Commis-
sioner to
appoint,
grant leave,
punish
and
dismiss.

(a) to appoint, subject to the rules for the time being in force under sub-clause (ii) of clause (b) of section 46, a fit person to any post, under the Municipality, the monthly salary for which does not exceed rupees one hundred, other than to the post of the health officer, engineer, chief accountant, secretary or auditor ;

(b) to grant, subject to the rules for the time being in force under clause (f) of section 46, leave of absence to the holder of any post to which the Municipal Commissioner has power to appoint, and to appoint a fit person to act for such holder during such absence ;

(c) to fine, reduce, suspend or dismiss the holder of any post to which the Municipal Commissioner has power to appoint :

Provided that no holder of a post the monthly salary for which exceeds rupees fifty shall be dismissed by the Municipal Commissioner without the approval of the Municipality.

(2) When a Municipal Commissioner has been appointed under the provisions of this Act, all other officers and servants employed by the Municipality shall be subordinate to him.

186K. Notwithstanding anything contained in section 24, in section 184 and in section 186J, the powers conferred on the Municipality, or on a committee appointed under section 28, by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the Municipality or employed in any educational institution aided by the Municipality shall not be exercised either by the chief officer or by the Municipal Commissioner.

Municipal
Commis-
sioner not
to exercise
powers of
Municipality
over masters
and teachers.

186L. No appeal shall lie to the Municipality in respect of any order passed or anything done by a Municipal Commissioner in the exercise of the powers conferred upon him by or under the provisions of this Act except in the case of an order passed or anything done by him under any of the following sub-sections, namely :—

Orders not
subject to
appeal
except in
certain cases.

- (i) sub-sections (1) and (2) of section 92,
- (ii) sub-section (1) of section 98,
- (iii) sub-section (2) of section 103,
- (iv) sub-section (2) of section 131,
- (v) sub-section (1) of section 151, and
- (vi) clause (b) of sub-section (1) of section 156.

Delegation
of powers
of Muni-
cipal Com-
missioner.

186M. (1) With the sanction of the Municipality, the Municipal Commissioner may, by general or special order in writing, delegate to any municipal officer or servant any of the Municipal Commissioner's powers, duties, or functions under this Act or under any rule or by-law made hereunder except such as are conferred or imposed upon or vested in him under the following sections, namely :—

151, 161 and 186J.

(2) The exercise or discharge by any municipal officer or servant of any powers, duties or functions delegated to him under sub-section (1) shall be subject to such conditions and limitations, if any, as may be prescribed in the said order, and also to control and revision by the Municipal Commissioner.

Power to
execute
contracts
on behalf
of Muni-
cipality.

186N. In any Municipality for which a Municipal Commissioner has been appointed, notwithstanding anything contained in section 40, the following provisions with respect to the making of contracts under or for any purpose of this Act shall have effect, namely :—

(a) every such contract shall be made on behalf of the Municipality by the Municipal Commissioner ;

(b) no such contract for any purpose which the Municipal Commissioner is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given ;

(c) no contract for the purchase, sale, lease, mortgage or other transfer of immoveable property shall be entered into by the Municipal Commissioner except with the approval or sanction of the Municipality ;

(d) no contract which will involve an expenditure exceeding five hundred rupees shall be made by the Municipal Commissioner except with the approval or sanction of the Municipality ;

(e) every contract made by the Municipal Commissioner involving an expenditure exceeding two hundred and fifty rupees and not exceeding five hundred rupees shall be reported by him, within fifteen days after the same has been made, to the Municipality ;

(f) the foregoing provisions of this section shall apply to every variation or discharge of a contract as to an original contract.

Mode of
executing
contracts.

186O. (1) Notwithstanding anything contained in sub-sections (6) and (7) of section 40, every contract entered into by a Municipal Commissioner on behalf of a Municipality shall be entered into in such manner and form as would bind such Municipal Commissioner if such contract were on his own behalf, and may in the like manner and form be varied or discharged :

Provided that—

(a) Where any such contract, if entered into by a Municipal Commissioner, would require to be under seal, the same shall be sealed with the common seal of the Municipality, and

(b) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the Municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and, in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(2) The common seal of the Municipality shall not be affixed to any contract, or other instrument, except in the presence of two members of the Managing Committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(3) No contract not executed in the manner provided in this section shall be binding on the Municipality.

186P. (1) Except as is otherwise provided in sub-section (3), Tenders to be
a Municipal Commissioner shall, at least seven days before entering into invited for
any contract for the execution of any work or the supply of any materials contracts
or goods which will involve an expenditure exceeding one thousand involving
rupees, give notice by advertisement in the local newspapers, inviting expenditure
tenders for such contract. exceeding
Rs. 1,000.

(2) A Municipal Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provisions of clause (d) of section 186N, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(3) The Municipality may authorize the Municipal Commissioner, for reasons which shall be recorded in their proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tender which he may receive after having invited them.

186Q. A Municipal Commissioner shall require security for the due performance of every contract into which he enters under the last preceding section, and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.] Security
when to be
taken for
performance
of contract.

CHAPTER XIV.

NOTIFIED AREAS.

Constitution
of notified
areas.

187. (1) The ¹[Provincial Government] may by notification declare that with respect to some or all of the matters upon which a municipal fund may be expended under this Act, improved arrangements are required within a specified area, which, nevertheless, it is not expedient to constitute as a municipal district under section 7.

(2) An area in regard to which a notification has been issued under subsection (1) is hereinafter called a notified area.

(3) No area shall be made a notified area unless it—

(i) contains a town which is the head-quarters of a taluka, or

(ii) is within a distance of one mile from a railway station :

and no such area shall include two or more towns or villages which are separated by an extent of more than one mile of land unoccupied by houses.

Power of
Provincial
Government
to impose
taxation and
regulate ex-
penditure of
the proceeds
thereof.

188. (1) The ¹[Provincial Government] may by notification—

²[(a) apply or adapt to any notified area the provisions of any section of this Act, or part of any such section, or of any rules in force or which can be imposed in any municipal district under the provisions of this Act, subject to such restrictions and modifications, if any, as ³[it] may think fit ;]

(b) impose in any such area any tax, which might be imposed therein under the provisions of this Act if the said area were a municipal district ;

(c) appoint a person or a committee for the purposes of the assessment and recovery of any tax imposed under clause (b), and in order to arrange for the due expenditure of the proceeds of such taxes, and for the preparation and maintenance of proper accounts, and generally for enforcing the provisions of any section ⁴[or rules applied or adapted] under clause (a) :

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² Clause (a) was substituted by s. 2 (1) (a) of the Bombay District Municipal (Amendment) Act, 1903 (Bom. 3 of 1903).

³ The word " it " was substituted for the word " he " by the Adaptation of Indian Laws Order in Council.

⁴ These words were substituted for the word " applied " by s. 2 (1) (b) of the Bombay District Municipal (Amendment) Act, 1903 (Bom. 3 of 1903).

Provided that in any such area as is described in clause (i) of sub-section (3) of section 187, a committee shall be appointed for such purposes consisting of not less than three or more than five persons of whom a majority shall be residents of such area.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which if the notified area were a municipal district, the municipal fund thereof might be expended.

189. For the purposes of any section of this Act which may be ^{Application of Act to notified areas.} applied to a notified area, the person or committee appointed for such area under section 188 shall be deemed to be a Municipality under this Act, and the area shall be deemed to be a municipal district.

190. (1) Before issuing any notification under sub-section (1) of ^{Preliminaries to notification.} section 187 or under clause (a) or (b) of sub-section (1) of section 188, the ²[Provincial Government] shall, so far as may be, follow the procedure prescribed in section 8.

(2) The ²[Provincial Government] may at any time cancel any notification under section 187 or 188. ^{Power to cancel notification.}

³191. (1) When by reason of the cancellation, under sub-section (2) of section 190, of a notification issued under section 187 or 188, any area ceases to be a notified area, the property (including arrears of taxes) and rights which, prior to such cancellation, vested in the person or committee appointed for such area under clause (c) of sub-section (1) of section 188 shall, subject to all charges and liabilities affecting the same, vest in the local authority, if any, constituted for such area or within the limits of which such area is included, or if there be no such local authority, in His Majesty. ^{Vesting, recovery and application of property, rights and liabilities of persons or committees appointed for areas ceasing to be notified areas.}

(2) Any arrears of taxes vesting in a local authority under sub-section (1) shall be recoverable under the provisions of the Act under which such local authority is constituted as if the taxes were imposed and recoverable under that Act :

Provided that steps to recover such arrears of taxes shall be taken within a period of three years from the date on which they so vest in the local authority.

(3) Where any property and rights vest in His Majesty under sub-section (1), the proceeds thereof shall, after satisfying all charges and liabilities affecting the same, be applied for the benefit of the inhabitants of the said area in such manner as ⁴[the Provincial Government] may think fit."

¹ This word was substituted for the word "extended" by s. 2 (2) of the Bombay District Municipal (Amendment) Act, 1903 (Bom. 3 of 1903).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ Section 191 was substituted for the original section by Bom. 11 of 1936, s. 2. This section was given retrospective effect from the 14th February 1935, *vide* s. 3.

⁴ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

SCHEDULE A.

[See clause (b) ^{1**} of section 60]

Notice is hereby given to the inhabitants of the municipal district of that the Municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the rules appended, [in lieu of the tax known as the _____ which is published at page _____ of the sanctioned rules.]†

†To be inserted if the tax is to be substituted for any existing tax.

Any inhabitants of the municipal district objecting to the proposed tax may, within ²[one month] from the date of this notice, send his objections in writing to the Municipality.

RULES.

[The rules prepared by the Municipality under clause (b) ^{1**} of section 60 are to be appended here.]

SCHEDULE B.

[See sub-section (3) of section 82]

Form of Notice of Demand.

To

AB, .

residing at

Take notice that the Municipality of _____ demand from

the sum of _____

due from

on account of

(*here describe the property or other subject in respect of which the tax is leviable*) _____ leviable under rule No. _____ for the

period of _____ commencing on the _____ day of

19 _____ and ending on the _____ day of _____ 19 _____, and

that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at _____, and sufficient

¹ The words, figure and brackets " of sub-section (3) " were repealed by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

² These words were substituted for the words " a fortnight " by *ibid.*

cause for non-payment is not shown to the satisfaction of the Municipality a warrant of distress will be issued for the recovery of the same with cost.

Dated this *day of* 19

(Signed)

By order of the Municipality of

SCHEDULE C.

[See sub-section (1) of section 83]

Form of Warrant.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas *A B* of . has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax† mentioned in the margin for the period commencing on (†E the day of 19 , and ending with the des the day of 19 , and leviable under rule No. ;

And whereas fifteen days have elapsed since the service on him of notice of demand for the same ;

This is to command you to distrain, subject to the provisions of section 83 of the Bombay District Municipal Act, 1901, the goods and chattels of the said *A B* to the amount of , being the amount due from him, as follows :—

	Rs.	A.	P.
On account of the said tax		
‡[For issue of warrant]		

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this *day of* 19

(Signed)

President (or as the case may be), see section 83 (2).

† These words were substituted for the words " For service of notice " by Bom. 12 of 1931, s. 2 (ix).

SCHEDULE D.

(See clause (c) of sub-section (4) of section 83 ¹[and sub-section (I) of section 79].)

(Form of Inventory and Notice.)

To

A B,

residing at

(†Here describe the tax.)

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of _____ due for the tax† mentioned in the margin for the period commencing with the day of _____ 19 _____ and ending with the _____ day of _____ 19 _____, together with Rs. _____ due as for service of notice of demand, and that unless within five days from the day of the date of this notice you pay into the municipal office at _____ the said amount together with the costs of recovery, the said goods and chattels will be sold.

Dated this

day of

19

(Signature of officer executing the warrant.)

INVENTORY.

(Here state particulars of goods and chattels seized.)

SCHEDULE E.

[See clause (I) of section 3 and sub-section (2) of section 181.]

Name of Municipality.	Division.
Ahmedabad	} Northern Division.
Broach	
Surat	
Belgaum	} Southern Division.
Dharwar	
Hubli	
Sholapur	} Central Division.
Ahmednagar	
Nasik	
Poona	
***	} Province of Sind.
Hyderabad	
Shikarpur	
Sukkur	

¹ These words, figures and brackets were inserted by s. 2 of the Bombay District Municipal Act (1901) Amendment Act, 1902 (Bom. 3 of 1902).

² The word "Karachi" was repealed by Bom. 17 of 1933, s. 4.

BOMBAY ACT No. VI OF 1901.¹

[5th October, 1901]

An Act to amend the Bombay Land Revenue Code, 1879.

Bom. WHEREAS it is expedient to amend the Bombay Land Revenue Code,
V of 1879, in manner hereinafter appearing; it is enacted as follows:—

1. (1) This Act may be called the Bombay Land Revenue Code Short title. Amendment Act, 1901.

(2) It shall come into force at once.

2-4. * * * * *

5. Any assessment of land revenue heretofore fixed by the Collector, Saving validity of past assessments which expressly purports, or may be reasonably held to have been intended, to have been fixed under section 52 shall be valid and deemed to have been fixed under section 52. purporting to have been fixed under section 52. have been fixed under that section as amended by the foregoing section of this Act, and the amounts due according to such assessment shall, until duly revised or altered continue to be levied.

26-17. * * * * *

¹ For Statement of Objects and Reasons, see "Bombay Government Gazette." 1901, Pt. V, p. 246; for Report of Select Committee, see *ibid.*, p. 251, and for Proceedings in Council, see *ibid.*, pp. 264, 332 and 364.

² Amendments made by sections 2 to 4 and 6 to 17 have been incorporated in Bom. 5 of 1879.

THE CITY OF BOMBAY POLICE ACT, 1902.

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SCHEDULE B.—Certificate to be received by Police officers appointed by the Commissioner of Police.

It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. 1. (1) This Act may be cited as the City of Bombay Police Act, 1902.

Local extent. (2) Sections 27, ^{1*} 62, 68, 97, 99, 101, ²[102, ³and 110-A] extend to the whole of the Presidency of Bombay.

(3) The rest of the Act extends only to the City of Bombay.

Repeal of enactments. 2. (1) The enactments mentioned in Schedule A are repealed to the extent specified in the fourth column of the said Schedule.

(2) All references made in any enactment of the Governor of Bombay in Council to any enactment hereby repealed shall be read as if made to the corresponding provisions of this Act.

Saving of Appointments, etc. (3) All rules prescribed, appointments made, powers conferred and orders and certificates issued under any enactment hereby repealed shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued thereunder.

Definitions. 3. In this Act, unless there is something repugnant in the subject or context,—

(a) the phrases “ complaint,” “ investigation,” “ offence,” “ cognizable offence,” “ non-cognizable offence,” “ bailable offence ” and “ non-bailable offence ” shall respectively have the meanings assigned thereto by the Code of Criminal Procedure ;

V of
1898.

(b) “ Police officer ” shall mean any member of the Police force for the City of Bombay appointed under this Act, and shall include the Commissioner of Police, a Deputy or Assistant Commissioner of Police, and subject to the provisions of sub-section (2) of sections 9 and 10, an additional or special Police officer ;

(c) “ officer in charge of a section ” shall include, when the Inspector in charge of the section is absent or unable from illness or other cause to perform his duties, the next senior Police officer in the section, or such other officer as the Superintendent of the Division may, subject to the sanction of the Commissioner of Police, appoint in that behalf ;

¹ The figures “ 28 ” were repealed by Bom. 11 of 1923, s. 13 (1) (a).

² The words, figures, letters and brackets “ 102, 110A and sub-section (3) of section 126A ” were substituted for the word and figures “ and 102 ” by s. 2 (b) of the City of Bombay Police (Amendment) Act, 1920 (Bom. 6 of 1920).

³ The word, letter and figures “ and 110A ” were substituted for the words, letters and figures “ 110-A and sub-section (3) of section 126-A ” by Bom. 11 of 1923, s. 13 (i) (a).

(d) "cattle" shall, besides horned cattle, include elephants, camels, horses, mares, geldings, ponies, colts, fillies, asses, mules, sheep, lambs, rams, ewes, goats, kids and swine ;

(e) "prescribed" shall mean prescribed by any rules made under this Act ;

(f) "sign" shall, with reference to a person who is unable to write his name, include "mark" ;

(g) "place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted * * * and shall include a race-course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school ;

(h) "place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place ;

and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tavern or wine, beer, spirit, arrack, toddy, ganja, bhang, or opium shop ;

(i) "street" shall mean any road, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have permanently or temporarily a right of access ;

(j) "public place" shall include the foreshore, the precincts of every public building or monument, and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation ;

(k) "vehicle" shall mean any carriage, cart, van, dray, truck, hand-cart or other wheeled conveyance of any description capable of being used on the streets of the City ; and shall include a bicycle, tricycle or automotor car ;

³(l) the expressions "appointment" and "removal", with their respective grammatical variations used in relation to an office shall, when also used with reference to any member of the Indian Police, be construed to mean respectively, appointment to, and transfer from, the said office ;

⁴[(m) "subordinate ranks" shall mean any ranks below that of Deputy Superintendent.]

¹ Cf. definition in the Cattle Trespass Act, 1871 (1 of 1871), Central Acts.

² The words "otherwise than for a bona fide charitable purpose;" were repealed by s. 2 of the City of Bombay Police (Amendment) Act, 1917 (Bom. 2 of 1917).

³ Clause (j) was added by Bom. 20 of 1935, s. 8.

⁴ Clause (m) was inserted by the Adaptation of Indian Laws Order in Council.

CHAPTER II.

OF THE POLICE FORCE, AND ADDITIONAL AND SPECIAL POLICE.

Constitution of Police Force. 4. For the City of Bombay there shall be a Police force, the strength and constitution of which shall be as may¹ * * * * * from time to time be ordered by the ²[Provincial Government].

Direction and supervision of police force to vest in Commissioner of Police. 5. The direction and supervision of the said Police force shall, subject to the control of the ²[Provincial Government], be vested in an officer to be styled the Commissioner of Police for the City of Bombay,³ * * * * *

Appointment of Deputies and Assistants to the Commissioner of Police. 6. (1) The ²[Provincial Government] may from time to time appoint one or more Deputy Commissioners of Police and one or more Assistants to the Commissioner of Police. * * * * *

Powers of Deputy and Assistant Commissioners and Superintendents. (2) Every such Deputy Commissioner shall be competent to exercise and perform, under the orders of the Commissioner of Police, any of the powers conferred upon and duties assigned to the Commissioner of Police by or under this Act or any other enactment: and every such Assistant Commissioner ⁵[and a Superintendent appointed under section 7 (1)] shall exercise such powers and perform such duties as may from time to time be delegated or assigned to him by the Commissioner of Police:

Provided that the powers conferred upon the Commissioner of Police by sections 22 and 56 shall not be exercisable by a Deputy or Assistant Commissioner ⁵[or Superintendent] under this sub-section.

7. ⁶(1) [*Power to appoint and promote.*]

Power to dismiss, discharge, reduce, suspend, fine and confine in a police station. (2) The Commissioner of Police may, subject to such rules and in accordance with such procedure as the ²[Provincial Government] may from time to time prescribe in this behalf, at any time—

(a) dismiss, discharge, reduce, suspend, or to the extent of half a month's pay fine, any member ⁷[of the subordinate ranks of

¹ The words "with the sanction of the Government of India" were repealed by s. 3 and Sch. II, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The words "who shall from time to time be appointed by the Governor in Council and may be removed by the same authority" were omitted by *ibid.*

⁴ The words "Any Deputy or Assistant Commissioner so appointed may be at any time removed by order of the Governor in Council." were omitted by *ibid.*

⁵ These words, figures and brackets were inserted by s. 2 of the City of Bombay Police (Second Amendment) Act, 1920 (Bom. 18 of 1920).

⁶ Sub-section (1) was omitted by the Adaptation of Indian Laws Order in Council.

⁷ These words were substituted for the words "of the Police force other than a Deputy or Assistant Commissioner" by *ibid.*

the Police force] for neglect or violation of duty, or for any breach of any rules or orders issued by him under this Act, or for gross misconduct while on leave; or

(b) punish by confinement in a police station for a period not exceeding three days any member of the Police force below the rank of Havaldar who is in his presence grossly insubordinate or insolent:

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(3) Nothing in sub-section (2) shall affect any Police officer's liability to a criminal prosecution for any offence with which he may be charged. Saving clause.

8. (1) Every Police officer ²[belonging to the subordinate ranks of the Police force] shall, on appointment, receive a certificate in the form of Schedule B under the signature of the Commissioner of Police and shall, in virtue of such certificate, be vested with the powers, functions, privileges and responsibilities of a Police officer. Certificates to be given to Police officers belonging to the subordinate ranks of the Police force.

(2) Every certificate shall become null and void whenever the person named therein ceases, for any reason, to belong to the Police force.

(3) The powers, functions and privileges vested in a Police officer shall be temporarily suspended whilst such Police officer is suspended from office. Such Police officer shall not, by reason of such suspension, cease to be a Police officer, but shall continue subject to the same responsibilities and disabilities, and subject to the same authorities, as if no such suspension had taken place. Effect of suspension of Police officer.

9. (1) The ³[Provincial Government] may ^{4***} appoint, for such time and on such pay, and of such rank or grade, as ⁵[it] shall think fit, additional Police officers to keep the peace or preserve order at any place, or to enforce any of the provisions of this or any other Act in respect of any particular class or classes of offences,— Power to appoint additional Police officers.

(a) on the application of any person, at the charge of such person, or

(b) without such application, at the charge of any person for whose profit or benefit any large work, or any public amusement, likely to impede traffic or attract a large concourse of people, is being carried on.

¹ The proviso to sub-section (2) was omitted by the Adaptation of Indian Laws Order in Council.

² These words were substituted for the words "appointed by the Commissioner of Police" by *ibid.*

³ The words "Provincial Government" were substituted for the words "Commissioner of Police" by *ibid.*

⁴ The words "in his discretion" were omitted by *ibid.*

⁵ The word "it" was substituted for the word "he" by *ibid.*

(2) Every additional Police officer so appointed shall, on appointment,—

(a) receive a certificate in the prescribed form ;

(b) be vested with all or such of the powers, privileges and duties of a Police officer as are specially mentioned in the certificate ; and

(c) be subject to the orders of the Commissioner of Police.

Notice to be given for discontinuance.

(3) In any case in which such Police officers are appointed on the application of any person, such person may, by giving notice in writing, require that on the expiry of one month from the receipt by the Commissioner of Police of such notice or on the expiry of such shorter period as the Commissioner of Police may fix, the appointment of such Police officers shall cease.

Payments to be accounted for.

(4) All moneys received by the Commissioner of Police for the payment of any such additional Police officers shall be accounted for by him.

Disputes as to payment of cost.

(5) In the event of any dispute in any case under this section the decision of the Chief Presidency Magistrate shall be conclusive as to the amount to be paid, and as to the person by whom it is to be paid, and the sum so ascertained may, on the requisition of the Commissioner of Police, be recovered by the Collector from such person as an arrear of land revenue.

Appointment of special Police officers.

10. (1) The Commissioner of Police, of his own authority, may at any time appoint any able-bodied male person between the ages of 18 and 55 to be a special Police officer to assist the Police force on any occasion when he has reason to apprehend the occurrence of any riot or grave disturbance of the peace and he is of opinion that the ordinary Police force is not sufficient for the protection of the inhabitants and for the security of property.

(2) Every special Police officer so appointed shall, on appointment,—

(a) receive a certificate in the prescribed form ;

(b) have the same powers, privileges and protection as a Police officer ;

(c) perform all such duties as may be assigned to him by the Commissioner of Police ; and

(d) be subject to the orders of the Commissioner of Police.

Refusal to serve or perform duties.

(3) Any person who having been appointed a special Police officer under this section shall, without sufficient excuse, neglect or refuse to serve as such or to obey any lawful order or direction that may be given to him for the performance of his duties, shall be punished with fine which may extend to fifty rupees.

11. (1) Subject to the control of the ¹[Provincial Government], the Commissioner of Police shall—

Constitution of divisions and sections.

(a) constitute within the City of Bombay such and so many Police divisions,

(b) sub-divide the same into so many and such sections, as to him shall seem fit, and

(c) define the limits and extent of such divisions and sections.

(2) Each such division shall be in charge of a Superintendent of Police and each such section shall be in charge of an Inspector of Police.

Officers in charge of divisions and sections.

12. Subject to the control of the ¹[Provincial Government], the Commissioner of Police may issue such orders as he may deem expedient—

Power of Commissioner of Police to issue orders as to organization, etc.

(a) relating to the recruitment, organisation, instruction, classification, discipline and general government of the force;

(b) determining the description and quantity of the arms, accoutrements and other necessaries to be furnished to the Police; and

(c) providing for the institution, management, and regulation of any Police fund.

13. (1) Subject to the control of the ¹[Provincial Government], the Commissioner of Police may make rules not inconsistent with this Act, or with any other enactment for the time being in force,—

Power of Commissioner of Police to make rules regulating duties of Police officers, etc.

(a) assigning duties to Police officers of all ranks and grades, and prescribing—

(i) the manner in which, and

(ii) the conditions subject to which, they shall exercise and perform their respective powers and duties;

(b) prescribing the places of residence and the location of members of the force;

(c) regulating or restricting the collection and communication of intelligence and information; and

(d) prescribing the forms of certificates to be received by additional Police officers and special Police officers.

(2) A copy of the rules for the time being in force under this section shall be kept in every Police station.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

No Police officer to resign or withdraw without permission or previous notice.

14. (1) No Police officer shall resign his office or withdraw himself from the duties thereof without the written permission of the Commissioner of Police and, except in the case of a special Police officer, until, save with such permission,—

(a) the expiration,—

(i) if such member be a member of the mounted Police, of six months, or,

(ii) in any other case, of two months,

after written notice of his intention so to do has been received from him by the Commissioner of Police ; and

(b) he has fully discharged any debt due by him as a Police officer to ¹[the Crown] or to any Police fund.

(2) A Police officer, who being absent on leave fails without reasonable cause to report himself for duty on the expiration of such leave, shall be deemed, within the meaning of this section, to withdraw himself from the duties of his office :

Saving in case of disease, etc.

Provided that if any Police officer produces a certificate, signed by the Police Surgeon or by a medical officer holding a gazetted appointment under ¹[the Crown], declaring such Police officer to be unfit by reason of any disease or mental or physical incapacity for further service in the Police, the necessary written permission to resign shall forthwith be granted to him on his discharging, or giving security satisfactory to the Commissioner of Police for the payment of, any such debt as aforesaid due from such Police officer.

Certificate, arms, etc., to be delivered up by person ceasing to be a Police officer.

15. (1) Every person appointed under this Act to be a member of the Police force shall, on ceasing to be a member thereof, forthwith deliver up to the Commissioner of Police, or to such person and at such place as he may direct,—

(a) his certificate, and

(b) all clothing, arms, accoutrements and other necessary articles furnished to him for the execution of his duty.

Warrant for seizure of same.

(2) The Commissioner of Police or any Magistrate may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessary articles not delivered up as required by sub-section (1).

(3) Every warrant so issued shall be executed in accordance with the provisions of this Act by a Police officer or, if the authority issuing the same so directs, by any other person.

Exception in case of private property.

(4) Nothing in this section shall be deemed to apply to any article which under the orders of the Commissioner of Police, has become the property of the person to whom the same was furnished.

¹The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council,

16. Every Police officer not on leave or under suspension shall for all the purposes of this Act be deemed to be always on duty throughout the City of Bombay.

Police officer to be deemed always on duty.

[16A. Save as otherwise provided by or under this Act, and subject to any law for the time being in force, all matters relating to the recruitment, pay, allowances and other conditions of service of police officers ²[of the subordinate ranks] shall be regulated by the Bombay Civil Services ³[Rules or such other rules as may from time to time be made by the Provincial Government.]

Conditions of service.

17. No Police officer other than a special Police officer shall, without the permission of the ⁴[Provincial Government], either as principal or agent,—

Police officer prohibited from other employment.

(a) engage in any trade,

(b) be in any way concerned in the purchase or sale of any immovable property within the City of Bombay or of any interest therein, or

(c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police officer.

18. Any Police officer who—

Offences by Police officers.

(a) contravenes any provision of section 17,

(b) is guilty of cowardice,

(c) resigns his office or withdraws himself from the duties thereof in contravention of section 14.

(d) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police officer to observe or obey, or

(e) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force,

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

¹ This section was inserted by Bom. 20 of 1935, s. 9.

² These words were substituted for the words " of and below the grade of the Inspector " by the Adaptation of Indian Laws Order in Council.

³ These words were substituted for the words " Rules for the time being in force " by *ibid.*

⁴ The words " Provincial Government " were substituted for the words " Governor in Council " by *ibid.*

Vexatious entry, search, arrest, etc., by Police officers.

19. Any Police officer who—

(a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place,

(b) vexatiously and unnecessarily seizes the property of any person,

(c) vexatiously and unnecessarily detains, searches or arrests any person,

(d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person,

(e) offers any unnecessary personal violence to any person in his custody, or

(f) holds out any threat or promise not warranted by law to an accused person,

shall for every such offence be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

False statement to obtain employment.

20. Any person who knowingly makes a false statement or uses a false document for the purpose of obtaining for himself or any other person employment or release from employment as a Police officer, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Saving in regard to District and Railway Police.

21. Subject to the provisions of the ¹Police Act, 1888, and save in so far as the operation of this section may be temporarily suspended by the ^{1k} special order of the ^{II} ²[Provincial Government], nothing in this Chapter shall be deemed to affect any officers of the District or Railway Police employed within the limits of the City of Bombay on Police functions connected with the administration of any district or railway, as the case may be, and any such Police officer shall in the discharge of such functions be vested with the powers and privileges, and be subject to the liabilities, of a Police officer of the establishment to which he belongs.

¹ Central Acts.

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

CHAPTER III.

POLICE REGULATIONS.

Rules for preservation of order.

22. (1) ¹[In the case of rules under ²clauses (b) and (c)], subject to the control of the ³[Provincial Government], and in other cases] with the previous sanction of the ³[Provincial Government], the Commissioner of Police may from time to time make, alter or rescind rules not inconsistent with this Act,—

(a) for licensing and controlling persons offering themselves for employment at quays, wharves and landing-places, and outside Railway stations, for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons so employed ;

(b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, driving, cycling, walking or leading or accompanying cattle, so as to prevent danger, obstruction or inconvenience to the public ;

(c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle ;

(d) prescribing the number and position of lights to be used on vehicles in streets and public places, and regulating and controlling the manner and mode of conveying timber, scaffold poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles through the streets, and the route and hours for such conveyance ;

(e) prescribing, subject to any notice issued by the Municipal Commissioner under clause (c) of section 441 of the City of Bombay Municipal Act, 1888, the roads along which, and the hours during which, corpses may, or may not, be carried ;

(f) for licensing, controlling or, in order to prevent the obstruction, inconvenience, annoyance, risk, danger or damage of the residents or passengers in the vicinity, prohibiting,—

(i) the keeping of places of public amusement or entertainment,

(ii) the playing of music in streets and public places,

(iii) the illumination of streets and public places and the exteriors of buildings abutting thereon by persons other than ⁴[servants of the Crown or Municipal officers] duly authorized in that behalf,

(iv) the carrying in streets and public places of gunpowder or any other explosive substance, and

(v) the blasting of rocks ;

¹ These words were inserted by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

² The words, letters and brackets " clauses (b) and (c) " were substituted for the word, letter and brackets " clause (b) " by Bom. 21 of 1930, s. 3.

³ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

⁴ These words were substituted for the words " Government or Municipal officers " by *ibid.*

Power to make rules for regulation of traffic and for preservation of order in public places, etc.

(g) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and providing for the maintenance of public safety and the prevention of disturbance therein ; and

(h) prescribing the procedure in accordance with which any license or permission sought to be obtained or required under this Act should be applied for, and fixing the fees to be charged for any such license or permission ;

Saving of provisions of Bombay Abkari Act and other enactments.

Provided, *firstly*, that nothing in this section and no license granted under any rule made thereunder shall authorize any person to import, export, transport, manufacture, sell or possess any liquor or intoxicating drug, in respect of which a license, permit or pass is required under the Bombay Abkari Act, 1878, or under any other law for the time being in force relating to the Abkari revenue, or shall affect the liability of any person under any such law, or shall in any way affect the provisions of XI of the ^{Bom. V of 1878.} ¹Arms Act, 1878, or of the ^{1878.} ¹Explosives Act, 1884, or of any rules ^{IV of 1884.} made under either of those enactments, or the liability of any person thereunder :

Saving in regard to licensing places of public entertainment.

Provided, *secondly*, that no rule under clause (f) shall contain any regulation requiring a license for any place of public entertainment unless spirituous liquor, toddy or any intoxicating drug, as defined in the Bombay Abkari Act, 1878, or opium, as defined in the ^{Bom. V of 1878.} ¹Opium Act, 1878, is sold in such place, or unless such place is kept open for customers between the hours of nine at night and five in the morning. ^{I of 1878.}

Provisions as to publication of rules.

(2) The power of making, altering or rescinding rules under sub-section (1) shall be subject to the condition of the rules being made, altered or rescinded after previous publication in the manner specified in section 23 of the ^{X of 1897.} ¹General Clauses Act, 1897, and every rule made, or alteration or rescission of a rule made, under the said sub-section and sanctioned by the ²[Provincial Government], shall be published in the ³[*Official Gazette*] and in the manner specified in section 137.

Power of Commissioner of Police to prohibit keeping of place of public amusement or entertainment.

(3) Notwithstanding anything hereinbefore contained in this section or which may be contained in any rule made thereunder, it shall always be lawful for the Commissioner of Police to refuse a license for, or to prohibit, the keeping of any place of public amusement or entertainment by a person of notoriously bad character.

¹ Central Acts.

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

Special Orders.

23. (1) The Commissioner of Police and, subject to the orders of the Commissioner of Police, every Police officer not inferior in rank to an Inspector may, from time to time as occasion may require, but not so as to contravene any rule under the preceding section, give all such orders either orally or in writing as may be necessary to—

Powers of Commissioner of Police and of other officers to give directions to the public.

(a) direct the conduct of, and behaviour or action of persons constituting, processions and assemblies in streets ;

(b) prescribe the routes by which and the times at which any such processions may, or may not, pass ;

(c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;

(d) keep order on and in all streets, quays, wharves, landing-places and all other public places or places of public resort ;

(e) regulate and control music or singing in any street or public place, and the beating of drums, tom-toms and other instruments and the blowing or sounding of horns or other noisy instruments, in or near any street or public place ; or

(f) prevent, upon complaint made in writing by any person to the Commissioner of Police, the continuance of music or other such sounds as aforesaid in any place, if the Commissioner of Police be satisfied that the same is a nuisance and ought to be summarily stopped either on account of the serious illness of, or because it seriously interferes with the reasonable occupations of, any person resident or lawfully engaged in the neighbourhood :

Provided that in any case where the continuance of music or other sounds as aforesaid is so prevented, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal.

(2) The Commissioner of Police may also, whenever and for such time as he shall consider necessary for the preservation of the public peace or public safety by a notification publicly promulgated or addressed to individuals, prohibit—

Power to give prohibitions for prevention of disorder.

(a) the carrying of swords, spears, bludgeons, guns, or other offensive weapons, in any public place ;

(b) the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles ;

(c) the exhibition of persons or of corpses, or figures or effigies, in any public place ;

(d) the public utterance of cries, singing of songs, playing of music ; and

(e) the delivery of harangues, the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards, or of any other object or thing, which may be of a nature to outrage morality or decency, or which, in the opinion of the Commissioner of Police, may probably inflame religious animosity or hostility between different classes, or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law or of a lawful authority.

Power to prohibit assembly or procession.

(3) The Commissioner of Police may also by order in writing prohibit any assembly or procession whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the ¹[Provincial Government].

Power to reserve street or public place for public purpose.

(4) The Commissioner of Police may also, ²* * * by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved, save under such conditions as may be prescribed by the Commissioner of Police.

Issue of orders by Commissioner of Police for prevention of riot, etc.

24. (1) In order to prevent or suppress any riot or grave disturbance of the peace, the Commissioner of Police may temporarily close or take possession of any building or place, and may exclude all or any persons therefrom, or may allow access thereto to such persons, only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such orders as the Commissioner of Police may make and notify in the exercise of the authority hereby vested in him.

Compensation to lawful occupier of building or place closed or taken possession of by Commissioner of Police.

(2) If the lawful occupier of such building or place suffers substantial loss or injury by reason of the action of the Commissioner of Police under this section, he shall be entitled, on application made to the Commissioner within one month from the date of such action, to receive reasonable compensation for such loss or injury, unless such action was in the opinion of the Commissioner of Police rendered necessary either by the use to which such building or place was put or intended to be put or by the misconduct of persons having access thereto.

¹ The words " Provincial Government " were substituted for the words " Governor Council " by the Adaptation of Indian Laws Order in Council.

² The words " subject to the orders of the Governor in Council " were repealed by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

(3) In the event of any dispute in any case under sub-section (2) the decision of the Chief Presidency Magistrate shall be conclusive as to the amount (if any) to be paid, and as to the person to whom it is to be paid.

Disputes as to compensation to be settled by Chief Presidency Magistrate.

25. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organised assemblage in any street or public place, as to which or the conduct of or participation in which it shall appear to the Commissioner of Police that a dispute or contention exists which is likely to lead to grave disturbance of the peace, the Commissioner of Police may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the section or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

Issue of orders for maintenance of order at religious ceremonials, etc.

(2) Any order under sub-section (1) shall be subject to a decree, injunction or order made by a Court having jurisdiction, and shall be recalled or altered on its being made to appear to the Commissioner of Police that it is inconsistent with a judgment, decree, injunction or order of such Court, on the complaint, suit or application of any person interested, as to the rights and duties of any persons affected by the order aforesaid.

Orders to be subject to decrees, etc., of Courts.

26. (1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any place of public amusement or at any assembly or meeting to which the public are invited or which is open to the public, the Police officer of highest rank, superior to that of Havaldar, present ¹[at] such place of public amusement ²* * or such assembly or meeting ³* * * may, subject to such rules and orders as may have been lawfully made, give such reasonable directions, as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of persons attending ⁴[and the maintenance of the public safety] at, such place or such assembly or meeting, as he thinks necessary; and all persons shall be bound to conform to every such reasonable direction.

Police to prevent disorder at places of public amusement, etc.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction made thereunder.

Police to have free access thereto.

¹ This word was substituted for the words "in the section in which" by s. 2 (a) of the Bombay District and City Police (Amendment) Act, 1913 (Bom. 5 of 1913).

² The words "is situate" were repealed by s. 2 (b), *ibid.*

³ The words "is to be held" were repealed by *ibid.*

⁴ These words were inserted by s. 2 (c), *ibid.*

Dispersal of gangs and bodies of persons.

27. (1) Whenever it shall appear to the Commissioner of Police that the movements or encampment of any gang or body of persons in the City of Bombay are or is causing or calculated to cause danger or alarm, or a reasonable suspicion that unlawful designs are entertained by such gang or body or by any member or members thereof, or that an outbreak of epidemic disease is likely to result from the continued residence in the city of large numbers of pauper immigrants, the Commissioner of Police¹ * * * may, by beat of drum or otherwise as he thinks fit, direct the members of such gang or body or such immigrants, so to conduct themselves as shall seem necessary in order to prevent violence and alarm or the outbreak or spread of such disease or to disperse and remove themselves to such place or places, by such route or routes, and within such time, as the Commissioner of Police shall prescribe.

Removal of convicted beggars.

(2) It shall also be competent to the Commissioner of Police to direct the removal in like manner of any person who has been twice convicted of an offence under section 121² [or of any person who has been thrice convicted within a period of three years of an offence punishable either under section 4 or section 12A of the Bombay Prevention of Gambling Act, 1887].^{Bom. IV of 1887.}

Removal of persons convicted of certain offences.

³[(2A) It shall be further competent to the Commissioner of Police to direct any person who, not having been born in the City of Bombay or the Bombay Suburban District, has been convicted more than twice of offences punishable under Chapter XII, XVI or XVII of the Indian Penal Code, to remove himself in like manner from the City of Bombay and not to enter the said City or the Bombay Suburban District.^{XLV of 1860.}

A copy of such direction shall be forwarded to the Magistrate of the Bombay Suburban District.]

Decision of the Commissioner of Police regarding the place of birth final.

³[(2B) For the purpose of sub-section (2A), the decision of the Commissioner of Police that a person has or has not been born in the City of Bombay or the Bombay Suburban District shall be final.]

Procedure on failure to remove.

(3) If any person so directed under sub-section (1) ⁴[(2) or (2A)] fails or refuses to remove himself outside the City of Bombay ⁵[or enters the said City] within the time specified ⁶[or if any person so directed under sub-section (2) of section 46 of the Bombay District Police Act, 1890, enters the said City], the Commissioner of Police may cause such person to be arrested and removed in Police custody to such place outside the City of Bombay as he may in each case direct.^{Bom. IV of 1890.}

28. [Power to segregate prostitutes and keepers of brothels.] Repealed by Bom. 11 of 1923, s. 13 (i) (b).

¹ The words " with the sanction of the Governor in Council " were repealed by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

² These words, figures and letter were added by Bom. 1 of 1936, s. 11.

³ Sub-sections (2A) and (2B) were inserted by Bom. 21 of 1933, s. 2 (i).

⁴ The word, figures and brackets " (2) or (2A) " were substituted for the word, figure and brackets " or (2) " by *ibid.*, s. 2 (ii) (a).

⁵ These words were inserted by *ibid.*, s. 2 (ii) (b).

⁶ These words, figures and brackets were inserted by *ibid.*, s. 2 (ii) (c).

29. (1) The Commissioner of Police may from time to time, by public notice, proclaim that any stray dogs found, during such period as may be specified in the said notice, wandering in the streets or in any public place may be destroyed, and any dog so found within such period may be destroyed accordingly. Destruction of stray dogs.

(2) The Commissioner of Police may by public notice require that every dog, while in the streets or in any public place and not led by some person, shall be muzzled in such a manner as effectually to prevent it from biting, while not obstructing its breathing or drinking, and the Police may, so long as such notice remains in force, destroy, or take possession of and detain, any dog found loose without a muzzle in any place beyond the premises of the owner thereof: Provisions as to muzzling or seizure of dogs.

Provided that any dog so found, wearing a collar on which an apparently genuine name or address of an owner is inscribed, shall not, unless it is rabid, be forthwith destroyed, but information of the detention thereof shall forthwith be sent by post or otherwise to such owner. Saving as to dogs wearing collars.

(3) Any dog which has been detained under sub-section (2) for a period of three clear days without the owner providing a muzzle and paying all expenses connected with such detention, may be destroyed or sold with the sanction and under the orders of the Commissioner of Police. Destruction or sale of dogs.

(4) The proceeds of the sale of any dog under sub-section (3) shall be applied, as far as may be, in discharge of the expenses incurred in connection with its detention, and the balance, if any, shall ¹form part of the revenues of the Province]. Proceeds of sale how disposed of.

(5) Any expenses incurred in connection with the destruction or detention of any dog under this section shall, subject to the provisions of sub-section (4), be recoverable from the owner thereof upon a warrant issued by the Commissioner of Police, as if it were a warrant under section 386 of the Code of Criminal Procedure. Recovery of expenses.

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²[29A. (1) Any police officer who in any street or public place other than a place of worship finds any animal other than a bull or a cow so diseased, or so severely injured, and in such a physical condition, that in his opinion it cannot without cruelty be removed, shall, if the owner is absent or refuses to consent to the destruction of the animal, at once summon the Veterinary Practitioner in charge of the area in which the animal is found and, if the Veterinary Practitioner certifies that the animal is mortally injured, or so severely injured, or so diseased, or in such a physical condition, that it is cruel to keep it alive, the police officer may, without the consent of the owner, destroy the animal or cause it to be destroyed: Destruction of suffering or unfit animals.

¹ These words were substituted for the words "be at the disposal of Government" by the Adaptation of Indian Laws Order in Council.

² Section 29A was inserted by Bom. 12 of 1926, s. 2.

Provided that if in the opinion of the Veterinary Practitioner the animal can be removed from the place where it is found without causing it great suffering, and, if the owner or person in charge of the animal, or in their absence any other person on the spot is willing and offers to remove the animal to a Veterinary Hospital or Pinjrapole within such time as the Veterinary Practitioner considers reasonable, the Veterinary Practitioner shall allow the animal to be removed by such owner, person in charge or other person. If the owner or person in charge of the animal or such other person is unwilling or fails so to remove the animal, the Veterinary Practitioner may direct the Police officer to remove the animal before it is destroyed from the place where it is found to such other place as he may think fit :

Provided further that when the animal is destroyed in any street or public place it shall, as far as possible, be screened from the public gaze while it is being destroyed.

Explanation.—For the purpose of this section “ bull ” does not include “ bullock ”.

(2) The [Provincial Government] may appoint such persons as [it] thinks fit to be Veterinary Practitioners and may declare the areas of which they shall be in charge for the purposes of this Act.]

Power to
appoint
Veterinary
Practitioners.

CHAPTER IV.

EXECUTIVE POWERS AND DUTIES OF POLICE.

Duties of Police Officers.

30. A Police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Arrest to
prevent
cognizable
offences.

31. A Police officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, moveable or immovable, or the removal or injury of any public landmark, or buoy or other mark used for navigation.

Prevention of
injury to
public
property.

32. (1) It shall be the duty of every Police officer—

Duties of a
Police officer.

(a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superior ;

¹The words “ Provincial Government ” were substituted for the words “ Governor in Council ” by the Adaptation of Indian Laws Order in Council.

²The word “ it ” was substituted for the word “ he ” by *ibid.*

(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable, and within his view of non-cognizable, offences ;

(c) to prevent to the best of his ability the commission of public nuisances ;

(d) to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason ;

(e) to aid another Police officer when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided ;

(f) to discharge such duties as are imposed upon him by any law for the time being in force ;

(g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves ;

(h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, whilst guarding or conducting any such person, to have due regard to his condition ;

(i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;

(j) in conducting searches to refrain from needless rudeness and the causing of unnecessary annoyance ;

(k) in dealing with women and children to act with strict regard to decency and with reasonable gentleness ;

(l) to use his best endeavours—

(i) to prevent any loss or damage by fire, and

(ii) to avert any accident or danger to the public ;

(m) to regulate and control the traffic in the streets, to prevent obstructions therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets ;

(n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship ;

(o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry boats, and to the best of his ability to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat ; and

(p) to perform all duties imposed on him by the rules for the time being in force under sections 13 and 22 in the manner and subject to the conditions therein prescribed.

Persons bound to conform to reasonable orders of Police.

(2) All persons shall be bound to conform to the reasonable directions of a Police officer given in fulfilment of any of the said duties.

Police officers may restrain or remove contumacious person.

(3) A Police officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid.

Powers with regard to offences under Act XI of 1890.

¹32A. (1) When in respect of an animal an offence under section 3 or section 5 or sub-section (1) of section 6 of the Prevention of Cruelty to Animals Act, 1890², hereinafter in this section referred to as the said Act, has been committed, or, when there is a reasonable ground for suspecting that such offence has been committed, any Police officer may—

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(a) take the animal to a Presidency Magistrate, or

(b) if the accused person so requires, take the animal to a veterinary officer, if any, empowered by the ³[Provincial Government] in this behalf, or

(c) take the animal to an infirmary appointed under sub-section (2) of section 6 of the said Act for treatment and detention therein, pending direction of a Presidency Magistrate under sub-section (3) of the said section, or

(d) when the animal is in such a physical condition that it cannot be taken to a veterinary officer or a Presidency Magistrate, draw up a report of the condition of the animal in the presence of two or more respectable persons describing such wounds, sores, fractures, bruises,

¹ Section 32A was inserted by Bom. 21 of 1936, s. 3.

² See Central Acts.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

or other marks of injury as may be found on the body of the animal :

Provided that in cases falling under clause (b) or (d), the Police officer may direct that the animal shall be sent for detention in a dispensary or any suitable place approved by ¹[the Provincial Government] by general or special order and be there detained until its production before a Presidency Magistrate ;

Provided further that an animal so detained shall be produced before a Presidency Magistrate with the least possible delay and within a period not exceeding three days from the date on which it was sent for detention and shall be handed over to its owner unless the Presidency Magistrate passes an order for its further detention in an infirmary.

(2) When an animal is brought before a Presidency Magistrate under clause (a) of sub-section (1), such Magistrate may direct the animal to be returned to the person from whose possession it was taken on such person giving security to the satisfaction of the Magistrate, binding himself to produce the animal when required, or, may direct that the animal shall be sent for treatment and care to an infirmary and be there detained as provided in sub-section (3) of section 6 of the said Act, or may make such order as he thinks fit regarding the disposal or custody and production of the animal.

(3) The veterinary officer before whom an animal is brought under clause (b) of sub-section (1) shall, with all convenient speed, examine the same and draw up a report of such examination. A copy of the report shall be delivered free of charge to the accused person if he applies for it.

(4) When under sub-section (1) a Police officer directs that an animal shall be sent for detention in a dispensary or any suitable place before its production before a Presidency Magistrate, or under sub-section (2) a Presidency Magistrate directs that an animal shall be sent for treatment and care to an infirmary and be detained therein, the provisions of sub-sections (5), (6), (7) and (8) of section 6 of the said Act shall, so far as may be, apply.

(5) When a Police officer in good faith suspects that any animal being employed in any work or labour is, by reason of any sore, unfit to be so employed, he may require the person in charge of such animal to unsaddle or unload it for the purpose of ascertaining whether any sore exists and, if such person refuses to do so, may himself unsaddle or unload the animal or may cause the same to be unsaddled or unloaded.

¹ The words " the Provincial Government " were substituted for the word " Govern-ment " by the Adaptation of Indian Laws Order in Council.

Powers of Police Officers to arrest without warrant.

When Police
may arrest
without
warrant.

33. Any Police officer may, without an order from a Magistrate and without a warrant, arrest—

(a) any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned ;

(b) any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

(c) any person who has been proclaimed as an offender either under the Code of Criminal Procedure or by order of ¹[the Provincial Govern- V of
ment] ; 1898.

(d) any person who is found having in his possession or conveying anything which may reasonably be suspected to be stolen property, or who may reasonably be suspected of having committed an offence with reference to such thing ;

(e) any person who obstructs a Police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody ;

(f) any person reasonably suspected of being a deserter from His Majesty's Army or Navy, or of belonging to ² [the Royal Indian Navy] and being illegally absent from that service ³[or of having committed an offence punishable under clause (c) of section 18] ;

(g) any person who has been concerned in, or against whom a reasonable complaint has been made, or credible information has been received, or reasonable suspicion exists, of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is under any law relating to extradition or under the ^{44 an.} ^{45,} ⁴⁶ ⁴⁷ ⁴⁸ ⁴⁹ ⁵⁰ ⁵¹ ⁵² ⁵³ ⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷ ⁵⁸ ⁵⁹ ⁶⁰ ⁶¹ ⁶² ⁶³ ⁶⁴ ⁶⁵ ⁶⁶ ⁶⁷ ⁶⁸ ⁶⁹ ⁷⁰ ⁷¹ ⁷² ⁷³ ⁷⁴ ⁷⁵ ⁷⁶ ⁷⁷ ⁷⁸ ⁷⁹ ⁸⁰ ⁸¹ ⁸² ⁸³ ⁸⁴ ⁸⁵ ⁸⁶ ⁸⁷ ⁸⁸ ⁸⁹ ⁹⁰ ⁹¹ ⁹² ⁹³ ⁹⁴ ⁹⁵ ⁹⁶ ⁹⁷ ⁹⁸ ⁹⁹ ¹⁰⁰ ¹⁰¹ ¹⁰² ¹⁰³ ¹⁰⁴ ¹⁰⁵ ¹⁰⁶ ¹⁰⁷ ¹⁰⁸ ¹⁰⁹ ¹¹⁰ ¹¹¹ ¹¹² ¹¹³ ¹¹⁴ ¹¹⁵ ¹¹⁶ ¹¹⁷ ¹¹⁸ ¹¹⁹ ¹²⁰ ¹²¹ ¹²² ¹²³ ¹²⁴ ¹²⁵ ¹²⁶ ¹²⁷ ¹²⁸ ¹²⁹ ¹³⁰ ¹³¹ ¹³² ¹³³ ¹³⁴ ¹³⁵ ¹³⁶ ¹³⁷ ¹³⁸ ¹³⁹ ¹⁴⁰ ¹⁴¹ ¹⁴² ¹⁴³ ¹⁴⁴ ¹⁴⁵ ¹⁴⁶ ¹⁴⁷ ¹⁴⁸ ¹⁴⁹ ¹⁵⁰ ¹⁵¹ ¹⁵² ¹⁵³ ¹⁵⁴ ¹⁵⁵ ¹⁵⁶ ¹⁵⁷ ¹⁵⁸ ¹⁵⁹ ¹⁶⁰ ¹⁶¹ ¹⁶² ¹⁶³ ¹⁶⁴ ¹⁶⁵ ¹⁶⁶ ¹⁶⁷ ¹⁶⁸ ¹⁶⁹ ¹⁷⁰ ¹⁷¹ ¹⁷² ¹⁷³ ¹⁷⁴ ¹⁷⁵ ¹⁷⁶ ¹⁷⁷ ¹⁷⁸ ¹⁷⁹ ¹⁸⁰ ¹⁸¹ ¹⁸² ¹⁸³ ¹⁸⁴ ¹⁸⁵ ¹⁸⁶ ¹⁸⁷ ¹⁸⁸ ¹⁸⁹ ¹⁹⁰ ¹⁹¹ ¹⁹² ¹⁹³ ¹⁹⁴ ¹⁹⁵ ¹⁹⁶ ¹⁹⁷ ¹⁹⁸ ¹⁹⁹ ²⁰⁰ ²⁰¹ ²⁰² 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XI of
1890.

(i) any person committing in his presence any offence punishable under section 112, 115, clause (e), (g) or (i) of section 118, section 119, 121, 122, 123, clause (a) of section 124, section 126, ^{1*} clause (i) or (ii) of section 127, in respect of a contravention of a rule made ²[under clause (b) of sub-section (1) of section 22 prohibiting the occupation of a street so as to cause obstruction to traffic or inconvenience to the public, or of any rule made under sub-clause (iv) or (v) of clause (f) of the said sub-section], or of a prohibition given under clause (a) or (b) of sub-section (2) of section 23, ³[or under section 128] of this Act, or section 3, 4, 5 or 6 of the ⁴Prevention of Cruelty to Animals Act, 1890 ;

⁵[(j) any person who has been concerned in an offence punishable under section 111A ⁶ * * * or against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists, of his having been so concerned.]

34. (1) A Police officer may arrest without a warrant any person committing in his presence in any street or public place any other non-cognizable offence punishable under this Act, or under any rule made thereunder, or under any other law for the time being in force, if such person—

(i) after being warned by a Police officer persists in committing such offence, or

(ii) refuses on being required by a Police officer to give his name and address, or gives a name or address which the Police officer has reason to believe false, or

(iii) refuses to accompany the Police officer to a station on being required so to do.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required :

Provided that if such person is not resident in Bombay the bond shall be secured by a surety or sureties resident in Bombay.

¹ The word "or" was deleted by Bom. 9 of 1926, s. 6 (a).

² These words, figures, letters and brackets were substituted for the words, figures, letter and brackets " under sub-clause (iv) or (v) of clause (f) of sub-section (1) of section 22 " by Bom. 21 of 1930, s. 4 (b).

³ These words and figures were inserted by Bom. 9 of 1926, s. 6 (a).

⁴ Central Acts.

⁵ Clause (j) was added by s. 4 of the City of Bombay Police (Amendment) Act, 1917 (Bom. 2 of 1917).

⁶ The words, figures and letter " or section 126A " were omitted by Bom 11 of 1923, s. 13 (1) (d).

Person arrested to be forwarded to Magistrate.

(3) Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or, if so required, to furnish sureties, he shall, subject to the provision of sub-section (2) of section 87, forthwith be forwarded to the Presidency Magistrate having jurisdiction.

Other powers of arrest.

35. ¹[(1) Any Police officer empowered in this behalf by the Commissioner of Police may arrest without warrant for any offence specified in section 120.]

(2) Any Police officer may, on the information of any person in possession or charge of any dwelling house, private premises, or land or ground attached thereto, arrest without warrant any person alleged to have committed therein or thereon an offence punishable under section 111.

Arrest of vagabonds, habitual robbers, etc.

36. Any officer in charge of a section may, without an order from a Magistrate and without a warrant, arrest or cause to be arrested—

(a) any person found within his section taking precautions to conceal his presence within the City of Bombay, under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence ;

(b) any person within his section who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself ;

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

Powers to seize property suspected to be stolen.

37. (1) It shall be lawful for any Police officer to seize any property or thing which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

Orders of Commissioner of Police to be taken.

(2) Every such seizure shall be forthwith reported to the Commissioner of Police, who shall thereupon make such order respecting the custody or production of the property or thing as he shall think proper.

Enforcement of orders issued under section 23, 24 or 25.

38. Whenever a notification, order in writing or public notice has been duly issued under sub-section (2), (3), or (4) of section 23, or an order has been made under section 24 or 25, it shall be lawful for any Magistrate or Police officer to require any person acting or about to act contrary thereto to desist or to abstain from so doing, and, in case of refusal or disobedience, to arrest such person. Such Magistrate or Police officer may also seize any

¹ This sub-section was inserted by Bom. 9 of 1926, s. 6 (b).

object or thing used or about to be used in contravention of such notification, order or notice as aforesaid and the thing seized shall be disposed of according to the order of the Chief Presidency Magistrate.

39. When any officer in charge of a section requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to such subordinate officer an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made.

Deputation of a subordinate to arrest without warrant.

Unlawful Assemblies.

40. (1) Any ¹[Magistrate or] officer in charge of a section may command any unlawful assembly or any assembly of five or more persons likely to cause a disturbance of the public peace to disperse; and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Assembly to disperse on command of Magistrate or Police officer.

(2) If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any Magistrate or officer in charge of a section may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier or sailor in His Majesty's Army or Navy, or ²[the Royal Indian Navy], or a Volunteer enrolled under the ³Indian Volunteers Act, 1869, and acting as such for the purpose of dispersing such assembly, and, if necessary, arresting and confining the persons who form it, in order to disperse such assembly or that they may be punished according to law.

Use of civil force to disperse.

41. If on any emergency the available Police force is not sufficient to disperse an unlawful assembly or to quell a riot or other serious disturbance of the public peace, the Commissioner of Police, or Magistrate of the highest rank who is present, may apply to the officer of highest rank on the spot for military or naval aid for such purpose.

Requisition of military or naval aid.

42. (1) When the Commissioner of Police or a Magistrate determines to disperse any unlawful assembly by military or naval force, he may require any commissioned or non-commissioned officer in command of any soldiers or sailors in His Majesty's Army or Navy, or ¹[the Royal Indian Navy], or of any Volunteers enrolled under the ² Indian Volunteers Act, 1869, to disperse such assembly by military or naval force, as the

Duty of officer commanding military or naval force required to disperse assembly.

¹ These words were inserted by s. 2 of the City of Bombay Police (Amendment) Act, 1921 (Bom. 5 of 1921).

² The words "the Royal Indian Navy" were substituted for the words "Royal Indian Marine Service" by the Adaptation of Indian Laws Order in Council.

³ See now the Auxiliary Force Act, 1920 (49 of 1920).

case may be, and to arrest and confine such persons forming part of it as the Commissioner of Police or Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.

(2) Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing shall use as little force, and do as little injury to person and property, as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of
commissioned mili-
tary or naval
officers to
disperse
assembly.

43. When the public security is manifestly endangered by any such assembly, and when neither the Commissioner of Police nor a Magistrate can be communicated with, any commissioned officer of His Majesty's Army or Navy, or ²[the Royal Indian Navy], may disperse such assembly by military or naval force, as the case may be, and may arrest and confine any persons forming part of it, in order to disperse such assembly or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with the Commissioner of Police or a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Commissioner of Police or Magistrate as to whether he shall or shall not continue such action.

Protection
against
prosecution
for acts done
under
section 40,
41, 42 or 43.

44. No prosecution against any ²[person] for any act purporting to be done under section 40, 41, 42 or 43 of this Act, or under section 42 of the Code of Criminal Procedure, shall be instituted in any Criminal Court, except with the sanction of the ³[Provincial Government]; and V of
1898.

(a) no Magistrate or Police officer acting thereunder in ⁴good faith,

(b) no officer acting under section 43 in ⁴good faith,

(c) no person doing any act in ⁴good faith, in compliance with a requisition under section 40 or 42 of this Act, or under section 42 of the Code of Criminal Procedure, and V of
1898.

(d) no inferior officer, or soldier, or sailor, or volunteer, doing any act in obedience to any order which he was bound to obey,

shall be deemed to have thereby committed an offence.

¹ The words "the Royal Indian Navy" were substituted for the words "Royal Indian Marine Service" by the Adaptation of Indian Laws Order in Council.

² The word "person" was substituted for the word "persons" by s. 2 and Sch. I of the Bombay Repealing and Amending Act, 1905 (Bom. 4 of 1905).

³ The words "Provincial Government" were substituted for the [words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁴ As to definition of "good faith" see s. 52 of the Indian Penal Code (Act 45 of 1860), Central Acts, and s. 3 (20) of the Bombay General Clauses Act, 1904 (Bom. 1 of 1904).

45. (1) * * * The Chief Presidency Magistrate may, after such inquiry as he deems necessary,—

(a) determine the amount of the compensation which, in his opinion, should be paid to any person or persons in respect of any loss or damage caused to any property, or in respect of death or grievous hurt caused to any person or persons, by anything done in the prosecution of the common object of an unlawful assembly; and

Compensation for injury caused by an unlawful assembly how recoverable.

(b) require the Municipal Commissioner to recover such amount by an addition to the general tax which shall be imposed and levied in all or such of the municipal wards, sub-wards or sections thereof, as the Chief Presidency Magistrate may, subject to any general or special orders of the [Provincial Government] in this behalf, direct.

(2) It shall be lawful for the * * * Chief Presidency Magistrate, by order, to exempt any persons from liability to pay any portion of such compensation.

Exemption from liability to pay compensation.

(3) No compensation shall be granted under this section except upon a claim made within one month from the date of the loss, damage, death or grievous hurt as aforesaid, in respect of which such claim is made, and unless the Chief Presidency Magistrate is satisfied that the person claiming compensation, or where such claim is made in respect of the death of any person, that that person also has himself been free from blame in connection with the occurrences which led to the loss, damage, death or grievous hurt as aforesaid.

Conditions under which compensation claimable.

(4) No civil suit shall be maintainable in respect of any loss or injury for which compensation has been granted under this section.

Civil suit barred.

46. (1) Every addition to the general tax imposed under the last preceding section shall be recovered by the Municipal Commissioner from the persons liable therefor in the same manner as the general tax due from them.

Recovery by Municipal Commissioner.

(2) The provisions of sections 147 and 148 of the City of Bombay Municipal Act, 1888, shall apply to any such addition, as if it were part of the general tax levied under the said Act.

Bom. III of 1888.

Apportionment of responsibility.

Unclaimed Property.

47. (1) The Police shall take temporary charge,—

(a) of all unclaimed property found by, or made over to, them, and also

Police to take charge of unclaimed property.

¹ The words " With the previous sanction of the Governor in Council " were omitted by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ The words " Governor in Council, on the recommendation of the " were omitted by s. 2 and Sch. I of the Bombay Decentralization Act, 1915 (Bom. 3 of 1915).

(b) of all property found lying in any public street, if the owner or person in charge of such property, on being directed to remove the same, refuses or omits to do so.

(2) Property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner of Police.

Intestate property under two hundred rupees in value.

48. (1) If the said property appears to have been left by a person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator General, with a view to its being dealt with under the provisions of the ¹Administrator General's Act, 1874, or other law for the time being in force.

Proclamation to be issued by Commissioner of Police.

(2) In any other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

Power to sell perishable property at once.

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may be forthwith sold by auction under the orders of the Commissioner of Police, and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

Delivery of property to person entitled.

49. (1) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of such property, order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

Power to take security.

(2) The Commissioner of Police may, at his discretion, before making any order under sub-section (1), take such security as he may think proper from the person to whom the said property is to be delivered, and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

In default of claim to be at disposal of Provincial Government.

(3) If no person establishes his claim to such property within such period, it shall be at the disposal of ²[the Provincial Government], and the property, or such part thereof as has not already been sold under sub-section (3) of section 48, may be sold by auction under the orders of the Commissioner of Police.

¹ See now the Administrator General's Act, 1913 (3 of 1913), Central Acts.

² The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

X of
1865.

50. Nothing in the ¹Indian Succession Act, 1865, or in the ²Administrator General's Act, 1874, shall apply to intestate property which is dealt with by the Commissioner of Police under sub-section (2) of section 48.

Procedure not affected by Indian Succession Act or Administrator General's Act.

Public Pounds.

51. (1) The Commissioner of Police shall from time to time appoint such places as he thinks fit to be public pounds, and may appoint to be keepers of such pounds ³[police officers of such rank as may be approved by the ⁴[Provincial Government].]

Power to establish cattle-pounds and appoint pound-keepers.

(2) Every pound-keeper so appointed shall in the performance of his duties be subject to the direction and control of the Commissioner of Police, 5* * * * *

52. It shall be the duty of every Police officer, and shall be lawful for any other person, to seize and take to any such public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property in the City.

Impounding of cattle.

53. (1) If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under sub-section (f).

Delivery of cattle claimed.

(2) If within ten days after an animal has been impounded no person appearing to be the owner of such animal offers to pay the pound-fee and expenses chargeable under sub-section (4), such animal shall be forthwith sold by auction, and the surplus remaining after deducting the fee and expenses aforesaid from the proceeds of the sale shall be paid to any person who, within fifteen days after the sale, proves to the satisfaction of such officer as the Commissioner of Police appoints in this behalf, that he was the owner of such animal, and shall in any other case ⁶[form part of the revenues of the Province].

Sale of cattle not claimed.

(3) No Police officer or pound-keeper shall, directly or indirectly purchase any cattle at a sale under sub-section (2).

¹ See now Act 39 of 1925, Central Acts.

² See now the Administrator General's Act, 1913 (3 of 1913), Central Acts.

³ These words were substituted for the words "such persons and on such emoluments as he deems fit" by Bom. 21 of 1930, s. 5 (a).

⁴ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁵ The words "and shall be liable to punishment, suspension and dismissal, as if he were a Police officer under this Act" were omitted by Bom. 21 of 1930, s. 5 (b).

⁶ The words "form part of the revenues of the Province" were substituted for the words "be at the disposal of Government" by the Adaptation of Indian Laws Order in Council.

Fees and expenses.

(4) (a) The pound-fee chargeable shall be in the case of—

- | | |
|----------------|----------------|
| (i) every ram, | } eight annas, |
| " ewe, | |
| " sheep, | |
| " lamb, | |
| " goat or kid, | |

(ii) every other animal, one rupee :

Provided that the ¹[Provincial Government] may, by notification in the ²[*Official Gazette*], from time to time alter the pound-fee to be charged in the case of any animal to an amount not exceeding double the pound-fee chargeable under the foregoing scale.

(b) The expenses chargeable shall be at such rates for each day during any part of which an animal is impounded, as shall from time to time be fixed by the Commissioner of Police.

Weights and Measures.

Powers as to inspection, search and seizure of false weights and measures.

54. (1) Any Police officer generally or specially deputed to that duty by the Commissioner of Police may without warrant enter any shop or premises for the purpose of inspecting or searching for any weights or measures or instruments for weighing or measuring used or kept therein.

(2) If he finds in such shop or premises weights, measures or instruments for weighing or measuring which he has reason to believe are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction, and if such weights, measures or instruments shall be found by the Magistrate to be false, they shall be destroyed.

(3) Weights and measures purporting to be of the same denomination as weights and measures, the standards whereof are provided by the Municipal Commissioner under section 418 of the City of Bombay Municipal Act, 1888, shall, if they do not correspond with the said standards, be deemed to be false within the meaning of this section.

Bom. III of 1888.

Powers of Superior Officers.

Superior officer may himself perform duties imposed on his inferior, etc.

55. A Police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him, and in case of any duty imposed on such subordinate, a superior, when it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

person lawfully acting under his command or authority whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.

Magisterial powers of Commissioner and Deputy Commissioner.

56. (1) The Commissioner, by virtue of his office, and any Deputy Commissioner specially empowered in this behalf by the ¹[Provincial Government], shall have all the powers of a Presidency Magistrate under sections 94, 96, 97, 98, 105, 523, 524 and 525 of the ²Code of Criminal Procedure, and section 25 of the ²Indian Arms Act, 1878. Powers as a Magistrate of Commissioner and Deputy Commissioner of Police.
- V of 1898.
XI of 1878.
- (2) Such powers may be exercised for the purposes of any investigation or other proceeding under this Act or the ²Code of Criminal Procedure.
- V of 1898.

CHAPTER V.

INFORMATION TO POLICE AND POWER TO INVESTIGATE.

57. The officer in charge of a section on receiving any information relating to the commission within his section of any cognizable offence shall forthwith reduce into writing in manner prescribed, the statement made by the informant, and the informant shall sign the statement so reduced into writing which shall be kept and recorded in manner prescribed, and the officer shall forthwith enter or cause to be entered the substance of such statement in a book which shall be kept in the prescribed form. Information if it relates to a cognizable offence to be recorded.
58. (1) When information is given to an officer in charge of a section of the commission within his section of a non-cognizable offence, he shall enter in a book to be kept as aforesaid the substance of such information and refer the informant to a Magistrate. Information in non-cognizable cases.
- (2) No Police officer shall investigate a non-cognizable case without the order of a Presidency Magistrate. Investigation of non-cognizable cases.
- (3) Any Police officer receiving such an order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a section may exercise in a cognizable case. Powers in investigating such cases.
59. (1) Any officer in charge of a section may, without the order of a Magistrate, and shall, if so ordered, investigate any case in respect of a cognizable offence alleged to have been committed within his section. Investigation in cognizable cases.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² Central Acts.

Proceedings
not to be
called in
question.

(2) No proceeding of a Police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.

Procedure
where
cognizable
offence
suspected.

60. If, from information received or otherwise, an officer in charge of a section has reason to suspect the commission of an offence which he is empowered under section 59 to investigate, he shall forthwith proceed in person, or shall depute one of his subordinate officers to proceed, to the spot to investigate the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and arrest of the offender :

Provided that, if the information is given against any person by name, and the offence is not of a serious nature, or if it appears to the officer in charge of a section that there is no sufficient ground for entering on an investigation, he need not proceed in person, or depute a subordinate officer, to make an investigation on the spot ; but he shall in every such case record his reasons for not making, or causing to be made, such an investigation.

Police
officer's
power to
require
attendance
of witnesses.

61. Any Police officer making an investigation under this Act may—

(a) by order in writing, require the attendance before himself of any person being within the limits of the City of Bombay, who from the information given or otherwise appears to be acquainted with the facts or circumstances of the case, and such person shall attend if so required ; and

(b) examine orally any person supposed to be acquainted with the facts and circumstances of the case, and may reduce into writing any statement made by the person so examined, and such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

Special
powers of
Commissioner
of Police to
require
attendance
and obtain
statements
of witnesses.

62. (1) If in the course of an investigation the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may by order in writing require the attendance before himself or any officer serving under him who is investigating a cognizable offence, of any person then being within the limits of the City of Bombay or within thirty miles of such limits, who from the information given or otherwise appears to be acquainted with the facts or circumstances of the case, and such person shall attend as so required. The provisions of clause (b) of the last preceding section shall apply to the person so attending.

(2) In any case the Commissioner of Police may forward to the Superintendent of Police of the district in which any person from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired, and on receipt thereof such Superintendent of Police shall cause such person to be examined orally and his statement to be reduced into writing in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

63. (1) No statement made by any person to a Police officer in the course of an investigation under this Act shall, if taken down in writing, be signed by the person making it nor shall such writing be used as evidence : Statements to Police not to be signed or admitted in evidence.

Provided that, when any witness is called for the prosecution whose statement has been taken down in writing as aforesaid, the Court shall, on the request of the accused, refer to such writing and may then, if the Court thinks it expedient in the interests of justice, direct that the accused be furnished with a copy thereof ; and such statement may be used to impeach the credit of such witness in manner provided by the ¹Indian Evidence Act, 1872.

I of
1872.

(2) Nothing in this section shall be deemed to apply to any statement falling within the provisions of section 32, clause (1), of the ¹Indian Evidence Act, 1872.

I of
1872.

64. (1) No Police officer shall offer or make, or cause to be offered or made, any such inducement, threat or promise as is mentioned in section 24 of the ¹Indian Evidence Act, 1872. No inducement to be offered.

I of
1872.

(2) But no Police officer or other person shall prevent, by any caution or otherwise, any person from making in the course of any investigation under this Act any statement which he may be disposed to make of his own free will.

65. (1) Whenever an officer in charge of a section considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation under this Chapter, he may issue a summons or written order to any person resident in the City of Bombay in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, at such time and place as may be specified therein. Summons to produce document or other thing.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Search by
Police officer. 66. (1) Whenever an officer making an investigation under this Chapter considers that the production of any document or other thing is necessary to the conduct of an investigation into any offence which he is authorized to investigate, and

(a) there is reason to believe that the person in whose possession or power such document or thing is believed to be, will not voluntarily produce the same on being requested so to do by a Police officer, or in compliance with a summons or written order which has been or might be issued under section 65, or

(b) such document or other thing is not known to be in the possession of any person,

such officer may search, or cause search to be made, for the same in any place within the limits of the City of Bombay.

(2) Such officer shall, if practicable, conduct the search in person.

(3) If he is unable to conduct the search in person and there is no other person competent to make the search, present at the time, he may require any officer subordinate to him to make the search, and he shall deliver to such subordinate officer an order in writing, specifying the document or other thing for which search is to be made and the place to be searched, and such subordinate officer may thereupon search for such thing in such place.

(4) The provisions of sections 103 and 104 shall, so far as may be, apply to a search made under this section.

Official records and communications, etc. protected.

67. Nothing in sections 65 and 66 shall be deemed to apply to, or to authorize the issue of a summons to produce or warrant to search for, documents or communications of the nature specified in sections 123 and 124 of the ¹ Indian Evidence Act, 1872, or any letter, post-card, telegram or other document, parcel or thing in the custody of the Postal or Telegraph authorities. ^{1 of 1872.}

When Police officer may require another to make search.

68. (1) An officer in charge of a section may require an officer in charge of another section, and the Commissioner of Police may require an officer in charge of a police station in any part of the Presidency of Bombay beyond the City of Bombay, to cause a search to be made in any place, in any case in which such officer in charge of a section or the Commissioner might cause such search to be made within the City of Bombay.

(2) Such officer, on being so required, shall proceed in accordance with the provisions of section 66 of this Act or section 165 of the Code of Criminal Procedure, as the case may be, and shall forward the document or thing found, if any, to the officer at whose request the search was made. ^{1898.}

69. If the Commissioner of Police has reason to believe that any person is confined¹ [or detained] under such circumstances that the confinement¹ [or detention] amounts to an offence, he may issue a search warrant ; and the person to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein, and the person, if found, shall be immediately taken before a Presidency Magistrate, who shall make such order as in the circumstances of the case seems proper.

Power to search for persons wrongfully confined.

70. (1) Whenever—

(a) it appears that any investigation under this Act cannot be completed within the period of twenty-four hours fixed by section 87, and

Procedure when investigation cannot be completed.

(b) there are grounds for believing that the accusation is well founded, the officer in charge of a section shall, subject to the provisions of sub-section (2) of section 87, forthwith forward the person accused to a Presidency Magistrate, together with a report setting forth the substance of the information received and of the evidence adducible in the case.

(2) The Presidency Magistrate to whom an accused person is forwarded under sub-section (1) may, after considering any information reduced into writing as hereinbefore provided, and examining any witnesses that he may consider necessary, from time to time authorize the detention, in such custody as he thinks fit, of the person accused, for a period not exceeding fifteen days at a time, and shall, if he does so, record his reasons for so doing.

Order for detention in custody.

71. (1) When any officer subordinate to an officer in charge of a section has made an investigation under this Act, he shall report either orally or in writing the result of his investigation to the officer in charge of the section.

Report of investigation by subordinate Police officer.

(2) The substance of such report shall be entered in a book which shall be kept, in manner prescribed, by the officer to whom it is made.

72. Every investigation under this Act shall be completed without unnecessary delay, and as soon as it is completed the officer in charge of the section shall prepare a report in the prescribed form setting forth—

Investigation to be promptly completed and report to be prepared and submitted.

(a) the names of the parties,

¹ These words were inserted by s. 5 of the City of Bombay Police (Amendment) Act, 1920 (Bom. 6 of 1920).

(b) the nature of the information,

(c) the names of the persons who appear to be acquainted with the circumstances of the case, and

(d) a statement showing whether any person accused in such case has been arrested or has been released on his bond, and, if so, whether with or without sureties.

Release of
accused
when evi-
dence defi-
cient.

73. (1) If it appears to the officer preparing such report that there is not sufficient or reasonable ground of suspicion to justify the forwarding of any person therein mentioned as accused to a Magistrate, such officer shall—

(a) if such person is in custody, release him on his executing a bond, with or without sureties as such officer may direct, to appear if and when so required before a Magistrate empowered to take cognizance of the offence, and shall

(b) forward the report prepared as aforesaid to the Commissioner of Police together with any weapon or other article which it may be necessary to produce before him.

Further in-
vestigation
may be
ordered.

(2) The Commissioner of Police may in any case direct the officer in charge of the case to make further investigation, or may make such further order as he deems fit.

Order for
discharge of
bond, when
made.

(3) Whenever it appears from a report forwarded under this section that the accused has been released on his bond, the Commissioner of Police shall make such order for the discharge of such bond or otherwise as he shall think fit.

Case to be
sent to
Magistrate
when evi-
dence suffi-
cient.

74. If the officer in charge as aforesaid considers that there is sufficient evidence or reasonable ground of suspicion to justify him in so doing, he shall—

(a) forward the accused person to the Presidency Magistrate having jurisdiction, or

(b) if the offence is bailable and the accused is able to give security, shall take security from the accused for his appearance before such Magistrate on a day fixed and for his attendance from day to day before such Magistrate until otherwise directed, and

(c) shall also send to such Magistrate the report prepared under section 72, and any weapon or other article which it may be necessary to produce before him.

Bond to
secure atten-
dance of
complainant

75. (1) The officer in charge as aforesaid shall also require the complainant, if any, and so many of the persons who appear to such officer to be acquainted with the circumstances of the case as he may think

necessary, to execute a bond to appear before the Magistrate as thereby and wit- directed and prosecute or give evidence, as the case may be, in the matter nesses. of the charge against the accused.

(2) The officer in whose presence the bond is executed shall deliver a To be sent copy thereof to one of the persons who executed it, and shall then send to Magis- the original to the Magistrate with his report. trate.

76. No complainant or witness on his way to the Court of a Complain- Magistrate -- ant and witnesses

(a) shall be required to accompany a Police officer, or not to be required to accompany Police officer.

(b) shall be subjected to unnecessary restraint or inconvenience, or

(c) shall be required to give any security for his appearance other than his own bond :

Provided that if any complainant or witness refuses to attend or to execute a bond as directed in sub-section (1) of section 75, the officer in charge of the section may forward him under custody to the Magistrate, who may detain him in custody until he executes such bond or until the hearing of the case is completed.

CHAPTER VI.

PROCEDURE.

Arrest.

77. (1) In making an arrest the Police officer or other person making Arrest how the same shall actually touch or confine the body of the person to be made. arrested unless there be a submission to the custody by word or action.

(2) If such person forcibly resists the endeavour to arrest him, or Resisting attempts to evade the arrest, such Police officer or other person may use all endeavour to arrest. means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of any Limit of person who is not accused of an offence punishable with death or with right of transportation for life. Police offi- cers to use force.

78. (1) If any person acting under a warrant of arrest, or any Police Search of officer having authority to arrest, has reason to believe that the person to place enter- ed by person be arrested has entered into or is within any place, the person residing in or being in charge of such place shall, on demand of such person acting as arrested. aforesaid, or of such Police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

Procedure when ingress not obtainable.

(2) If ingress to such place cannot be obtained under sub-section (1), it shall be lawful for a person acting under a warrant in any case, and for a Police officer in any case in which a warrant may issue but cannot be obtained without affording the person to be arrested an opportunity of escape,

(a) to enter such place and search therein, and

(b) in order to effect an entrance into such place to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after duly stating his authority and purpose and demanding admittance he cannot otherwise obtain admittance :

Breaking open zenana.

Provided that if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public, such person or Police officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw, and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

Power to break open doors and windows for purposes of liberation.

79. Any Police officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

80. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of arrested persons.

81. (1) (a) Whenever a person is arrested by a Police officer,

(i) under a warrant which does not provide for the taking of bail, or

(ii) under a warrant which provides for the taking of bail, but the person arrested cannot furnish bail,

and

(b) whenever a person is arrested—

(i) without a warrant, or

(ii) by a private person under a warrant, and cannot be legally admitted to bail or is unable to furnish bail,

the Police officer making the arrest, or when the arrest is made by a private person the Police officer to whom he makes over the person arrested, may search such person and place in safe custody all articles other than necessary wearing apparel found upon him.

Mode of searching women.

(2) Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman and with strict regard to decency.

82. Every Police officer or other person making an arrest may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer making the arrest is required to produce the person arrested.

Power to seize offensive weapons.

83. Any private person may arrest any person who, in his view, commits a non-bailable and cognizable offence, or who has been proclaimed as an offender, and shall, without unnecessary delay, make over any person so arrested to a Police officer and shall accompany, or in the absence of a Police officer take, such person to the nearest station.

Arrest by private persons and procedure thereon.

84. Every person arrested, and every person on requisition under sub-section (1) of section 34, accompanying a Police officer, shall forthwith be brought before the officer in charge of the section in which the offence alleged against such person appears to have been committed, and the person or officer who made the arrest or the requisition shall inform the said officer in charge of the nature of the offence alleged to have been committed, and of any grounds that may exist for believing it to have been committed.

Procedure after arrest.

85. The officer in charge of the section, if he finds—

Person arrested when to be discharged, etc.

(a) that there are no sufficient reasons for believing that the person brought before him has committed any offence, shall record his reasons and forthwith discharge such person ;

(b) that there are reasonable grounds for suspecting that such person has committed an offence, but not for suspecting that he has committed a cognizable offence, shall forthwith submit a report containing his reasons to the Commissioner of Police and shall thereafter proceed as that officer directs ;

(c) that there are reasonable grounds for suspecting that the person so brought before him has committed a cognizable offence, shall, if such person was arrested under section 83, re-arrest him and shall either himself investigate, or direct some officer subordinate to him to investigate, the facts and circumstances of the case.

86. An officer in charge of a section making an arrest without warrant or detaining in custody or re-arresting a person under section 85, shall, without unnecessary delay and subject to the provisions of sections 88 and 130 and to any other provisions of this Act as to bail, take or send the person arrested before the Presidency Magistrate having jurisdiction in the case.

Person arrested to be taken before Magistrate.

87. (1) No Police officer shall detain in custody any person arrested without a warrant for a longer period than under all the circumstances of the case is reasonable and necessary and, subject to the provisions of sub-section (2), in no case for a period exceeding twenty-four hours except under the special orders of a Presidency Magistrate.

Limit to power of detention.

Holidays and time when Court is closed to be excluded.

(2) If the aforesaid period expires on a holiday or at night or any other time when the Court of the Presidency Magistrate having jurisdiction in the case is closed, it shall extend to such further time as will permit of the person arrested being brought before such Magistrate when the Court is next open.

Discharge of person arrested.

88. Save as provided in clause (a) of section 85, no person who has been arrested by, or who has on requisition under sub-section (1) of section 34 accompanied, a Police officer shall be discharged except—

(a) on his own bond, or

(b) on bail, or

(c) under the special order of the Commissioner of Police or of a Magistrate.

Summons.

Summons how served.

89. (1) Every summons shall, if practicable, be served personally on the person summoned by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons.

(2) Every person on whom a summons is so served shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Service of summons on Company.

(3) Service of a summons on an incorporated Company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation.

Service when person summoned cannot be found.

90. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, or with his servant residing with him; and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

Procedure when receipt cannot be obtained.

91. If service in the manner mentioned in sections 89 and 90 cannot, by the exercise of due diligence, be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Warrant.

Continuance of warrant of arrest.

92. (1) Every warrant of arrest issued by a Court shall remain in force until it is cancelled by the Court which issued it or until it is executed.

(2) If the Court issuing a warrant for the arrest of any person has endorsed thereon any directions for taking security, the officer to whom the warrant is directed shall comply with such directions, and if such security be given shall release such person from custody, and forward the bond to the Court.

Security to be taken if directed in warrant.

93. (1) When a warrant is directed to more Police officers than one it may be executed by all or by any one or more of them.

Direction, etc., of warrants.

(2) A warrant may be executed by any Police officer whose name is endorsed upon the warrant by the officer to whom it is directed.

Execution of warrant by officer whose name is endorsed.

94. The Police officer executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so required, shall show him the warrant.

Notification of substance of warrant.

95. The Police officer executing a warrant of arrest shall, subject to the provisions of sub-section (2) of section 92, without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

Person arrested to be brought before Court without delay.

96. The Commissioner of Police shall endorse his name on any warrant forwarded to him by any Court outside the City of Bombay and shall, if practicable, cause it to be executed in manner hereinbefore provided within the City of Bombay.

Warrant forwarded from Court outside Bombay.

97. (1) When a warrant directed to a Police officer by a Court outside the City of Bombay is to be executed within the City of Bombay, he shall ordinarily take it for endorsement to a Police officer not below the rank of Inspector within whose section the warrant is to be executed.

Warrant directed to Police officer by Court outside Bombay.

(2) Such Police officer shall endorse his name thereon, and such endorsement shall be sufficient authority to the Police officer to whom the warrant is directed to execute the same within such division, and the local Police shall, if so required, assist such officer in executing such warrant :

To be endorsed by Inspector, etc.

Provided that whenever there is reason to believe that the delay occasioned by obtaining such endorsement will prevent the execution of the warrant, the Police officer to whom it is directed may execute the same without such endorsement.

Unless delay will prevent execution.

98. Any person arrested within the City of Bombay under the provisions of section 96 or 97 shall, unless security is taken under sub-section (2) of section 92, be taken before a Presidency Magistrate or the Commissioner of Police.

Procedure on arrest on such warrants.

Procedure of Magistrate or Commissioner of Police.

99. (1) Such Magistrate or Commissioner shall, if the person arrested appears to be the person intended by the Court which issued the warrant, direct his removal in custody to such Court :

When bail to be taken.

Provided that if the offence is bailable, and such person is ready and willing to give bail to the satisfaction of such Magistrate or Commissioner, or if such person is ready and willing to give security in pursuance of any direction endorsed on the warrant by the Court which issued the same, such Magistrate or Commissioner shall take such bail or security, as the case may be, and forward the bond to the Court which issued the warrant.

(2) Nothing in this section shall be deemed to prevent a Police officer from taking security under sub-section (2) of section 92.

Search Warrants.

Execution of search warrant.

100. Any person to whom a search warrant is directed by a Court may make a search or inspection in accordance with such directions as may be given therein and with the provisions hereinafter contained.

Disposal of things found on search warrant issued by Court outside Bombay.

101. When in the execution of a search warrant issued by a Court outside the City of Bombay any of the things for which search is made are found in the City of Bombay, such things together with the list of the same prepared as hereinafter provided shall be taken to the Presidency Magistrate having jurisdiction at the place where they were so found or to the Commissioner of Police, and, unless there be good reason to the contrary, such Magistrate or Commissioner shall make an order authorizing them to be taken to such Court.

Procedure as in case of warrants.

102. The provisions of sections 92, 93, 94, 96 and 97 shall, so far as may be, apply to all search warrants issued to a Police officer under this Act or under the Code of Criminal Procedure.

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Person in charge of closed place to allow search.

103. (1) Whenever any place liable to search or inspection under this Act is closed, any person residing in, or being in charge of, such place shall, on demand of the officer or other person executing the warrant and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

Ingress how to be obtained.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by sub-section (2) of section 78.

Search for articles concealed on person.

(3) When any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched, subject to the provisions of sub-section (2) of section 81 if such person be a woman.

(4) When any person is searched under sub-section (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person, if he so require.

Copy of list to be given to person searched.

104. (1) Before making a search under this Act, the officer about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search.

Search to be made in presence of witnesses.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer and signed by such witnesses ; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

List of things seized to be made.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witnesses, shall be delivered to such occupant or person at his request.

Occupant to be present, and to have copy of list if required.

105. The Commissioner of Police may, if he thinks fit, retain in safe custody any document or thing found or produced before him which relates to a matter under investigation or in respect of which there is a reasonable suspicion of the commission of an offence.

Documents, etc., may be retained in safe custody.

Bail.

106. When any person, other than a person accused of a non-bailable offence, is arrested or detained without warrant by an officer in charge of a section and is prepared at any time while in custody of such officer to give bail, such person shall be released on bail :

Bail to be taken in case of bailable offence.

Provided that such officer, if he thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

107. (1) When any person accused of any non-bailable offence is arrested or detained without a warrant, by an officer in charge of a section, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

When bail may be taken in case of non-bailable offence.

(2) If it appears to such officer at any stage of the investigation that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt the accused shall, pending such inquiry, be released on bail, or, at the discretion of such officer, on the execution by him of a bond without sureties for his appearance as hereinafter provided.

Bond of
accused and
his sureties.

108. Before any person is released under section 106 or 107, a bond for such sum of money as the Police officer thinks sufficient shall be executed by such person, and if he is released on bail, by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond and shall continue so to attend until otherwise directed by the Police officer or by a Magistrate.

Discharge
from custody.

109. (1) As soon as the bond has been executed, the person for whose appearance it has been executed shall be released.

Liability to
be detained
for other
offence.

(2) Nothing in this section or in section 106 or 107 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

Amount of
bail not to
be excessive.

110. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive, and the High Court may in any case direct that any person be admitted to bail, or that the bail required by a Police officer be reduced.

Procedure
on forfeiture
of bond.

¹[110A. (1) Whenever it is proved to the satisfaction of the Court of a Presidency Magistrate that a bond taken under this Act has been forfeited, the Court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same by issuing a warrant for the attachment and sale of the moveable property belonging to such person or his estate if he be dead.

(3) Such warrant may be executed within the City of Bombay ; and it shall authorize the distress and sale of any moveable property belonging to such person without the City of Bombay, when endorsed by the District Magistrate or Chief Presidency Magistrate within the local limits of whose jurisdiction such property is found.

(4) If such penalty is not paid and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the Court which issued the warrant, to imprisonment in the civil jail for a term which may extend to six months.

(5) The Court may, at its discretion, remit any portion of the penalty mentioned and enforce payment in part only.

¹This section was inserted by s. 6 of the City of Bombay Police (Amendment) Act, 1920 (Bom. 6 of 1920).

(6) Where a surety to a bond dies before the bond is forfeited, his estate shall be discharged from all liability in respect of the bond, but the party who gave the bond may be required to find a new surety.]

CHAPTER VII.

OFFENCES AND PUNISHMENTS.

111. Whoever without satisfactory excuse wilfully enters or remains in or upon any dwelling-house or premises or any land or ground attached thereto, or on any ground, building, monument or structure belonging to ^{Wilful trespass.} ¹[the Crown] or appropriated to public purposes, or on any boat or vessel, shall, whether he causes any actual damage or not, be punished with fine which may extend to twenty rupees.

²[111A. Whoever knowingly gives or causes to be given a false alarm of fire to the fire brigade of the municipal corporation of the City of Bombay or to any officer or fireman thereof whether by means of a street fire-alarm, statement, message or otherwise, or, with intent to give such false alarm, wilfully breaks the glass of, or otherwise damages, a street-fire-alarm, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to one hundred rupees or with both.] ^{False alarm of fire or damage to fire-alarm.}

112. Whoever is found between sunset and sunrise—

(a) armed with any dangerous instrument with intent to commit an offence, or

(b) having his face covered, or otherwise disguised, with intent to commit an offence, or

(c) in any dwelling-house or other building, or on board any vessel or boat without being able satisfactorily to account for his presence there, or

(d) lying or loitering in any street, yard or other place, being a reputed thief and without being able to give a satisfactory account of himself, or

(e) having in his possession without lawful excuse (the burden of proving which excuse shall be on such person) any implement of house-breaking,

Being found under suspicious circumstances between sunset and sunrise.

shall be punished with imprisonment for a term which may extend to three months.

¹The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

²This section was inserted by s. 5 of the City of Bombay Police (Amendment) Act, 1917 (Bom. 2 of 1917).

Carrying
weapon
without
authority.

113. Whoever not being a soldier or sailor in His Majesty's Army or Navy, or ¹[the Royal Indian Navy], or a Volunteer enrolled under the ²Indian Volunteers Act, 1869, and acting as such, or a Police officer, goes armed with any sword, spear, bludgeon, gun, or other offensive weapon, in any street or public place, unless by lawful authority, shall be liable to be disarmed by any Police officer, and the weapon or weapons so seized shall be forfeited to ³[the Provincial Government], unless redeemed ⁴[within two months] by payment of such fine not exceeding ten rupees as the Commissioner of Police imposes.

Possession
of property
of which no
satisfactory
account can
be given.

114. Whoever has in his possession or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe is stolen property or property fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees.

115. Whoever—

Taking
spirits into
public
hospitals ;

(a) takes or introduces, or attempts to take or introduce, any spirits or spirituous or fermented liquors or intoxicating drugs or preparations into any public hospital without the permission of a medical officer of such hospital, or

or into
barracks or
on board
vessels of
war.

(b) not being amenable to the Articles of War takes or introduces, or attempts to take or introduce any such spirits, liquors, drugs or preparations not belonging to any person above the rank of a non-commissioned officer,

(i) into the barracks or buildings occupied by the troops composing the Garrison of Bombay or into any military barracks, guard-rooms or encampments, or

(ii) on board or alongside of any vessel of war belonging to His Majesty in the Port,

shall be punished with imprisonment for a term which may extend to two months, or with fine which may extend to one hundred rupees, and such spirits, liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Omission by
pawn-brokers,
etc., to report
to Police
possession or

116. (1) Whoever, being a pawn-broker, dealer in, second-hand property, or worker in metals, or reasonably believed by the Commissioner of Police to be such a person, and having received from a Police officer written or printed information that the possession of any property is

¹ The words " the Royal Indian Navy " were substituted for the words " Royal Indian Marine Service " by the Adaptation of Indian Laws Order in Council.

² See now the Auxiliary Force Act, 1920 (49 of 1920).

³ The words " the Provincial Government " were substituted for the word " Govern-ment " by the Adaptation of Indian Laws Order in Council.

⁴ The words " within two months " were inserted by Bom. 21 of 1930, s. 5.

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suspected to have been transferred by any offence mentioned in section 410 of the ¹Indian Penal Code, or by any offence punishable under section 417, 418, 419 or 420 of the said Code, is found in the possession, or thereafter comes into the possession, or has an offer either by way of sale, pawn, exchange, or for custody, alteration or otherwise howsoever, made to him, of property answering the description contained in such information, shall, unless

tender of
property
suspected to
be stolen.

(i) he forthwith gives information to the Commissioner of Police or at a police station of such possession or offer and takes all reasonable means to ascertain and to give information as aforesaid of the name and address of the person from whom the possession or offer was received, or

(ii) the property being, as an article of common wearing apparel or otherwise, incapable of identification from the written or printed information given, has been in no way concealed after the receipt of such information,

be punished with fine which may extend to fifty rupees in respect of each such article of property so in his possession or offered to him.

(2) Whoever, having received such information as aforesaid, alters, melts, defaces or puts away or causes or suffers to be altered, melted, defaced or put away without the previous permission of the Police any such property, shall, on proof that the same was stolen property within the meaning of section 410 of the ¹Indian Penal Code, or property in respect of which any offence punishable under section 417, 418, 419 or 420 of the said Code has been committed, be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

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Melting, etc.,
of such pro-
perty.

117. Whoever takes from any child not appearing to be above the age of fourteen years any article whatsoever as a pawn, pledge or security for any sum of money lent, advanced or delivered to such child, or without the knowledge and consent of the owner of the article buys from such child any article whatsoever, shall be punished with fine which may extend to one hundred rupees.

Taking
pledge from
child.

118. Whoever in any street or public place—

(a) cleans any article of furniture, or any vehicle, or grooms any animal,

Cleaning
furniture
or animal.

(b) except at such times and places as are permitted by the Commissioner of Police, makes, or save in case of an accident rendering repair on the spot unavoidable, repairs, any part of any vehicle,

Repairing
vehicles.

Taking animal or vehicle on footpath.

(c) rides, drives, leads, propels or places on any footpath any animal, or any vehicle other than a perambulator,

Training and breaking horses.

(d) except at such times and places as the Commissioner of Police permits, trains or breaks any horse,

Setting a dog to attack persons or animals.

(e) sets on or urges a dog or other animal to attack, worry or put in fear any person or animal,

Letting horses loose, and suffering ferocious dogs to be at large, etc.

(f) negligently lets loose any horse or other animal so as to cause danger, injury, alarm or annoyance, or suffers any ferocious dog to be at large without a muzzle,

Obstruction, damage, etc., by animals.

(g) causes obstruction, damage or injury by any misbehaviour, negligence or ill-usage in the driving, management, treatment or care of any cattle or animal,

Obstructing bathing.

(h) obstructs or incommodes a person bathing, at a place at which bathing is permitted, either by wilful intrusion or by improper use of such place, or

Frightening persons, horses, etc., by flying a kite.

(i) flies a kite so as to cause danger, injury or alarm to persons, horses or property,

shall be punished with fine which may extend to fifty rupees.

Lighting bonfire, burning straw, discharging firearm, etc., in or near street or public place.

119. Whoever in or near any street or public place—

(a) sets fire to or burns any straw or other matter,

(b) lights a bonfire, or

(c) lets off or throws a firework,

and whoever in or within two hundred yards of any street or public place,

(d) wantonly discharges a firearm or air-gun, or

(e) sends up a fire balloon or rocket,

except at such times and places as the Commissioner of Police from time to time permits, shall, in any case falling under clause (d) or (e) of this section, be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, and in any other case be punished with fine which may extend to fifty rupees.

Indecent exposure of person.

120. Whoever in any street or public place or place of public resort, or within sight of, and in such manner as to be seen¹ * from, any street or public place, whether from within any house or building or not,—

(a) * * * * *

¹ The words " or heard " were repealed by Bom. 21 of 1930, s. 7.

² Clause (a) was repealed by Bom. 11 of 1923, s. 13 (f).

(b) 1* * * *

*2wilfully and indecently exposes his person,

shall be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees.

121. Whoever in any street or public place begs or directs or permits children under his control to beg, or applies for alms or exposes or exhibits with the object of obtaining or extorting alms any sores, wound, deformity or disease, shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees, or with both.

Begging and exposure of offensive ailments.

122. Whoever in any street or public place or place of public resort—

Drunkenness or riotous or disorderly behaviour in street, etc.

(a) is drunk and incapable of taking care of himself,

(b) behaves in a riotous, indecent or disorderly manner, or

(c) uses any threatening, abusive, insulting or obscene words or gestures, whereby a breach of the peace or public nuisance may be occasioned,

Provoking breach of the peace.

shall be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees.

123. Whoever in any Court or Police station or office behaves in a violent, disorderly or indecent manner, shall be punished with fine which may extend to fifty rupees.

Disorderly conduct in Court and Police offices.

³ [123A. Whoever in any Court, Police station, Police office, building occupied by ⁴[the Central or the Provincial Government] or building occupied by any public body smokes or spits in contravention of a notice previously approved by the ⁵[Provincial Government] and affixed to such Court, station, office or building, shall be punished with fine which may extend to fifty rupees.]

Disregard of notice in public building.

124. Whoever in or near to any street, public place or place of public resort—

Committing nuisance in or near street, etc.

(a) commits a nuisance by easing himself, or

¹ Clause (b) was repealed by Bom. 11 of 1923, s. 13 (f).

² The letter and brackets "(c)" were repealed by *ibid.*

³ This section was inserted by s. 7 of the City of Bombay Police (Amendment) Act, 1920 (Bom. 6 of 1920).

⁴ The words "the Central or the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

⁵ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

(b) having the care or custody of any child under seven years of age suffers such child to commit a nuisance as aforesaid,

shall be punished with fine which may extend to fifty rupees.

Permission
of disorderly
conduct in
places of
public amuse-
ment, etc.

125. Whoever, being the keeper of any place of public amusement or entertainment, knowingly—

1* permits drunkenness or other disorderly behaviour, or any gaming whatsoever, in such place, 2*

(b) 3* * * * *

shall be punished with fine which may extend to one hundred rupees.

Cheating at
games.

126. Whoever, by any fraud or unlawful device or malpractice in playing at or with cards, dice or other game, or in taking a part in the stakes or wagers, or in betting on the sides or hands of the players, or in wagering on the event of any game, sport, pastime or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of cheating within the meaning of section 415 of the ⁴Indian Penal Code, and be liable to punishment of ^{XLV} 1860. accordingly.

126A. [*Unlawful detention for purpose of prostitution*] Repealed by Bom. 11 of 1923, s. 13 (1) (h).

Contra-
vention of rules
and orders.

127. Whoever—

(a) contravenes any rule made under section 22 or any order or prohibition lawfully given under sub-section (3) of section 22 or under section 23, or

(b) disobeys or fails to conform to any lawful and reasonable direction given by any Police officer in conformity with this Act or with any rule made thereunder, or

(c) opposes or disobeys or fails to conform to any direction notified by the Commissioner of Police under section 27, or abets opposition to or disobedience of any such direction,

shall,—

(i) for any contravention of a rule made under section 22, if the rule contravened be one made under clause (a), (b) or (c), or under sub-clause (i) or (ii) of clause (f), be punished with fine which may extend

¹ The letter and brackets “(a)” were deleted by Bom. 11 of 1928, First Schedule.

² The word “or” was deleted by Bom. 11 of 1923, s. 13 (1) (g).

³ Clause (b) was repealed by *ibid.*

⁴ Central Acts.

to fifty rupees, and if it be one made under clause (d) or (e) or under sub-clause (iii), (iv) or (v) of clause (f), be punished with imprisonment for a term which may extend to eight days, or with fine which may extend to fifty rupees, or with both ;

(ii) for any contravention of a prohibition given under sub-section (2) or (3) of section 23, or in any case falling under clause (c) of this section, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both ; and

(iii) in any other case, be punished with fine which may extend to one hundred rupees.

128. Whoever, within two years from the date of his removal under the provisions of section 27 ¹[or sub-section (2) of section 46 of the Bombay District Police Act, 1890] ²* * * * ³ [enters] the City of Bombay, without the permission in writing of the Commissioner of Police, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

Unauthorized
return after
removal from
Bombay.

129. [*Prostitute, etc., not complying with notice*] Repealed by Bom. 11 of 1923, s. 13 (1) (g).

130. It shall not be incumbent on the Commissioner of Police, or any Superintendent specially authorized in writing in that behalf by the Commissioner, to prosecute for any offence punishable under sub-section (3) of section 10, section 118, 119, 122, ⁴[or 127], save in obedience to a rule or order made by the ⁵[Provincial Government] or when such offence has occasioned serious mischief.

Prosecution
for certain
offences to
be dis-
cretionary.

131. Nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other enactment for any offence made punishable by this Act, or from being prosecuted and punished under this Act, for an offence punishable under any other enactment : Provided that all such cases shall be subject to the provisions of section 403 of the Code of Criminal Procedure.

Prosecution
for offences
under other
enactments.

¹ These words, figures and brackets were inserted by Bom. 21 of 1933, s. 3 (i).

² The words and figures "or section 28" were repealed by Bom. 11 of 1923, s. 13 (1) (i).

³ The word "enters" was substituted for the words "returns to any place, within" by Bom. 21 of 1933, s. 3 (ii).

⁴ The word and figures "or 127" were substituted for the word, letter and figures "126-A, 127 or 128" by Bom. 11 of 1923, s. 13 (1) (k).

⁵ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

CHAPTER VIII.

MISCELLANEOUS.

Disposal of fees, rewards, etc. **132.** All fees paid for licenses or written permissions issued under this Act, and all sums paid for the service of processes by Police officers, and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police officers as informers, shall, save in so far as any such fees or sums belong under the provisions of any enactment in force to the Municipality, be credited to ¹[the Provincial Government]:

Provided that, with the sanction of the ²[Provincial Government], or under any rule made by the ²[Provincial Government] in that behalf, the whole or any portion of any such reward, forfeiture or penalty may, for special services, be paid to a Police officer, or be divided amongst two or more Police officers.

Method of proving orders and notifications. **133.** Any order or notification published or issued by the ²[Provincial Government] or by a Magistrate or officer under any provision of this Act, and the due publication or issue thereof, may be proved by the production of a copy thereof in the ³[*Official Gazette*], or of a copy thereof signed by such Magistrate or officer, and by him certified to be a true copy of an original published or issued according to the provisions of the section of this Act applicable thereto.

Rules and orders not invalidated by defect of form or irregularity in procedure. **134.** No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision of this Act or of any rule made under this Act, or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient by reason of any defect of form or publication or any irregularity of procedure.

Application by person interested to annul, etc., rule or order. **135.** (1) In the case of any rule or order made by the ² [Provincial Government] under an authority conferred by this Act and requiring the public or a particular class of persons to perform some duty or act, or to conduct or order themselves or those under their control in a manner therein described, it shall be competent to any person interested to apply to the ² [Provincial Government] by a memorial addressed to a Secretary to ¹[the Provincial Government], to annul, reverse or alter such rule or order on the ground of its being unlawful, oppressive or unreasonable.

¹The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

²The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

³The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(2) If such an application has been wholly or in part rejected, or if after the lapse of four months no answer thereto or decision thereon has been received from or published by the ¹[Provincial Government], it shall be competent to the person interested to institute a suit against ^{When suit will lie to declare order unlawful.} [the Provincial Government] for a declaration that such rule or order is unlawful either wholly or in part. Any such rule or order finally adjudged to be unlawful shall be annulled or reversed or so altered as to make it conformable to law.

136. (1) Any license or written permission granted under the provisions of this Act shall specify the period and locality for which, and the conditions and restrictions subject to which, the same is granted, and shall be given under the signature of the Commissioner of Police : and such fee shall be charged therefor as is prescribed by any rule under this act on that behalf. ^{Licenses and written permissions to specify conditions, etc., and to be signed.}

(2) Any license or written permission granted under this Act may at any time be suspended or revoked by the Commissioner of Police, if any of its conditions or restrictions is infringed or evaded by the person to whom it has been granted, or if such person is convicted of any offence in any matter to which such license or permission relates. ^{Revocation of licenses, etc.}

(3) When any such license or written permission is suspended or revoked, or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Act, be deemed to be without a license or written permission, until the order for suspending or revoking the same is cancelled, or until the same is renewed, as the case may be. ^{When license revoked, etc., grantee to be deemed without license.}

(4) Every person to whom any such license or written permission has been granted shall, while the same remains in force, at all reasonable times, produce the same, if so required by a Police officer. ^{Grantee to produce license, etc., when required.}

137. Any public notice required to be given under any of the provisions of this Act shall be in writing under the signature of the Commissioner of Police, and shall be published in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable. ^{Public notices how to be given.}

138. Whenever under this Act the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police officer, a written document signed by the Commissioner ^{Consent, etc., of Commissioner of Police may be proved}

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " the Provincial Government " were substituted for the word " Government " by *ibid.*

by writing under his signature. of Police or by such officer purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction shall be sufficient evidence thereof.

Signature on notices, etc., may be stamped. **139.** Every license, written permission, notice, or other document, not being a summons or warrant, or search warrant, required by this Act, or by any rule thereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

Magistrate or Police officer not liable to penalty or damages for act done in good faith in discharge of duty. **140.** (1) No Magistrate or Police officer shall be liable to any penalty or to payment of damages on account of any act done in ¹ good faith in pursuance or intended pursuance of any duty imposed or authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

Nor public servants, etc., for giving effect in good faith to rule, etc., issued with apparent authority. (2) No public servant or person duly appointed or authorized shall be liable as aforesaid for giving effect in good faith to any such order or direction issued with apparent authority by the ²[Provincial Government] or by a person empowered in that behalf under this Act or any rule made thereunder.

Prosecutions or suits for acts done under colour of duty barred after three months. (3) In any case of an alleged offence by a Magistrate, Police officer or other person or of a wrong alleged to have been done by such Magistrate, Police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence or wrong, if committed or done, was of the character aforesaid the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than three months after the date of the act complained of.

Suits in certain cases to be dismissed. (4) The plaint in any such suit shall be rejected if it does not expressly allege that the act complained of was done maliciously and without reasonable or probable cause ; and any such suit shall be dismissed if, in the case of an action for damages, tender of sufficient amends shall have been made before the suit was brought, or a sufficient sum of money is paid into Court, with costs, by or on behalf of the defendant, after the institution of the suit.

¹ As to definition of "good faith" see s. 52 of the Indian Penal Code (Act 45 of 1860), Central Acts, and s. 3 (20) of the Bombay General Clauses Act, 1904 (Bom. I of 1904), *infra*.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

SCHEDULE A.

Enactments repealed [vide Section 2 (1)].

Year.	No.	Subject or Title.	Extent of repeal.
1856	XIII	An Act for regulating the Police of the Towns of Calcutta, Madras and Bombay.	So far as it affects the Town of Bombay so much as has not been repealed.
1860	XLVIII	An Act to amend Act XIII of 1856.	So far as it affects the Town of Bombay so much as has not been repealed.
1898	V	The Code of Criminal Procedure.	In sub-section (2) of sections 54, 55, 56 and 127 and in sub-section (4) of section 84, the letter "s" in the word "Towns" and the words "and Bombay". The whole of Chapter IX so far as it applies to the Town of Bombay. Sub-section (2) of section 83, and sections 85, 86 and 155 so far as they apply to the Police in the Town of Bombay.

SCHEDULE B.

Certificate to be received by Police officers appointed by the Commissioner of Police [vide Section 8 (1)].

A. B. has been appointed by the Commissioner of Police for the City of Bombay to the Police of the City of Bombay, and is vested with the powers, functions and privileges of a Police officer under the City of Bombay Police Act, 1902.

THE BOMBAY GENERAL CLAUSES ACT, 1904.

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SCHEDULE.

BOMBAY ACT No. I OF 1904.¹

[30th May, 1904]

Amended by Bom. Act 4 of 1905.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act for further shortening the language used in Bombay Acts, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Bombay Acts, and to make certain other provisions relating to those Acts ; It is hereby enacted as follows :—

Preliminary.

1. This Act may be called the Bombay General Clauses Act, 1904. Short title.
2. The Bombay Acts mentioned in the Schedule are repealed to the Repeal. extent specified in the fourth column thereof.

General Definitions.

3. In this Act, and in all Bombay Acts made after the commencement Definitions of this Act, unless there is anything repugnant in the subject or context,—

- XLV of 1860.
- (1) "abct", with its grammatical variations and cognate expressions, "Abct." shall have the same meaning as in the ²Indian Penal Code ;
 - (2) "act", used with reference to an offence or a civil wrong, shall "Act." include a series of acts ; and words which refer to acts done shall extend also to illegal omissions ;
 - (3) "affidavit" shall include affirmation and declaration in the case "Affidavit." of persons by law allowed to affirm or declare instead of swearing ;
 - (4) "barrister" shall mean a barrister of England or Ireland, or "Barrister" a member of the Faculty of Advocates in Scotland ;
 - (5) "Bombay Act" shall mean an Act made by the Governor of "Bombay Act." Bombay in Council under the ³Indian Councils Act, 1861, or the Indian Councils Acts, 1861 and 1892 ⁴[or the Indian Councils Acts, 1861 to 1909, or the Government of India Act, 1915, or made by the local Legislature, or the Governor of the Presidency of Bombay under

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1903, Pt. VII, pp. 5, 6 ; for Report of Select Committee, see *ibid.*, 1904, Pt. VII, p. 1, and for Proceedings in Council, see *ibid.*, 1903, Pt. VII, p. 150, *ibid.*, 1904, Pt. VII, p. 42.

² Central Acts,

³ See now the Government of India Act, 1935.

⁴ These words and figures were inserted by the Adaptation of Indian Laws Order in Council.

the Government of India Act, or by the Provincial Legislature, or the Governor of Bombay, under the Government of India Act, 1935];

(6) 1* * *

(7) 1* *

(8) 1* *

“Chapter.” (9) “Chapter” shall mean a Chapter of the Act in which the word occurs;

“City of Bombay.” (10) “City of Bombay” shall mean the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature;

“Collector.” (11) “Collector” shall mean, in the City of Bombay, the Collector of Bombay, and elsewhere the chief officer in charge of the revenue-administration of a district;

“Commencement.” (12) “commencement”, used with reference to an Act, shall mean the day on which the Act comes into force;

“Commissioner.” (13) “Commissioner” shall mean, in Sind, the ²[Provincial Government], and elsewhere the Commissioner of a division appointed under the Bombay Land-Revenue Code, 1879, or any other law for the time being in force in this behalf;

Bom.
V of
1879.

“Consular Officer.” (14) “Consular officer” shall include consul-general, consul, vice-consul, consular agent, proconsul and any person for the time being authorized to perform the duties of consul-general, consul, vice-consul or consular agent;

“District Judge.” (15) “District Judge” shall mean the Judge of a principal Civil Court of original jurisdiction, but shall not include a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction;

“Document.” (16) “document” shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter;

“Enactment.” (17) “enactment” shall include a Regulation (as hereinafter defined) and any Regulation of the Bombay Code, and shall also include any provision contained in any Act or in any such Regulation as aforesaid;

“Father.” (18) “father”, in the case of any one whose personal law permits adoption, shall include an adoptive father;

“Financial year.” (19) “financial year” shall mean the year commencing on the first day of April.”

“Good faith.” (20) a thing shall be deemed to be done in “good faith” where it is in fact done honestly, whether it is done negligently or not;

¹ Clauses (6), (7) and (8) were omitted by the Adaptation of Indian Laws Order in Council.

² The words “Provincial Government” were substituted for the words “Commissioner in Sind” by *ibid*.

(21) 1 * * * *

(22) "High Court," used with reference to civil proceedings, shall mean the highest Civil Court of appeal in the part of the Bombay Presidency in which the Act containing the expression operates; "High Court."

(23) "His Majesty" or "the King" shall include His successors; "His Majesty" or "the King."

(24) "immoveable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth; "Immoveable property."

XLV
of
1860

(25) "imprisonment" shall mean imprisonment of either description as defined in the ²Indian Penal Code; "Imprisonment."

(26) "local authority" shall mean a municipal corporation, municipality, local board, body of port trustees or commissioners, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund; "Local authority."

(27) 1* * * * *

V of
1898.

(28) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force; "Magistrate."

(29) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship; "Master" (of a ship)."

(30) "month" shall mean a month reckoned according to the British calendar; "Month."

(31) "moveable property" shall mean property of every description, except immoveable property; "Moveable property."

(32) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing; "Oath."

(33) "offence" shall mean any act or omission made punishable by any law for the time being in force; "Offence."

(34) "Part" shall mean a Part of the Act in which the word occurs; "Part."

(35) "person" shall include any company or association or body of individuals, whether incorporated or not; "Person."

XLV
of
1860.

(36) "public nuisance" shall mean a public nuisance as defined in the ²Indian Penal Code; "Public nuisance."

¹ Clauses (21) and (27) were omitted by the Adaptation of Indian Laws Order in Council.

² Central Act.

- “Registered.” (37) “registered,” used with reference to a document, shall mean registered in British India under the law for the time being in force for the registration of documents ;
- “Regulation.” (38) “Regulation” shall mean a Regulation made under the ¹Government of India Act, 1870 ;
- “Rule.” (39) “rule” shall mean a rule made in exercise of a power conferred by any enactment, and shall include a regulation made as a rule under any enactment ;
- “Schedule.” (40) “schedule” shall mean a schedule to the Act in which the word occurs ;
- “Scheduled District.” (41) “²Scheduled District” shall mean a “Scheduled District” as ^{XIV} defined in the ³Scheduled Districts Act, 1874 ;
of
1874.
- “Section.” (42) “section” shall mean a section of the Act in which the word occurs ;
- “Ship.” (43) “ship” shall include every description of vessel used in navigation not exclusively propelled by oars ;
- “Sign.” (44) “sign,” with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include “mark,” with its grammatical variations and cognate expressions ;
- “Son.” (45) “son”, in the case of any one whose personal law permits adoption, shall include an adopted son ;
- “Sub-section.” (46) “sub-section” shall mean a sub-section of the section in which the word occurs ;
- “Swear.” (47) “swear”, with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing ;
- “Vessel.” (48) “vessel” shall include any ship or boat or any other description of vessel used in navigation ;

¹ See now the Government of India Act, 1935.

² That is the villages belonging to the following Mehwasli Chiefs :—

- (1) The Parvi of Kathi.
- (2) The Parvi of Nal.
- (3) The Parvi of Singpur.
- (4) The Walvi of Gaohalli.
- (5) The Wassawa of Chikhli.
- (6) The Parvi of Nawalpur.

³ The Scheduled Districts Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

(49) "will" shall include a codicil and every writing making a "Will." voluntary posthumous disposition of property;

(50) expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words or figures in a visible form on any substance; and

(51) "year" shall mean a year reckoned according to the British "Year." calendar.

4. The definitions in section 3 of the following words, that is to say, "abet", "affidavit", 1* * * , "Chapter", "City of Bombay", "Collector", "Commissioner", "good faith", 1* * * * , "immoveable property", "imprisonment", "Magistrate", "month", "moveable property", "oath", "Part", "person", 1* * * * , "Schedule", "section", "swear", "vessel", "writing" and "year", apply also, unless there is anything repugnant in the subject or context, to all Bombay Acts made before the commencement of this Act.

General Rules of Construction.

5. (1) Where any Bombay Act is not expressed to come into operation on a particular day, then it shall come into operation, if it is an Act of the Legislature, on the day on which the assent thereto of the Governor, the Governor General or His Majesty, as the case may require, is first published in the *Official Gazette*, and if it is an Act of the Governor, on the day on which it is first published as an Act in the *Official Gazette*.

(2) Unless the contrary is expressed, a Bombay Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

6. In this Act, and in every Bombay Act made after the commencement of this Act, the date of such publication as is mentioned in section 5, sub-section (1), shall be printed above the title of the Act, and shall form part of the Act.

7. Where this Act, or any Bombay Act made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

¹ The words "British India," "Government of India" and "Presidency of Bombay" were omitted by the Adaptation of Indian Laws Order in Council.

² This sub-section was substituted for the original sub-section by *ibid.*

Application of certain of the foregoing definitions to previous Bombay Acts.

Coming into operation of Bombay Acts.

Printing of date on which Act is published after having received the assent of the Governor, Governor General, or His Majesty, as the case may require.

Effect of Repeal.

- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Revival of repealed enactments.

8. (1) In any Bombay Act made after the commencement of this Act it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

Construction of references to repealed enactments.

9. Where this Act, or any Bombay Act made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed shall, unless a different intention appears, be construed as references to the provision so re-enacted.

Commencement and termination of time.

10. (1) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from" and, for the purpose of including the last in a series of days or any other period of time, to use the word "to".

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

Computation of time.

11. Where, by any Bombay Act made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the ¹Indian Limitation Act, 1877, applies.

¹ See now the Indian Limitation Act, 1908 (9 of 1908), Central Acts.

12. In the measurement of any distance for the purpose of any Bombay Act made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane. Measurement of distances.

13. In all Bombay Acts, unless there is anything repugnant in the subject or context,— Gender and number.

(a) words importing the masculine gender shall be taken to include females; and

(b) words in the singular shall include the plural, and *vice versa*.

Powers and Functionaries.

14. Where, by any Bombay Act made after the commencement of this Act, any power is conferred on [any Government], then that power may be exercised from time to time as occasion requires. Powers conferred on any Government to be exercisable from time to time.

15. Where, by any Bombay Act, a power to appoint any person to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office. Power to appoint to include power to appoint *ex-officio*.

16. Where, by any Bombay Act, a power to make any appointment is conferred, then, unless a different intention appears, the authority having power to make the appointment shall also have power to suspend or dismiss any person appointed by it in exercise of that power. Power to appoint to include power to suspend or dismiss.

17. (1) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed. Substitution of functionaries.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

18. (1) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession, to express its relation to the functionaries or corporations. Successors.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

¹ The words "any Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Official chiefs and subordinates. 19. (1) In any Bombay Act made after the commencement of this Act it shall be sufficient, for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This section applies also to all Bombay Acts made before the commencement of this Act.

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of orders, etc., issued under Bombay Acts. 20. Where, by any Bombay Act, a power to issue any notification, order, scheme, rule, by-law or form is conferred, then expressions used in the notification, order, scheme, rule, by-law or form, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the Act conferring the power.

Power to make to include power to add to, amend, vary or rescind, orders, etc. 21. Where, by any Bombay Act, a power to issue notifications, orders, rules or by-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any notifications, orders, rules or by-laws so issued.

Making of rules or by-laws and issuing of orders between publication and commencement of Bombay Act. 22. Where, by any Bombay Act which is not to come into operation on ¹[the passing thereof], a power is conferred to make rules or by-laws, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which anything is to be done under the Act, then that power may be exercised at any time after ¹[the passing thereof], but rules, by-laws or orders so made or issued shall not take effect till the commencement of the Act.

Publication of orders and notifications in the Official Gazette to be deemed to be due publication. 23. Where, in any Bombay Act or in any rule passed under any such Act, it is directed that any order, notification or other matter shall be notified or published, then such notification or publication shall, unless the enactment or rule otherwise provides, be deemed to be duly made if it is published in the ²[*Official Gazette*].

¹ The words "the passing thereof" were substituted for the words "the day on which it is first published in the *Bombay Government Gazette* after having received the assent of the Governor-General" and "the Act has been published as aforesaid" respectively by the Adaptation of Indian Laws Order in Council.

² The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

24. Where, by any Bombay Act, a power to make rules or by-laws is expressed to be given subject to the condition of the rules or by-laws being made after previous publication, then the following provisions shall apply, namely—

- (a) the authority having power to make the rules or by-laws shall, before making them, publish a draft of the proposed rules or by-laws for the information of persons likely to be affected thereby ;
- (b) the publication shall be made in such manner as that authority deems to be sufficient or, if the condition with respect to previous publication so requires, in such manner as the ¹[Central Government, or as the case may be, the Provincial Government] prescribes ;
- (c) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;
- (d) the authority having power to make the rules or by-laws, and, where the rules or by-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or by-laws from any person with respect to the draft before the date so specified ;
- (e) the publication in the ²[*Official Gazette*] of a rule or by-law purporting to have been made in exercise of a power to make rules or by-laws after previous publication shall be conclusive proof that the rule or by-law has been duly made.

Provisions applicable to making of rules or by-laws after previous publication.

25. Where any enactment is, after the commencement of this Act, repealed and re-enacted by a Bombay Act with or without modification, then, unless it is otherwise expressly provided, any appointment, notification, order, scheme, rule, by-law or form made or issued under the repealed enactment shall, so far as it is not inconsistent with the provisions re-enacted, continue in force, and be deemed to have been made or issued under the provisions so re-enacted, unless and until it is superseded by any appointment, notification, order, scheme, rule, by-law or form made or issued under the provisions so re-enacted.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

Miscellaneous.

XLV 26. Sections 63 to 70 of the ³ Indian Penal Code, and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines, shall apply to all fines imposed under any Bombay Act, or any rule or by-law made under any Bombay Act, unless the Act, rule or by-law contains an express provision to the contrary.

Recovery of fines.

¹ The words " Central Government, or as the case may be, the Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

² The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

³ Central Act.

Provision as to offences punishable under two or more enactments.

27. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of service by post.

28. Where any Bombay Act made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression "serve" or either of the expressions "give" or "send" or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

29. (1) In any Bombay Act, and in any rule, by-law, instrument or document made under, or with reference to, any Bombay Act, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act, and in any Bombay Act made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous Acts, rules and by-laws.

30. Where any Act, rule or by-law made after the commencement of this Act continues or amends any Acts, rules or by-laws made before the commencement of this Act, the foregoing sections of this Act shall not by reason merely of such continuance or amendment affect the construction of such Acts, rules or by-laws.

Application to Ordinances and Regulations under the Government of India Act, 1935.

¹[31. The provisions of this Act shall apply—

(a) in relation to any Regulation made by the Governor of Bombay under section 92 of the Government of India Act, 1935, as they apply in relation to Acts made by the Provincial Legislature; and

(b) in relation to any Ordinance promulgated by the Governor of Bombay under section 88 or section 89 of the said Act, as they apply in relation to Acts made under that Act by the Governor.]

¹ Section 31 was inserted by the Adaptation of Indian Laws Order in Council,

THE SCHEDULE.
ENACTMENTS REPEALED.
(See Section 2.)

Year.	No.	Title or Subject.	Extent of repeal.
1886 ..	III	The Bombay General Clauses Act, 1886..	The whole ¹ [except so much of ² Schedule B as relates to unrepealed enactments].
1891 ..	I	An Act to amend the Bombay General Clauses Act, 1886.	So much as is unrepealed.
1896 ..	I	Do. do. ..	The whole.

APPENDIX.

³**SCHEDULE B to the Bombay General Clauses Act, 1886**
(Bom. Act III of 1886).

VERBAL AMENDMENTS MADE IN THE REGULATIONS AND ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Regulations.</i> ⁴ XII of 1827.	19	1	"Magistrate"	"District Magistrate".
	19	6	"The Magistrate" (the first time the words occur).	"the District Magistrate".
	19	6	"the Magistrate" (the second time the words occur).	"any Magistrate".
	19	6	"ordinary"	"simple".
	19	6	"without labour" .. ..	.....
	19	7	"Magistrate" (the first time the word occurs).	"District Magistrate".
	19	7	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held".
	19	8	"the Magistrate shall also" ..	"any Magistrate may".

¹ These words were inserted by s. 2 of the Bombay Repealing and Amending Act, 1905 (Bom. 4 of 1905).

² Printed as an Appendix to this Act.

³ This schedule so far as it affects unrepealed enactments has been reproduced here as an Appendix as the insertion of certain words in the schedule to Bom. 1 of 1904 by Bom. 4 of 1905, has revived it as regards such enactments. Entries relating to sections which have been repealed or substituted after the passing of Bom. 4 of 1905, have also been omitted, a footnote explanation being given in each case.

⁴ Bom. Reg. XII of 1827, s. 19, cls. 1, 6, 7 and 8 is repealed by the Bombay District Police Act, 1890 (Bom. 4 of 1890), wherever that Act extends. For the Regn. see Vol. I of this Code.

¹ SCHEDULE B to the Bombay General Clauses Act, 1886
(Bom. Act III of 1886)—contd.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Regulations—</i>				
<i>contd.</i>				
² XII of 1827 —contd.	20	..	³ “Magistrate”	³ “District Magistrate”.
	27	2	“Magistrate” (each time the word occurs).	“District Magistrate”.
	27	2	“ordinary”	“simple”.
	27	2	“without hard labour” .. ..	.....
	37	1	“Magistrate”	“District or Sub-Divisional Magistrate”.
⁴ XXII of 1827.	40	..	“Magistrate”	“District Magistrate”.
	41	1	“local”	“District”.
	42	1	“local”	“District”.
	42	2, 3, 4	“Magistrate” (each time the word occurs).	“District Magistrate”.
⁴ XXV of 1827.	4	2	“Magistrate” (both times the word occurs).	“District Magistrate”.
	7	..	“Magistrate”	“District Magistrate”.
<i>Acts.</i>				
⁵ I of 1862, IV of 1862.	1	..	“Annexed to this Act” .. ..	.....
	1	..	“the Magistrate” (the second time the words occur).	“a Magistrate of the first class”.
	1	..	“calendar” .. ..	.....
	6	..	“Magistrate”	“District Magistrate”.
	6	..	“this Act”	“section 4”.
	6	..	“of Police” .. ..	.....
	7	..	“of either kind” .. ..	.....
	7	..	“calendar” .. ..	.....
	10	..	“Magistrate”	“District Magistrate”.
	10	..	“of Police” .. ..	.....
V of 1862 VI of 1862	3	..	“Calendar” .. ..	.....
	8 and 9	..	“Calendar” (each time the word occurs).	.....
	21	..	“The following words and expressions”.	.....
	21	..	“shall have the meanings hereby assigned to them”.	.....
	21	..	“(that is say)” .. ..	.....

¹ See footnote 3 on p. 241 ante.

² See footnote 4 on p. 241 ante.

³ On coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area the entry relating to section 20 of Bombay Regulation XII of 1827, shall be deemed to be repealed (*vide* Second Sch., Pt. II and s. 47 of Bom. 15 of 1932).

⁴ Vol. I of this Code.

⁵ Bom 1 of 1862 has been repealed by Bom. 11 of 1928, s. 3 Second Schedule.

¹ SCHEDULE B to the Bombay General Clauses Act, 1886
(Bom. Act III of 1886)—contd.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Acts—contd.</i>				
I of 1863.	6	..	"Justice of the Peace or person exercising the powers of a Magistrate within the province of Sind".	"of the first class".
	12	..	Ditto	Ditto.
	11	..	"of this Act "	.. ..
II of 1863.	2	..	"of this Act " (the first time the words occur).	....
	3, 4, 5, 7, 8, 10, 11 and 13	..	"of this Act " (each time the words occur).	....
	4, 5 and 11	..	"calendar " (each time the word occurs).	....
	5 and 11	..	"collectorate or " (each time the words occur).	....
	11	4	"collectorate "	.. .. "district".
	11	6	"collectorate " (each time the word occurs).	"district".
III of 1863	1 and 2	..	"to this Act " (each time the words occur).	....
V of 1863	20	..	"of this Act " .. ..	....
* * * * *	* * *	* * *	* * *	* * *
VII of 1863	6	..	"of this Act " (the first time the words occur).	....
	7, 8, 9, 11, 12, 13 and 26	..	"of this Act " (each time the words occur).	....
	9	1 and 2	"collectorate or " (each time the words occur).	....
	9	3, 4, 6 and 7	"collectorate " (each time the word occurs).	"district".
	9	8	"calendar " .. ..	....
	9	9	"Revenue " .. ..	....
	9	9	"of the division " .. ..	....
	12	..	"or Sub-Collector " .. ..	....
	20	2	"annexed " .. ..	....
	VII of 1866	6	..	"of this Act "
XII of 1866	15	..	"annexed to this Act " .. ..	....
* * * * *	* * *	* * *	* * *	* * *
VI of 1867	5, 9 and 10.	..	"of this Act " (each time the words occur).	....

¹ See footnote 3 on page 241 ante.

² The entry relating to Bom. 6 of 1863 is omitted as the Act has been repealed by Bom. 7 of 1920.

³ The entry relating to Bom. 13 of 1866 is omitted as that Act ceases to have effect under the Adaptation of Indian Laws Order in Council.

¹SCHEDULE B to the Bombay General Clauses Act, 1886
(Bom. Act III of 1886)—contd.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
VII of 1867	34	..	"of this Act" (each time the words occur).	....
	"	..	"full-power Magistrate" ..	"Magistrate of the first class".
VIII of 1867	3 ¹	..	"Commissioner of Police" Act, 1861.	"Acts, 1867 and 1890"].
	3, 4, 5, 15 and 18	..	"of Police" (wherever in the said sections those words follow the word "Commissioner").	....
	5	..	"Police" (in each place in which the word precedes the word "Commissioner").	....
	18	..	"of this Act" .. ..	....
II of 1868	17	..	"Revenue or Police" ..	....
* * * *	* *	* *	* * * *	* * *
I of 1874	In the preamble	..	"to this Act" .. ..	....
	4	..	The last three words .. ..	....
	13	..	"of this Act" (the first time the words occur).	....
	14	..	"of this Act" .. ..	....
	29	..	"calendar" .. ..	....
II of 1874	15	..	"of this Act" (each time the words occur).	....
III of 1874	3, 4, 6, 7, 10, 11, 12, 13, 21, 31, 37, 39, 55, 67, 73, 75, 76 and 83	..	"of this Act" (each time the words occur).	....
	6	1	"Revenue" (each time the word occurs).	....
	20	..	"of this Act" (the first time the words occur).	....
	40	1	The last three words .. ..	....
	73	2	"thereof" .. ..	....
	74	..	"revenue" .. ..	....
	"	..	"appointed under Regulation V of 1830, or other law in force for the time being".	....

¹ See footnote 3 on page 241 ante.

² During such time as Bom. 6 of 1933 and the rules and by-laws shall be in operation in any village, sections 33 and 34 of Bom. 7 of 1867 cease to have any operation in the said village. See section 115 of Bom. 6 of 1933.

³ Inserted by the Bom. General-Clauses Amendment Act, 1891 (Bom. 1 of 1891).

⁴ The entry relating to Bom. 3 of 1869 is omitted as that Act has been repealed by Bom. 6 of 1933.

⁵ The entries relating to ss. 44, 47, 50 and 59 of this Act are omitted as they have been repealed or substituted by Bom. 3 of 1910.

SCHEDULE B to the Bombay General Clauses Act, 1886
(Bom. Act III of 1886)—contd.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
III of 1874 <i>contd.</i>	77	..	"empowered under the provisions of Bombay Act I of 1868."	....
	84	..	"so empowered" .. "Revenue" ..	.... ....
III of 1875.	7	..	"of either description"	....
	..	..	"calendar" ..	....
II of 1876.	14, 16, 18 and 33	..	"of this Act" (each time the words occur).	....
	16	..	"hereunto annexed"	....
	31	..	"annexed to this Act"	....
* * *	* * *	* * *	* * *	* * *
I of 1877 ..	3, 9, 16, 17 and 25	..	"of this Act" (each time the words occur).	....
	9, 10, 11, 14, 15, 17 and 18	..	"hereto annexed" (each time the words occur).	....
	12	(b)	"of this Act" ..	....
	19	..	"of this Act" (the first time the words occur).	....
	23	(b)	"of this Act" ..	....
	20 and 24	..	"of either description within the meaning of the Indian Penal Code" (in each place in which these words occur).	....
	28	..	"The provisions of sections 64 to 70, both inclusive, of the Indian Penal Code shall apply to"	....
	28	..	"and all such fines" ..	....
² V of 1878 ..	3	3	"means, in Sind, the [Provincial Government] and elsewhere a Commissioner of land-revenue, or, if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer."	"includes an officer appointed by Government to be a Commissioner for the purposes of this Act".

¹ See footnote 3 on page 241 *ante*.

² The entry relating to Bom. 3 of 1876 is omitted as the Act has been repealed by Bom. 2 of 1906.

³ The entry relating to section 50 of this Act is omitted as the section has been subsequently substituted by Bom. 12 of 1912.

⁴ The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

¹SCHEDULE B to the Bombay General Clauses Act, 1886
(Bom. Act III of 1886)—contd.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clauses.		
V of 1878 <i>contd.</i>	3	4	"means a Collector of land-revenue or".	"includes".
		45	..	"of this Act" (each time the words occur).
IV of 1879.	3	..	The last three words ..	....
	9, 10, 11, 14, 15, 17 and 18	..	"hereto annexed" (each time the words occur).	....
	9, 16, 17 and 25	..	"of this Act" (each time the words occur).	....
	12	(b)	"of this Act" ..	....
	19	..	"of this Act" (the first time the words occur).	....
	20 and 24	..	"of either description within the meaning of the Indian Penal Code" (in each place in which the words occur).	....
	23	(b)	"of this Act" ..	....
V of 1879 ..	3	2	"of this Act" ..	....
	10, 13, 18, 38, 86, 87, 161 and 216	..	"of this Act" (each time the words occur).	....
	23	..	"to this Act" ..	....
¹ VI of 1879.	21 and 34	..	"of this Act" ..	....
² VII of 1879	3	5	"means the head revenue officer of a district and".	....
	57	..	"of this Act" ..	....
	61 and 62	..	"of either description within the meaning of the said Code" (in each place in which these words occur).	....
	67	..	"of the division" ..	....

¹ See footnote 3 on p. 241 *ante*.

² The entries relating to sections 2, 214 and 215 of this Act are omitted as these sections have been repealed or substituted by Bom. 4 of 1913.

¹SCHEDULE B to the Bombay General Clauses Act, 1886
(Bom. Act III of 1886)—concl'd.

ENACTMENT			Words repealed	Words, if any, substituted for the words repealed.
No. and year.	Section	Clause.		
I of 1880 ..	3	7	"hereto annexed .. ..	....
	33	(b)	"hereto annexed" .. ..	....
I of 1883 ..	3, 5 and 8.	..	"of this Act" (each time the words occur).	....
	3	..	"annexed to this Act" .. ..	....
II of 1883..	In the preamble	..	"to this Act" .. ..	....
	4	..	"to this Act" .. ..	....
	17	..	"of this Act" (the first time the words occur).	....
**	*		* * * *	*

¹ See footnote 3 on p. 241 *ante*.

² The entries relating to sections 2, 214 and 215 of this Act are omitted as these sections have been repealed or substituted by Bom. 4 of 1913.

³ The entry relating to Bom. 1 of 1884 is omitted as that Act has been repealed by Bom. 6 of 1933.

THE BOMBAY COURT OF WARDS ACT, 1905.

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BOMBAY ACT No. I OF 1905.¹

[3rd June, 1905]

Amended, by Bom. Act 1 of 1910.

Amended, by Bom. Act 2 of 1913.

Amended, by Bom. Act 7 of 1934.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to establish a Court of Wards in the Bombay Presidency.

WHEREAS it is expedient to establish a Court of Wards in the Bombay Presidency ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the ²Indian Councils Act, 1892, has been obtained for the passing of this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Court of Wards Act, Short title. 1905.

(2) It shall extend to the whole of the Bombay Presidency, except the City of Bombay³ * *.

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

(a) " Government ward " shall mean any person of whose property, or of whose person and property, the Court of Wards may, for the time being, have the superintendence under this Act ;

(b) " land-holder " shall mean,

(i) in the case of minors and persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs, a holder as defined in the ⁴Bombay Land Revenue Code, 1879 ; and

⁵[(ii) in all other cases, a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malek and a khot, and any person not hereinbefore specified who is interested in land and whom the ⁶[Provincial Government] has declared on account of the extent and value of his interests to be a land-holder for the purposes of this Act] :

provided that no person who permanently resides, or carries on business, or personally works for gain, in the City of Bombay shall be deemed or declared to be a land-holder for the purposes of this Act ;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1904, Pt. VII, p. 83 ; for Report of Select Committee, see *ibid*, 1905, Pt. VII, p. 14, and for Proceedings in Council, see *ibid*, 1904, Pt. VII, pp. 144, 208 ; *ibid*, 1905, Pt. VII p. 42.

² See now the Government of India Act, 1935.

³ The words " and Aden " were omitted by the Adaptation of Indian Laws Order in Council.

⁴ Vol. II of this Code.

⁵ This paragraph was substituted by s. 2 (a) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁶ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

¹[(*bb*) "pension-holder" shall mean a person lawfully entitled to the whole or a part of a pension or cash-allowance granted or continued by Government on political considerations or of a hereditary pension or cash-allowance ;]

(c) "District Court" shall include the Court of an Assistant Judge invested, under section 19 of the ²Bombay Civil Courts Act, ^{Bom. XIV} 1869, with all the powers of a District Judge ; and ^{of} ^{1869.}

(*d*) "minor" shall mean a person who, under the provisions of the ³Indian Majority, Act, 1875, is to be deemed not to have ^{IX of} attained his majority. ^{1875.}

Commissioner to be Court of Wards.

3. Subject to the provisions of section 12, the Commissioner shall be the Court of Wards for the limits of his division :

Provided that the ⁴[Provincial Government] may, if ⁵[it] thinks fit, by notification in the ⁶[*Official Gazette*],

(a) appoint a special officer to be the Court of Wards for a division in lieu of the Commissioner ; or

(b) constitute a Board consisting of the Commissioner and any other officer or officers to be the Court of Wards for a division ; or

(c) appoint any other officer or officers to be a Court of Wards for any part of the Bombay Presidency, and direct that such part shall thereupon be excluded from the jurisdiction of the Court of Wards of any division in which it lies wholly or partly.

Assumption of superintendence by Court of Wards of property of disqualified

4. (*I*) The Court of Wards may, with the previous sanction of the ⁴[Provincial Government], assume the superintendence of the property of any land-holder holding land ⁷[or of any pension-holder receiving a pension] within the local limits of its jurisdiction who is disqualified to manage his own property :

¹ This clause was inserted by s. 2 (*b*) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

² Vol. I of this Code.

³ Central Acts.

⁴ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁵ The word "it" was substituted for the word "he" by *ibid*.

⁶ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

⁷ These words were inserted by s. 3 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

Provided that in the case of a land-holder ¹[or pension-holder] dis-qualified under clause (b) or (c) of sub-section (1) of section 5 such assumption shall be sanctioned only where the ²[Provincial Government] is of opinion that it is expedient in the public interests to preserve the property of such land-holder ¹[or pension-holder] for the benefit of his family, and that the said property is of such value that economical management by the Court of Wards is practicable.

(2) No sanction given under sub-section (1) shall be called in question in any Court, except in the case of a land-holder ¹[or pension-holder] disqualified under section 5, sub-section (1), clause (a), where proceedings are instituted within three months of the giving of the sanction.

5. (1) The following land-holders ³[or pension-holders] shall, for the purposes of section 4, be deemed to be disqualified to manage their own property, namely :—

- (a) minors ;
- (b) females declared by the District Court, on the application of the Collector and after such judicial inquiry as it thinks necessary, to be unfitted to manage their own property ;
- (c) persons declared by the District Court, on the like application and after the like inquiry, to be incapable of managing, or unfitted to manage, their own property owing to
 - (i) any physical or mental defect or infirmity, or
 - (ii) such habits as cause, or are likely to cause, injury to their property or to the well-being of their inferior holders ; and
- (d) persons adjudged by a competent Civil Court to be of unsound mind and incapable of managing their affairs.

(2) No appeal shall lie from any declaration under clause (b) or (c) of sub-section (1).

VIII of 1890. 6. Where any ⁴[servant of the Crown] is appointed or declared to be guardian of the property, or of the person and property, of a minor under section 7, sub-section (1), of the ⁵Guardians and Wards Act, 1890, he shall intimate the fact to the Court of Wards, and the Court of Wards may thereupon, with the previous sanction of the ²[Provincial Government], assume the superintendence of the property, or of the person and property, of such minor.

¹ These words were inserted by s. 4 (1) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ These words were inserted by s. 4 (2) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁴ The words " servant of the Crown " were substituted for the words " officer of Government " by the Adaptation of Indian Laws Order in Council.

⁵ Central Acts.

land-holder
or pension-
holder.

Land-
holders or
pension-
holders to
be deemed
disqualified
in certain
cases.

Assumption
of superin-
tendence
where ser-
vant of the
Crown
appointed
guardian.

Superintendence not to be assumed where guardian appointed except with consent of District Court.

7. The Court of Wards shall not assume the superintendence of the property, or of the person and property, of any minor of whose property, or of whose person and property,

(a) a guardian has been appointed by will or other instrument, or

(b) a guardian other than ¹[a servant of the Crown] has been appointed or declared under section 7, sub-section (1), of the

²Guardians and Wards Act, 1890,

except with the previous consent of the District Court.

VIII
of
1890.

Superintendence not to be assumed under section 4 in case of undivided Hindu family unless all co-sharers disqualified; but may be assumed in other cases.

8. (1) The Court of Wards shall not assume under section 4, sub-section (1), the superintendence of the property of any family which is undivided according to Hindu law, except where all the co-sharers are disqualified under sub-section (1) of section 5 ³[or where all the co-sharers other than those who are disqualified under sub-section (1) of section 5 agree to the Court of Wards assuming such superintendence].

(2) Where two or more land-holders ⁴[or pension-holders] are co-sharers otherwise than as co-sharers in a family which is undivided according to Hindu law and one of such co-sharers is disqualified under sub-section (1) of section 5, the Court of Wards ⁵[may assume the superintendence of the undivided share of such disqualified land-holder ⁶[or pension-holder] or] may obtain partition on behalf of the disqualified land-holder ⁶[or pension-holder] by suit or otherwise, and assume the superintendence of the property allotted to such land-holder ⁶[or pension-holder] in the partition.

Assumption of superintendence by Court of Wards on application of land-holder or pension-holder.

9. (1) Any land-holder ⁶[or pension-holder] may apply in writing to the ⁷[Provincial Government] to have his property placed under the superintendence of the Court of Wards, and the ⁷[Provincial Government] may on such application, where ⁸[it] is of opinion that it is expedient in the public interests to preserve the property of such land-holder ⁶[or pension-holder] for the benefit of his family and that the said property is of such value that economical management by the Court of Wards is practicable, order the Court of Wards to assume the superintendence of the property.

¹ The words " a servant of the Crown " were substituted for the words " an officer of Government " by the Adaptation of Indian Laws Order in Council.

² Central Acts,

³ These words were inserted by s. 5 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁴ These words were inserted by s. 4 (2) *ibid.*

⁵ These words were inserted by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

⁶ These words were inserted by s. 4 (1) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁷ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws, Order in Council.

⁸ The word " it " was substituted for the word " he " by *ibid.*

¹[(1A) Any co-sharer of property, other than a co-sharer in a family undivided according to Hindu law, may make an application under sub-section (1) in respect of his own share in such property.]

(2) ²[In every case where property is held by co-sharers, whether as co-shares in a family undivided according to Hindu law or otherwise] an application signed by co-sharers holding an aggregate interest of not less than three-fourths of the whole property shall, for the purposes of sub-section (1), be deemed to be an application by a land-holder ³[or pension-holder] in respect of ⁴[the whole property]:

Provided, *firstly*, that no order shall be made ⁵[on any such application] under sub-section (1) where it appears to the ⁶[Provincial Government] doubtful whether the aggregate interest of the co-sharers signing ⁷[the] application amounts to not less than three-fourths of the whole property; and

Provided, *secondly*, that nothing in this Act shall be deemed to prevent any co-sharer other than those signing any such application from obtaining partition of his share, whether by suit or otherwise.

(3) An order made under sub-section (1) shall be sufficient to authorize the Court of Wards to assume the superintendence of the property referred to therein, and no such order shall be called in question in any Court.

10. (1) Whenever the Collector receives information that any land-holder ³[or pension-holder] is, or should be, disqualified under sub-section (1) of section 5, or that any land-holder ³[or pension-holder] has died and that his heir is, or should be, so disqualified, he may apply to District Court and the District Court may authorise the Court of Wards to

Provisions for temporary custody of heirs and protection of property in certain cases.

(a) take such steps and make such order for the temporary custody and protection of the property as the Court of Wards thinks fit; and

(b) where the land-holder ³[or pension-holder] or heir is a minor, direct that the person (if any) having the custody of the minor shall produce him or cause him to be produced at

¹This sub-section was inserted by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

²These words were substituted for the words "Where property is held by co-sharers in undivided shares" by *ibid.*

³These words were inserted by s. 4 (1) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁴These words were substituted for the words "such property" by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

⁵These words were inserted by *ibid.*

⁶The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁷This word was substituted for the words "any such" by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

such place and time and before such person as the Court of Wards may appoint, and make such order for the temporary custody and protection of the minor as the Court of Wards thinks fit :

Provided that, where the minor is a female and belongs to a class the females of which do not usually appear in public, her production shall be required only in accordance with the manners and customs of the country.

(2) Whenever the Court of Wards is authorized to proceed under sub-section (1) it shall forthwith report its action for the information of the ¹[Provincial Government].

(3) No appeal shall lie from any order of authorization under sub-section (1), except in the case of a land-holder ²[or pension-holder] disqualified under section 5, sub-section (1), clause (a).

Assumption of superintendence by Court of Wards of person of disqualified land-holder or pension-holder in certain cases.

11. Where the Court of Wards assumes the superintendence of the property of any land-holder ²[or pension-holder] disqualified under clause (a) or (d) of section 5, sub-section (1), it may, with the previous sanction of the ¹[Provincial Government], assume the superintendence of his person also :

Provided that nothing in this section shall authorize the Court of Wards to assume the superintendence of the person of a female who is married and is in the custody of her husband.

Assumption of superintendence by Court of Wards where land-holder or pension-holder holds land in more than one jurisdiction.

12. Where a disqualified land-holder ²[or pension-holder] or a land-holder ²[or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (1), holds land ³[or receives a pension] within the territorial jurisdiction of two or more Courts of Wards such one only of the Courts of Wards as the ¹[Provincial Government] may determine in this behalf shall assume the superintendence of the property, or of the person and property, of the land-holder ²[or pension-holder].

Assumption of superintendence to be notified and to extend to whole of Government ward's property.

13. (1) Whenever the Court of Wards assumes the superintendence of the property of any land-holder ²[or pension-holder] under this Act, the fact of such assumption, and the date on which it was sanctioned by the

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² These words were inserted by s. 4 (1) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

³ These words were inserted by s. 4 (3) of *ibid.*

¹[Provincial Government], shall be notified in the ²[*Official Gazette*] and in such other manner as the ¹[Provincial Government] may, by general or special order, direct.

(2) On and with effect from the date of such sanction, the whole of the property, moveable and immovable, of such land-holder ³[or pension-holder], whether the existence of any such property is known to the Court of Wards or not, shall be deemed to be, under the superintendence of the Court of Wards.

(3) Any property which the Government ward may inherit or acquire by succession subsequently to the date of such sanction shall also be deemed to be under the superintendence of the Court of Wards.

(4) The Court of Wards may, in its discretion, assume, or refrain from assuming, the superintendence of any property which the Government ward may acquire otherwise than by inheritance or succession subsequently to the date of such notification.

14. (1) On the issue of a notification under section 13, sub-section (1), the Court of Wards shall publish in the ²[*Official Gazette*], and in such other manner as the ¹[Provincial Government] may, by general or special order, direct, a notice, in English and also in the vernacular, calling upon all persons having claims against the Government ward or his property to submit the same in writing to it within six months from the date of the publication of the notice. Publication of notice to claimants against Government ward.

(2) Where the Court of Wards is satisfied that any claimant was unable to comply with the notice published under sub-section (1), it may allow his claim to be submitted at any time after the date of the expiry of the period fixed therein; but any such claim shall, notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of such period until submission.

(3) Every claim against the Government ward or his property (other than a claim ⁴[on the part of the Crown]) not submitted to the Court of Wards in compliance with the notice published under sub-section (1), or allowed to be submitted under sub-section (2), shall, save in the cases provided for by section 18, sub-section (2), clause (c), and by sections 7 and 13 of the ⁵Indian Limitation Act, 1877, be deemed for all purposes and on all occasions, whether during the continuance of the

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

³ These words were inserted by s. 4 (1) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁴ The words "on the part of the Crown" were substituted for the words "on the part of Government" by the Adaptation of Indian Laws Order in Council.

⁵ See now the Indian Limitation Act, 1908 (9 of 1908), Central Act.

superintendence or afterwards, to have been duly discharged, unless, in any suit or proceeding instituted by the claimant, or by any person claiming under him, in respect of any such claim, it is proved to the satisfaction of the Court that he was unable to comply with the notice published under sub-section (1).

Power to require claimants to furnish full particulars and documents.

15. (1) The Court of Wards may by written order require that any claimant submitting his claim shall, within such reasonable time as it may prescribe in such order, furnish full particulars thereof, and produce all documents (including entries in books of account) on which he relies to support his claim, together with a true copy of every such document :

Provided that, where the claim relates to an amount secured by a decree or award, it shall be sufficient for the claimant to produce before the Court of Wards, a certified copy of the decree and a certificate from the Court which passed or is executing the same declaring the amount recoverable thereunder, or a true copy of the award and statement of the sum recoverable thereunder, as the case may be ; and where the claim is pending adjudication in any Court or has been referred to arbitration, it shall be sufficient for the claimant to produce a certified copy of the plaint, or a true copy of the reference to arbitration, as the case may be.

(2) The Court of Wards shall, after marking, for the purpose of identification, every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the claimant.

(3) Where any document, which is in the possession or under the control of a claimant, is not produced by him in accordance with an order under sub-section (1), the document shall not be admissible in evidence against the Government ward, whether during the continuance of the superintendence or afterwards, in any suit brought by such claimant, or by any person claiming under him, in respect of any claim to which such document relates, unless it is proved to the satisfaction of the Court that he was unable to produce such document as required by such order.

Investigation and decision of claims.

16. (1) On receipt of all claims submitted in compliance with the provisions of sections 14 and 15, the Court of Wards shall proceed to investigate such claims and shall decide, subject to the provisions of sub-section (3), which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) Where the Court of Wards has admitted any claim under sub-section (1), it may make to the claimant a proposal in writing for the reduction of the claim, or of the rate of interest to be paid in future, or of both ; and if such proposal, or any modification of it, is accepted by the claimant, and his acceptance is finally recorded and attested by the Court of Wards or by any Revenue-officer not below the rank of an

Assistant or Deputy Collector whom the ¹[Provincial Government] may, by general or special order, appoint in this behalf, it shall be conclusively binding upon the claimant :

Provided that if, when the superintendence of the property by the Court of Wards is withdrawn, any portion of the claim reduced as aforesaid is still unsatisfied, the claimant shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a Government ward or his property which has been duly submitted to the Court of Wards :

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

17. (1) On the publication of a notice under section 14, sub-section (1), no proceeding in execution of any decree against the Government ward or his property shall be instituted or continued until the decree-holder files a certificate from the Court of Wards that the decree-claim has been duly submitted, or until the expiration of one month from the date of receipt by the Court of Wards of a written application for such certificate, accompanied by a certified copy of a decree. Execution of decrees to be stayed till certificate filed.

(2) Any person holding a decree against the Government ward or his property shall be entitled to receive from the Court of Wards, free of cost, the certificate required by sub-section (1).

(3) In computing the period of limitation prescribed by the ²Indian Limitation Act, 1877, or by section 230 of the ³Code of Civil Procedure, for any application for the execution of a decree, proceedings in which have been stayed or temporarily barred by reason of the claim not having been duly submitted, the time from the date of the notice published under section 14, sub-section (1) or of the decree if it was passed subsequently to the publication of the notice, to the date of due submission shall be excluded.

18. (1) When all claims have been investigated under section 16, the Court of Wards shall submit to the ¹[Provincial Government] a schedule of the debts and liabilities of the Government ward, and the ¹[Provincial Government] may, where the property appears to be involved beyond all hope of extrication, or for any other sufficient reason, by order Report to Provincial Government.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² See now the Indian Limitation Act, 1908 (9 of 1908), Central Acts.

³ See now the Code of Civil Procedure, 1908 (5 of 1908), Central Acts.

published in the ¹[*Official Gazette*], direct that, on a date to be fixed by the order, the superintendence of the property, or of the person and property, of the Government ward by the Court of Wards shall be withdrawn.

(2) On the date so fixed

(a) the superintendence shall terminate ;

(b) the owner of the property under superintendence shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property ; and

(c) the claims referred to in section 14, sub-section (3), shall revive.

(3) In calculating the periods of limitation applicable to suits to recover and enforce claims revived under sub-section (2), clause (c), the time during which such superintendence has continued shall be excluded.

Delegation
of powers
by Court
of Wards.

19. (1) With the general or special sanction of the ²[Provincial Government], the Court of Wards may, from time to time, delegate all or any of its powers to the Collector of any district in which any part of the property of a Government ward is situated, or to any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and may, at any time, with the like sanction, revoke such delegation.

(2) Subject to any general or special orders of the ²[Provincial Government], the Court of Wards may exercise all or any of the powers conferred on it by this Act through the Collector of any district in which any part of the property of a Government ward is situated, or through any other officer not below the rank of an Assistant or Deputy Collector whom it may appoint in this behalf, and, subject to the like orders, any such Collector or Assistant or Deputy Collector may exercise all or any of the powers delegated to him under this Act through any Revenue-officer subordinate to him not below the rank of a Mahalkari.

Appointment
of manager
by Court of
Wards.

20. The Court of Wards may appoint a manager of the property of any Government ward under its superintendence.

Liabilities,
etc., of
managers
appointed
by Court
of Wards.

21. (1) Every manager appointed by the Court of Wards shall—

(a) give such security, with such sureties (if any), as the Court of Wards thinks fit for the due discharge of the trusts of his office, and for the due account of all property and moneys which come into his control or possession by reason of his office ;

(b) be entitled to such allowance as the Court of Wards thinks fit for his care and pains in the execution of his duties ; and

¹ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

² The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

(c) be responsible for any loss occasioned to the property under his management by his wilful default or gross negligence; and every such loss shall be recoverable from him and from his sureties (if any) as an arrear of land-revenue.

XLV of 1860. (2) Every manager or other servant of the Court of Wards shall be deemed to be a "public servant" within the meaning of Chapter IX of the ¹ Indian Penal Code; and, in the definition of "legal remuneration" contained in section 161 of the said Code, the word "Government" shall, for the purposes of this sub-section, be deemed to include the Court of Wards. Managers and other servants to be deemed public servants.

22. (1) The Court of Wards may appoint guardians for the care of the persons of Government wards whose persons are, for the time being, under its superintendence. Power of Court of Wards to appoint guardians of certain Government wards.

VIII of 1890. (2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the ¹Guardians and Wards Act, 1890. Guardians and Wards Act, 1890.

23. Subject to the provisions of this Act and of any rules thereunder, the Court of Wards General powers of Court of Wards.

(a) may, of itself or through the manager (if any) appointed by it under this Act, do all such things requisite for the proper care and management of any property of which it assumes the superintendence under this Act, as the owner of the property, if it was not under the superintendence of the Court of Wards, might do for its proper care and management; and

(b) may, of itself or through the guardian (if any) appointed by it under this Act, do, in respect of the person of any Government ward whose person is, for the time being, under its superintendence, all such things as may lawfully be done by a guardian.

24. The Court of Wards may pass such orders as it thinks fit in respect of the custody and residence of any Government ward whose person is, for the time being, under its superintendence, and, where he is a minor, in respect of his education. Custody, residence and education of certain Government wards.

25. The Court of Wards may, from time to time, determine what sums shall be allowed in respect of the expenses of any Government ward and of his family and dependents. Allowance for Government ward, his family and dependents.

¹ Central Act.

Duties of Court of Wards or manager.

26. The Court of Wards, or the manager (if any) appointed by it under this Act, shall manage the property of every Government ward under its superintendence or under his management diligently and faithfully for the benefit of the Government ward, and shall in every respect act to the best of its or his judgment for the Government ward's interest as if the property were its or his own.

Power of Court of Wards as to property of Government wards.

¹27. The Court of Wards may sell, exchange, mortgage, charge or let the property of a Government ward, and may do all such things as it may judge to be best for the benefit of the property and the advantage of the Government ward : Provided that—

- (a) the previous sanction of the ²[Provincial Government] shall be required to any sale, exchange or mortgage of, or charge on, immoveable property and to any lease of such property for a term exceeding ten years, and
- (b) where one-fourth of the immoveable property of a Government ward has been sold or exchanged no further sale or exchange shall be made.]

Power of Court of Wards to evict.

28. The Court of Wards may summarily evict in the manner specified in section 202 of the Bombay Land Revenue Code, 1879, any person occupying, or in possession of, any immoveable property under its superintendence, to the use and occupation of which he has ceased to be entitled under any of the provisions of that Code, or which he uses or occupies in contravention of any of the provisions of this Act. Bom.
V of
1879.

Recovery of arrears of rent as arrears of land-revenue.

³29. For the purpose of the recovery of rents, profits and other sums due in respect of property under the superintendence of the Court of Wards (whether such arrears become due before or after the assumption of such superintendence) the Court of Wards shall have all the powers possessed by a Collector under the law for the time being in force for the recovery of land-revenue due to Government, including the power conferred by section 176 of the Bombay Land Revenue Code, 1879.] Bom.
V of
1879.

¹ This section was substituted by s. 6 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ This section was substituted by s. 7 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

30. No immoveable property under the superintendence of the Court of Wards shall be liable to sale on account of arrears of land-revenue : Property under superintendence not liable to sale for arrears.

Provided that all such arrears of land-revenue shall be the first charge upon the sale-proceeds of any such property which may be sold for any other cause than for arrears of land-revenue.

¹[30A. (1) Whenever it shall appear to the Court of Wards that by virtue of or in execution of a decree or order of a Civil Court, the property of a Government ward under its superintendence is or is likely to be insufficient for the payment of the expenses— Power of Court of Wards to direct any property of Government ward to be exempt from process of Civil Court.

(a) of the management of the property of the said ward under this Act, or

(b) of the said ward, his family and dependents, allowed under section 25,

the Court of Wards may issue a certificate in writing to the Civil Court executing the said decree or order directing that the said property shall for such period as the Court of Wards may from time to time deem expedient, be exempt from any attachment, sale, transfer or other process by a Civil Court.

(2) Upon the receipt of such certificate the Civil Court executing the decree or order against the Government ward shall, notwithstanding anything contained in section 17 or any other law for the time being in force, remove any attachment or other process pending against the property specified in the certificate and shall set aside any order of sale or transfer of the said property and thereupon the said property shall be exempt from any attachment, sale, transfer or other process by a Civil Court for the period specified in the said certificate and during the said period the execution of such decree or order shall so far as it affects the said property for the purposes of section 15 of the Indian Limitation Act, 1908, be deemed to have been stayed : IX of 1908.

Provided that if the superintendence of the Court of Wards of the property of the said Government ward terminates under section 18 or is withdrawn under section 40, the exemption granted under this section shall with effect from the date of such termination or withdrawal cease to be in operation.]

31. No suit relating to the person or property of any Government wards shall be brought in any Civil Court until the expiration of two months after notice in writing stating the name and place of abode of the intending plaintiff, the cause of action and the relief claimed, Notice of suit.

¹ Section 30A was inserted by Bom. 7 of 1924, s. 2.

has been delivered to, or left at the office of, the Court of Wards; and the plaint shall contain a statement that such notice has been so delivered or left :

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of a notification issued under section 13, sub-section (1).

Manager
or Court of
Wards to be
next friend
or guardian
in suit by
or against
Government
wards.

32. Subject to the provisions of the second paragraph of section 440 of the ¹Code of Civil Procedure, in every suit brought by or against a Government ward, the manager of the Government ward's property, or, where there is no manager, the Court of Wards having the superintendence of the Government ward's property, shall be named as the next friend or guardian for the suit, as the case may be.

Payment
of costs.

33. Where, in any suit brought by or against a Government ward, any Civil Court decrees any costs against the Government ward's next friend or guardian for the suit, the Court of Wards shall cause the costs to be paid out of any property of the Government ward which may, for the time being, be in its hands.

Processes
against
Government
ward to be
served on
next friend
or guardian.

34. Every process which may be issued out of any Civil or Revenue Court against any Government ward shall be served on the Government ward's next friend or guardian for the suit.

Authority
of Court of
Wards
required in
case of suits
brought on
behalf of
Government
wards.

35. No suit shall be brought, and no appeal in any suit shall be preferred, by any guardian or manager appointed by the Court of Wards on behalf of any Government ward unless it is authorised by an order in writing of the Court of Wards :

Provided that a manager may authorize a plaint or a memorandum of appeal to be filed in order to prevent a suit or appeal from being barred by the law of limitation, but the suit or appeal shall not afterwards be proceeded with except with the sanction of the Court of Wards.

Adjudication
of civil
disputes
between
two or more
Government
wards.

36. (1) Where any question arises as between two or more Government wards of such a nature that an adjudication upon it by a Civil Court is expedient, it shall be lawful for the Court of Wards, acting through the Collector of the district in which a case might have been stated for the opinion of the Civil Court with regard to such matter under section 527 of the ¹ Code of Civil Procedure, to file in the Civil Court having jurisdiction a statement containing the point or points for determination.

¹See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

(2) When such statement has been filed, the Court shall appoint a guardian for the suit for each ward having a separate interest, and such guardians shall thereupon conduct the case subject to the general control of the Court of Wards.

(3) The Court may, if it thinks fit, amend the case so stated and shall then proceed to hear and dispose of the case in the manner provided in Chapter XXXVIII of the ¹Code of Civil Procedure for the hearing and disposal of cases stated for opinion under that Chapter.

37. (1) Except with the approval of the Court of Wards, a Govern- Disabilities of a Government ward. ment ward shall be incompetent to transfer or create any charge on, or interest in, his property or any part thereof (except such interest as may be created by a will made in accordance with section 38), or to enter into any contract which may involve him in pecuniary liability; and no suit shall be brought in any Civil Court whereby to charge any person upon any promise made after he has ceased to be a Government ward to pay any debt contracted during the period when he was a Government ward, or upon any ratification made after he has ceased to be a Government ward of any promise or contract made during the period aforesaid, whether there is or is not any new consideration for such promise or ratification.

(2) Nothing in this section shall be deemed to affect the capacity of a Government ward to enter into a contract of marriage:

Provided that a Government ward shall not incur, in connection with such a contract, any pecuniary liability, except such as, having regard to the personal law to which he is subject and to his rank and circumstances, the Court of Wards may, in writing, declare to be reasonable.

38. No will made by a Government ward shall be valid without the consent of the ²[Provincial Government] obtained, either previously or subsequently to the making of the will, on application made to ³[it] through the Court of Wards: Consent of Provincial Government necessary to wills made by Government wards.

Provided that consent shall not be withheld unless it appears to the ²[Provincial Government] that the will is contrary to the personal or special law applicable to the ward, or that it is likely to cause considerable pecuniary embarrassment to the property, or to lower considerably the influence or respectability of the family in public estimation.

39. Where on the death of any Government ward, the succession to his property or any part thereof is disputed the Court of Wards may, with the sanction of the ²[Provincial Government], either retain the superintendence of the property until one of the claimants has established his claim to the same in a competent Civil Court, or institute a suit of interpleader against all the claimants. Procedure when succession to Government ward's property is disputed.

¹ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The word "it" was substituted for the word "him" by *ibid.*

Withdrawal
of superin-
tendence
of Court
of Wards.

40. (1) Where superintendence has been assumed in pursuance of an order under section 9, sub-section (1), the Court of Wards shall withdraw such superintendence as soon as, in the opinion of the ¹[Provincial Government], the property is free from embarrassment.

(2) The Court of Wards may, with the sanction of the ¹[Provincial Government], at any time withdraw its superintendence from the person or property, or both, of a Government ward, and shall withdraw its superintendence as soon as, in the opinion of the District Court, certified to the Court of Wards,

- (a) in the case of a person disqualified under clause (a) of sub-section (1) of section 5, he attains or has attained his majority ;
- (b) in the case of a female disqualified under clause (b) of the same sub-section, she is fit to manage her own property ;
- (c) in the case of a person disqualified under clause (c) of the same sub-section, he is fit to manage his own property ;
- (d) in the case of a person disqualified under clause (d) of the same sub-section, he ceases to be of unsound mind and incapable of managing his affairs ; and
- (e) where it was assumed under section 4, sub-section (1), in the case of a family which was undivided according to Hindu law, any co-sharer ceases to be disqualified under sub-section (1) of section 5 :

Provided, *firstly*, that

- (i) where a Government ward dies or ceases to be disqualified and his property is still encumbered with debts and liabilities, the Court of Wards may, with the sanction of the ¹[Provincial Government] retain the said property under its superintendence until such debts and liabilities have been discharged ; and
- (ii) in the case of land-holders ²[or pension-holders], ³[who are co-sharers in a family which is undivided according to Hindu law] where one or more of the proprietors of a property remain disqualified although another or others have ceased to be disqualified, the Court of Wards may, with the sanction of the ¹[Provincial Government], retain the whole of the property under its superintendence, paying any proprietor who has ceased to be disqualified ⁴[from surplus income such portion as shall be proportionate to his interest in the estate] :

Provided, *secondly*, that, where the Court of Wards withdraws its superintendence, such withdrawal shall not affect any contract entered into by the Court of Wards in the lawful exercise of its powers ; and

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² These words were inserted by s. 4 (2) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

³ These words were substituted for the words, figures and brackets " referred to in section 8, sub-section (2) " by s. 2 and Sch. I, Part II, of the Bombay Repealing and Amending Act, 1910 (Bom. 1 of 1910).

⁴ These words were substituted for the words " the surplus income accruing from his share of the estate " by *ibid.*

Provided, *thirdly*, that

- (a) no person who has once been declared disqualified under clause (b) or (c) of sub-section (1) of section 5, and
- (b) except in the case of any co-sharer other than those signing an application described in section 9, sub-section (2), no landholder ¹[or pension-holder] who has been made a Government ward in pursuance of an order under section 9, sub-section (1),

shall be competent, on the withdrawal of such superintendence, to transfer or create any charge on or interest in his property or any part thereof for a period beyond the term of his natural life, except with the previous sanction of the Collector.

(3) No appeal shall lie from any opinion certified under sub-section (2).

41. (1) Where, in exercise of the power conferred by section 40, the Court of Wards decides to withdraw its superintendence from the person or property, or both, of any minor, it shall, before such withdrawal, by an order in writing, appoint some person to be guardian of the person or property, or both, of the minor, and such appointment shall take effect from the date of such withdrawal.

Appointment of guardian in certain cases.

VIII of 1890. (2) In appointing a guardian under this section, the Court of Wards shall be guided by the provisions of the ²Guardians and Wards Act, 1890; and every guardian so appointed shall have, and be subject to, the same rights, duties and liabilities as if he had been appointed under that Act.

42. Where the Court of Wards withdraws its superintendence from any person or property under this Act, the fact of such withdrawal shall be notified in the ³[Official Gazette] and in such other manner as the ⁴[Provincial Government] may, by general or special order, direct.

Withdrawal to be notified in Official Gazette.

43. (1) An appeal shall lie from every order, other than an order of the District Court, passed under this Act, whether original or on appeal,

Appeals.

- (a) where the order is that of a Commissioner, or of any special or other officer appointed, or Board constituted, under the proviso to section 3, to the ⁴[Provincial Government].
- (b) where the order is that of a Collector, to the Commissioner, or where any such officer or Board has jurisdiction, to such officer or Board; and
- (c) in all other cases, to the Collector:

¹ These words were inserted by s. 4 (1) of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

² Central Acts.

³ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

⁴ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

¹[Provided that where any such officer or Board has been appointed to be Court of Wards and the order has been passed by any officer subordinate to such Court of Wards for the purposes of this Act, the ²[Provincial Government] may direct that appeals shall lie to such officer or Board.]

(2) The provisions of sections 205 to 210, both inclusive, of the ^{Bom.} ^{V of} ^{1879.} ³Bombay Land Revenue Code, 1879, shall apply to all such appeals.

Control of
Provincial
Government.

44. All orders or proceedings under this Act, other than orders or proceedings of the District Court, shall be subject to the supervision and control of the ²[Provincial Government]; and the ²[Provincial Government] may, if ⁴[it] thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against any such order or proceeding or not.

Power to
compel
attendance of
witnesses.

⁵44A. For the purposes of this Act, the Court of Wards may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents, by the same means and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.]

Bar of suits.

45. No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act, or against the Court of Wards or any public servant or person duly appointed or authorized under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder :

Provided, *firstly*, that any person evicted under section 28 may sue for restitution ; and

Provided, *secondly*, that any tenant from whom an arrear of rent has been recovered under section 29 may sue for recovery of the amount, or any part thereof, so recovered.

Power of
Provincial
Government
to make
rules.

46. (1) The ²[Provincial Government] may, by notification published in the ⁶[*Official Gazette*] make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may

(a) prescribe the matters to which regard should be had in appointing or removing guardians and managers, and in fixing their remuneration ;

¹ This proviso was added by s. 8 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

³ Vol. II of this Code.

⁴ The word " it " was substituted for the word " he " by the Adaptation of Indian Laws Order in Council.

⁵ This section was inserted by s. 9 of the Bombay Court of Wards (Amendment) Act, 1913 (Bom. 2 of 1913).

⁶ The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

- (b) regulate the form, conditions and amount of security, and the number of sureties (if any), to be given by managers ;
- (c) prescribe the cases in which proposals or arrangements connected with the administration of the properties of Government wards shall be reported for the sanction of the ¹[Provincial Government] ;
- (d) prescribe the accounts and other returns, and the form and other particulars thereof, which shall be rendered to the Court of Wards and by the Court of Wards to the ¹[Provincial Government] ;
- (e) regulate the custody of securities and title-deeds belonging to the estate or property of a Government ward ;
- (f) regulate the procedure in inquiries by, and in appeals from orders of the Court of Wards ;
- (g) prescribe the mode in which powers delegated to managers are to be notified for the information of persons concerned ;
- (h) prescribe the mode in which any expenses incurred by the Court of Wards or the Collector under any power conferred by this Act may be recovered ; and
- (i) generally prescribe the manner in which the powers and duties of the Court of Wards under this Act shall be exercised and performed.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

THE MAMLATDARS' COURTS ACT, 1906.

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SCHEDULE A.

SCHEDULE B.

SCHEDULE C.

BOMBAY ACT No. II OF 1906.¹

[29th October, 1906]

Amended by Bom. Act 7 of 1926 (when notified).

" " " 11 of 1928.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts.

WHEREAS it is expedient to consolidate and amend the law relating to the powers and procedure of Mamlatdars' Courts; It is hereby enacted as follows:—

1. (1) This Act may be called the Mamlatdars' Courts Act, 1906. Preamble.
Short title.
- (2) It shall extend to the whole of the Bombay Presidency, except the City of Bombay. Local extent.
* * *
2. The Mamlatdars' Courts Act, 1876, is hereby repealed. Repeal of Bom. Act III of 1876.
3. In this Act, unless there is anything repugnant in the subject or context, Interpretation.
- (a) the word "Mamlatdar" shall include any Revenue-officer exercising for the time being the powers of a Mamlatdar, of a Mukhtyarkar, or of a Mahalkari, and any other person who may be specially authorized by the ²[Provincial Government] to exercise the powers of a Mamlatdar under this Act; and
- (b) the words "plaintiff" and "defendant" shall include—
- (i) a pleader duly appointed to act on behalf of such plaintiff or defendant, and
- (ii) the recognized agent of a plaintiff or defendant as defined in section 37 of the ⁴Code of Civil Procedure.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1905, Pt. VII, p. 520; for Report of Select Committee, see *ibid.*, 1906, Pt. VII, p. 5, and for Proceedings in Council, see *ibid.*, 1905, Pt. VII, p. 578; *ibid.*, 1906, Pt. VII, pp. 31 and 189.

² The words "and Aden" were omitted by the Adaptation of Indian Laws Order in Council.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

⁴ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

Power to
appoint
Joint Mam-
latdar.

4. (1) The ¹[Provincial Government] may, by notification in the ²[Official Gazette], appoint in any taluka a Joint Mamlatdar under this Act who shall be invested with co-extensive powers and a concurrent jurisdiction with the Mamlatdar, except that he shall dispose of such suits only as he may receive from the Mamlatdar.

Power of
Mamlatdar
to transfer
suits to the
Joint Mam-
latdar.

(2) The Mamlatdar is hereby empowered to transfer to the Joint Mamlatdar for disposal any suit under this Act the plaintiff in which has been presented to the Mamlatdar under section 7, and to re-transfer to his own file any such suit, of which the Joint Mamlatdar is, owing to death, sickness or any other cause, unable to dispose.

Delegation
of powers to
Commis-
sioner.

(3) The ¹[Provincial Government] may delegate ³[its] powers under sub-section (1) to the Commissioner.

Powers of
Mamlatdars'
Courts.

5. (1) Every Mamlatdar shall preside over a Court, which shall be called a Mamlatdar's Court, and which shall, subject to the provisions of sections 6 and 26, have power, within such territorial limits as may from time to time be fixed by the ¹[Provincial Government], to give immediate possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or to restore the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes to any person who has been dispossessed or deprived thereof otherwise than by due course of law, or who has become entitled to the possession or restoration thereof by reason of the determination of any tenancy or other right of any other person, not being a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, or who is the legal representative of such former owner or part-owner :

Provided that, if in any case the Mamlatdar considers it inequitable or unduly harsh to give possession of any such property or to restore any such use to a person who has become entitled thereto merely by reason of the determination of any such tenancy or other right, or if it appears to him that such case can be more suitably dealt with by a Civil Court, he may in his discretion refuse to exercise the power aforesaid, but shall record in writing his reasons for such refusal.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

³ The word "its" was substituted for the word "his" by *ibid.*

(2) The said Court shall also, subject to the same provisions, have Power to issue injunction. power within the said limits, when any person is otherwise than by due course of law disturbed or obstructed, or when an attempt has been made so to disturb or obstruct any person, in the possession of any lands or premises used for agriculture or grazing, or trees, or crops, or fisheries, or in the use of water from any well, tank, canal or water-course, whether natural or artificial, used for agricultural purposes, or in the use of roads or customary ways thereto, to issue an injunction to the person causing, or who has attempted to cause, such disturbance or obstruction, requiring him to refrain from causing or attempting to cause any further such disturbance or obstruction.

(3) No suit shall be entertained by a Mamlatdar's Court unless it is brought within six months from the date on which the cause of action arose. Suits to be filed within six months.

(4) The cause of action shall be deemed to have arisen on the date on which the dispossession, deprivation, or determination, of tenancy or other right occurred; or on which the disturbance or obstruction, or the attempted disturbance or obstruction, first commenced. Cause of action.

Explanation.—The exercise by a joint owner of any right which he has over the joint property is not a dispossession, or disturbance of possession of the other joint owner or owners within the meaning of this section.

Illustration I.

A lets *B* his field to cultivate for a specific period one or more years. *B* refuses to resign possession after the expiration of that period. *A* can sue for possession in the Mamlatdar's Court at any time within 6 months from the date of the expiration of the said period, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration II.

Bom.
V of
1879.

B is a yearly tenant of *A*, who gives him a notice to vacate, as he is bound to do under section 84 of the Bombay Land Revenue Code, 1879, at least three months before the end of the then current year of tenancy. At the commencement of the next year *B* refuses to vacate. *A* can sue *B* in the Mamlatdar's Court at any time within six months from the commencement of that year, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property, or who is the legal representative of such former owner or part-owner.

Illustration III.

A allows *B* the use of water from his well, or from his water-course, for a specific period, at the expiration of which *B* continues to take water from the well or water-course without *A*'s consent. *A* may sue *B* in the Mamlatdar's Court at any time within six months from the expiration of the said period to obtain an injunction to stop *B* from taking the water, unless *B* is a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the use of the water, or who is the legal representative of such former owner or part-owner.

Illustration IV.

A and *B* hold lands adjacent to a पाट or फ़ांस, or similar artificial water-course, which has hitherto been exclusively used by *B*. *A* draws water therefrom. *B* may sue in the Mamlatdar's Court, at any time within six months from the date on which *A* commences to take the water, for an injunction to prevent *A* from so doing.

Power of
Collector to
transfer
suits.

6. The Collector may, after due notice to the parties, by order in writing transfer any suit from any Mamlatdar's Court in his district to any other Mamlatdar's Court in his district, and the Mamlatdar's Court to which the suit is so transferred shall thereupon exercise jurisdiction in such suit; but any order issued to village-officers under section 21 shall be issued by the Mamlatdar to whom such village-officers are subordinate.

Suits com-
menced by
plaint.
Contents of
plaint.

7. All suits under this Act shall be commenced by a plaint, which shall be presented to the Mamlatdar in open Court by the plaintiff, and which shall contain the following particulars:—

- (a) the name, age, religion, caste, profession and place of abode of the plaintiff;
- (b) the name, age, religion, caste, profession and place of abode of the defendant;
- (c) the nature and situation of the property of which possession or use is sought, or the nature of the injunction to be granted, as the case may be;
- (d) the date on which the cause of action arose;
- (e) the circumstances out of which the cause of action arose; and
- (f) a list of the plaintiff's documents if any, and of his witnesses, if any, shewing what evidence is required from each witness, and whether such witnesses are to be summoned to attend, or whether the plaintiff will produce them on the day and at the place to be fixed under section 14.

8. Where a petition not in the form of a plaint is presented to the Mamlatdar and the subject matter thereof appears to fall within the scope of section 5, the Mamlatdar shall explain to the person presenting the petition the nature of the reliefs afforded by this Act and shall inquire whether the petitioner desires to obtain relief thereby. If the petitioner expresses a desire so to obtain relief, the Mamlatdar shall endorse the desire on the petition which shall thereupon be deemed to be a plaint presented under section 7.

Informal petitions to be treated as plaints.

9. Where the plaint does not contain the particulars specified in section 7 or is unnecessarily prolix, the Mamlatdar shall forthwith examine the plaintiff upon oath and ascertain from him such of the particulars specified in section 7 as are not clearly and correctly stated in the plaint and shall reduce the examination to writing in the form of an endorsement on or annexure to the plaint which shall thereupon be deemed to be part of the plaint. Where the plaintiff requires time to obtain any of the particulars specified in section 7, the Mamlatdar shall grant him such time as may under all the circumstances appear reasonable.

Examination of plaintiff on oath.

10. When the plaint is presented, and has, if necessary, been treated in the manner specified in section 9, the Mamlatdar shall require the plaintiff to subscribe and verify the plaint in his presence, in open Court, in the manner following, or to the like effect:—

Plaint to be subscribed and verified.

“I, *A. B.*, the plaintiff, do declare that what is stated in this plaint is true to the best of my information and belief.”

11. (1) The Mamlatdar shall endorse the plaint to the effect that it was duly subscribed and verified.

Endorsement of Mamlatdar.

(2) Where the plaintiff cannot write, the verification may be written for him in open Court and he shall affix his mark to his name in token of the authenticity of the verification, and the Mamlatdar shall, in such case, record that the verification was made in his presence at the request of the plaintiff, and that his mark was so affixed.

Procedure where plaintiff cannot write.

12. The Mamlatdar shall reject the plaint

Rejection of plaint.

- (a) where the plaintiff declines to make a statement on oath under section 9; or
- (b) where the plaintiff is willing to make or has made a statement on oath under section 9, but fails to furnish the particulars specified in section 7 within the time fixed under section 9 or altogether; or
- (c) where it appears upon the face of the plaint,
 - (i) that the property or use claimed is not one of the kind specified in section 5, or

(ii) that the cause of action arose more than six months before the plaint was presented ; or

(d) where the plaintiff declines to subscribe or verify the plaint as required by sections 10 and 11.

Return of
plaint.

13. Where it appears to the Mamlatdar that the subject of the plaint is not within his jurisdiction, he shall return the plaint to be presented in the proper Court.

Procedure
where plaint
admissible.

14. (1) Where a plaint is admissible, the Mamlatdar shall receive and file it. He shall then fix a convenient day and place for the trial of the case, and shall issue, at the expense of the plaintiff, notice in the form of Schedule A to the defendant. He shall then require the plaintiff to appear with his documents, if any, and witnesses, if any, on the day and at the place fixed.

(2) The date to be fixed for the trial of the case shall not be earlier than ten days, nor later than fifteen days, from the day on which the notice is issued, except for sufficient reason to be recorded in writing by the Mamlatdar with his own hand.

(3) The place to be fixed for the trial of the case may be in the Mamlatdar's office, or at or near the scene of dispute, or at any other spot that the Mamlatdar considers convenient to the parties.

Attendance
of witnesses.

15. (1) Where either party requires any witness to be summoned to appear on the day and at the place fixed, the Mamlatdar shall issue a summons for that purpose.

(2) The Mamlatdar may issue, after recording his reasons in writing, a warrant for the arrest of any such witness if at such time he fails to appear and the summons is proved to have been duly served in time to admit of his appearing in accordance therewith and no reasonable excuse is offered for such failure.

(3) The payment of the cost incurred in thus procuring the attendance of witnesses shall be regulated in accordance with the rules that may from time to time be in force in regard to the attendance of witnesses in Subordinate Civil Courts.

Where plain-
tiff makes
default,
plaint to be
rejected with
costs.

16. (1) Where the plaintiff fails to attend, or to produce his documents, if any, or to adopt measures to procure the attendance of his witnesses, if any, on the day and at the place fixed, the Mamlatdar shall reject the plaint with costs, whether the defendant appears or not, unless the defendant admits the claim.

(2) Where the plaintiff attends as required by section 14, sub-section (1), but the defendant fails to attend, and the Mamlatdar is satisfied from the evidence before him that the notice has been duly served on the defendant and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall proceed to hear and decide the plaint *ex parte* : Where defendant does not appear, case to be heard *ex parte*.

Provided, *firstly*, that if either party satisfies the Mamlatdar at any time within thirty days from the date of the rejection of a plaint under sub-section (1), or of an *ex parte* decision under sub-section (2), that he was prevented by some unavoidable circumstance from attending, or from producing his documents or from adopting measures to procure the attendance of his witnesses, as the case may be, it shall be lawful for the Mamlatdar to issue a notice in the form of Schedule B at the expense of the applicant to the opposite party and, if still satisfied after hearing the opposite party that the applicant was prevented as alleged, to re-hear the case at such time and place as he may then fix : But case may be reheard on sufficient cause being shown

Provided, *secondly*, that nothing in the foregoing provisions shall prevent the plaintiff from withdrawing his suit on payment of the defendant's costs. or plaintiff may withdraw his suit,

17. (1) Where, in the case mentioned in sub-section (2) of section 16, the Mamlatdar is not satisfied from the evidence before him that the notice has been duly served on the defendant, and in sufficient time to enable the defendant to appear and answer on the day fixed in the notice, he shall adjourn the trial of the case and issue a fresh notice under section 14, sub-section (1), to the defendant. When proceedings may be adjourned.

(2) Where any witness who has been duly summoned, or for whose arrest a warrant has been issued under sub-section (2) of section 15, fails to attend on the day and at the place fixed, the Mamlatdar may, if he considers there is sufficient reason, after taking the evidence of those present, adjourn the hearing of the suit from time to time till the attendance of such witness can be enforced.

(3) The Mamlatdar may, for any other sufficient reason to be recorded in writing, adjourn the trial of the case for such time as he thinks fit, but not ordinarily exceeding ten days.

(4) The provisions of sections 15 and 16 shall apply in respect of any day to which the trial of the case may be adjourned under this section, as if such day were the day originally fixed for the trial.

18. (1) A minor may sue or be sued, if he is represented by a natural or duly appointed guardian. Minor may be a party.

Power to
add parties.

(2) The Mamlatdar may, at any stage of the proceedings, order that the name of any person to whom possession or enjoyment of the property or use claimed, or of any part thereof, may have been transferred, or the addition of whom as a party appears necessary in order to enable the Court effectually and completely to adjudicate upon the issues, be added as a plaintiff or defendant, as the circumstances of the case may require :

Provided that no person shall be added as a plaintiff without his consent :

Provided also that in respect of any person so added, not being a transferee pending the suit, the suit shall for the purposes of section 5, sub-section (3), be deemed to have been instituted on the day when his name was so added.

Procedure in
case of
death of
party.

(3) In case of the death of any party while the suit is pending,

(i) if application is made within one month of such death, the Mamlatdar shall determine summarily who is the legal representative of the deceased party and shall enter on the record the name of such representative ;

(ii) if no such application is made, the suit shall abate.

(4) Where the Mamlatdar orders the name of any person to be added as a defendant or enters on the record the name of any person as the legal representative of a deceased defendant, the Mamlatdar shall issue to such person a notice as provided in section 14 ; and the trial shall proceed on the date fixed in such notice.

Points to be
decided by
Mamlatdar
at hearing.

19. (1) On the day fixed, or on any day to which the proceedings may have been adjourned, the Mamlatdar shall, subject to the provisions of section 16, proceed to hear all the evidence that is then and there before him, and to try the following issues, namely :—

(a) If the plaintiff avers that he has been unlawfully dispossessed of any property or deprived of any use—

(1) whether the plaintiff or any person on his behalf or through whom he claims was in possession or enjoyment of the property or use claimed up to any time within six months before the suit was filed ;

(2) whether the defendant is in possession at the time of the suit, and, if so, whether he obtained possession otherwise than by due course of law ;

(b) if the plaintiff avers that he is entitled to possession of any property or restoration of any use by reason of the

determination of any tenure or other right of the defendant in respect thereof—

- (1) whether the defendant is in possession of the property or in the enjoyment of the use by a right derived from the plaintiff or from any person through whom he claims ;
 - (2) whether such right has determined at any time within six months before the suit was filed ;
 - (3) whether the defendant is other than a person who has been a former owner or part-owner within a period of twelve years before the institution of the suit of the property or use claimed, and other than the legal representative of such former owner or part-owner ;
- (c) if the plaintiff avers that he is still in possession of the property or in the enjoyment of the use, but that the defendant disturbs or obstructs, or has attempted to disturb or obstruct, him in his possession or use—
- (1) whether the plaintiff or any person in his behalf is actually in possession or enjoyment of the property or use claimed ;
 - (2) whether the defendant is disturbing or obstructing, or has attempted to disturb or obstruct, him in such possession or enjoyment ;
 - (3) whether such disturbance or obstruction, or such attempted disturbance or obstruction, first commenced within six months before the suit was filed.

(2) The Mamlatdar may, after due notice to, and in the presence of, the parties, summon and examine as a witness any person who has not been summoned or produced, and may call for and cause to be proved any document which has not been applied for or produced, by either of the parties, where he considers it expedient in the interests of justice so to do, and may, if he thinks fit, make a personal inspection of the property in dispute in the presence of, or after due notice to, the parties.

¹[He shall without unnecessary delay record a memorandum after hearing the parties on the spot, if present, of any relevant facts observed at such inspection. The memorandum shall form part of the record of the case.]

(3) The Mamlatdar shall with his own hand make or sign a memorandum of the substance of the evidence of each witness as the examination of the witness proceeds, and briefly record his reasons for his finding.

¹These words were added by Bom. 11 of 1928, s. 2, First Schedule.

Orders to be passed by Mamlatdar upon decisions in favour of plaintiff and defendant.

(4) Where the Mamlatdar's finding upon the issues is in favour of the plaintiff, he shall make such order, not being in excess of the powers vested in him by section 5, as the circumstances of the case appear to him to require; and where his finding is in favour of the defendant, he shall dismiss the suit. In either case the costs of the suit, including the costs of execution, shall follow the decision.

Mamlatdar's order to be endorsed on plaint and read out in open Court.

20. Every order of the Mamlatdar, whether for rejecting or returning a plaint or whether for allowing or disallowing a claim, shall be endorsed by the Mamlatdar on the plaint and shall be read out by him in open Court, either at once or on some future day of which due notice shall be given to the parties or their pleaders, and brief reasons for the order shall be placed by him on record.

Mamlatdar's decision how executed.

21. (1) Where the Mamlatdar's decision is for awarding possession or restoring a use, he shall give effect thereto by issuing such orders to the village-officers, or to any subordinate under his control or otherwise, as he thinks fit:

Proviso as to growing crops.

Provided that, notwithstanding anything contained in this Act, where, at the time when a decision is recorded by the Mamlatdar for awarding possession of any land, there is a crop on such land which has been sown by, or at the expense of, the defendant, and the Mamlatdar is satisfied that it has been so sown in good faith, the Mamlatdar may, and if the defendant makes an application for the purpose and furnishes sufficient security, or deposits in Court a sufficient sum, for the payment of the costs of the suit, shall pass an order staying delivery of possession of such land to the plaintiff seeking possession thereof, either

- (a) until the plaintiff agrees to take the crop at a valuation, to be made under the orders of the Mamlatdar, according to the value of the crop at such time, including any instalments of the Government assessment which the defendant may have paid for the current year; or
- (b) where the plaintiff is unwilling to take the crop at such valuation until after the expiration of sufficient time for the crop to be gathered by the defendant.

The amount of any valuation made under clause (a) of the proviso to this sub-section shall be paid to the defendant through the Mamlatdar, and shall be recoverable from the plaintiff as an arrear of land-revenue.

Mode of serving injunction.

(2) Where the Mamlatdar's decision is for granting an injunction, he shall cause the same to be prepared in the form of Schedule C, and shall deliver or tender the same then and there to the defendant, if present, or if the defendant is not present, shall send it to the village-officers, or to any subordinate under his control, to be served upon the defendant.

(3) Where the Mamlatdar awards costs, such costs, together with the costs of execution, shall be recoverable from the party ordered to pay them as an arrear of land-revenue. Recovery of costs³ awarded.

XLV of 1860. (4) Any person disobeying an injunction granted under sub-section (2) shall be punishable under section 188 of the ¹Indian Penal Code. Disobedience to an injunction how punishable.

22. Subject to the provisions of section 23, sub-section (2) and section 24 the party to whom the Mamlatdar gives possession, or restores a use, or in whose favour an injunction is granted, shall continue in possession or use until ousted by a decree or order of a competent Civil Court: Possession to be given without prejudice to rights of parties.

Provided, *firstly*, that nothing in this section shall prevent the party against whom the Mamlatdar's decision is passed from recovering by a suit in a competent Civil Court mesne profits for the time he has been kept out of possession of any property, or out of enjoyment of any use:

Provided, *secondly*, that in any subsequent suit or other proceeding in any Civil Court between the same parties, or other persons claiming under them the Mamlatdar's decision respecting the possession of any property or the enjoyment of any use or respecting the title to or valuation of any crop dealt with under the proviso to sub-section (1) of section 21, shall not be held to be conclusive.

23. (1) There shall be no appeal from any order passed by a Mamlatdar under this Act. Bar of appeal.

(2) But the Collector may call for and examine the record of any suit under this Act, and if he considers that any proceeding, finding or order in such suit is illegal or improper, may, after due notice to the parties, pass such order thereon, not inconsistent with this Act, as he thinks fit. Collector's power to revise Mamlatdar's proceedings.

(3) Where the Collector takes any proceedings under this Act he shall be deemed to be a Court under this Act. Collector deemed to be a Court.

24. The ²Court of the Judicial Commissioner of Sind may exercise over Mamlatdars' Courts in the Province of Sind the powers exercised by the High Court of Bombay, over Mamlatdars' Courts in other parts of the Bombay Presidency. Powers of the Court of the Judicial Commissioner of Sind.

XLV of 1860. 25. Any plaintiff subscribing and verifying any plaint under this Act which he either knows or believes to be false, or does not believe to be true, in any material point, shall be deemed to have committed an offence punishable under section 193 of the ¹Indian Penal Code. Punishment for verification of false plaint.

¹ Central Acts.

² On coming into force of Bom. 7 of 1926, for the words " Court of the Judicial Commissioner of Sind " the words " Chief Court " shall be substituted.

Bar of certain suits.

26. No suit shall lie under this Act

- (a) ¹[against the Crown or against any servant of the Crown] in respect of any act done or purporting to be done by any such officer in his official capacity, except where acting as a manager or guardian duly constituted under any law for the time being in force; or
- (b) in respect of any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, under this Act, or in a Civil Court, or under Chapter XII of the Code of Criminal Procedure, 1898. ^{v of} 1898.

SCHEDULE A.

FORM OF NOTICE TO BE ISSUED TO THE DEFENDANT UNDER SECTION 14.



No. OF SUIT.

In the Court of the Mamlatdar of

Plaintiff.
Defendant.

TO DEFENDANT—(name, age, religion, caste, profession and place of abode).

WHEREAS (here enter the name, age, religion, caste, profession and place of abode of the plaintiff) has instituted a suit in this Court against you. (here state the particulars of the plaint):

You are hereby summoned to appear in this Court at the village of _____ in person or by duly authorized agent on the _____ day of _____ at _____ o'clock _____ m., to answer the above-named plaintiff; and, as the plaint will be finally disposed of on that day, you must adopt measures to produce your documents and procure the attendance of your witnesses at the hour and place above fixed; and you are hereby required to take notice that, in default of such appearance at the before mentioned time and place, the suit will be heard and determined in the absence of yourself and your agent.

Dated this _____ day of _____ 19 .

(Signed)

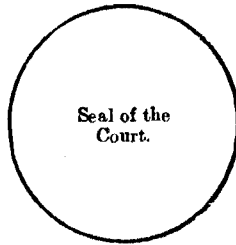
Mamlatdar.

Note.—If you require your witnesses to be summoned by the Court, you should make an application to that effect to the Court without delay, so as to allow of the service of the summonses a reasonable time before the within mentioned date.

¹ These words were substituted for the words "against Government or against any officer of Government" by the Adaptation of Indian Laws Order in Council.

SCHEDULE B.

FORM OF NOTICE TO BE ISSUED UNDER SECTION 16.



No. OF SUIT.

In the Court of the Mamlatdar of

*Plaintiff.**Defendant.*

To PLAINTIFF (or DEFENDANT, as the case may be).

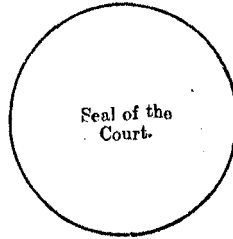
WHEREAS, in the suit above specified, instituted in this Court by
 , the Court ordered on the day of last that
 , and the said plaintiff (or defendant, as the case may be) has,
 under date the day of , applied to
 this Court to re-hear the case on the grounds that (*here state the grounds*):

This is to give you notice that the said application will be heard
 and determined on the day of at
 o'clock m., at the village of , and you are hereby
 required to take notice that in default of your appearance personally
 or by agent at the said time and place, the application will be heard
 and determined in your absence and, if granted, a time and place for
 re-hearing the suit will then be fixed.

Dated this day of 19

*(Signed)**Mamlatdar.*

SCHEDULE C.

FORM OF INJUNCTION TO BE ISSUED UNDER SECTION 21,
SUB-SECTION (2).

No. OF SUIT.

In the Court of the Mamlatdar of

*Plaintiff.**Defendant.*

TO DEFENDANT

WHEREAS in the suit above specified the Court has this day found that you have disturbed or obstructed (or that you have attempted to disturb or obstruct) the said plaintiff in his possession of the under-mentioned property (or enjoyment of the under-mentioned use of water or use of roads, or otherwise as the case may be) by (here describe the disturbance or obstruction or attempted disturbance or obstruction found proved):

You are hereby prohibited from making any further attempt to disturb or obstruct (if necessary set forth the particular kind of disturbance or obstruction which the defendant is enjoined not to repeat) the said plaintiff in his possession of the said property (or otherwise as the case may be) otherwise than in execution of the decree of a competent Civil Court.

Dated this day of 19 .

(Signed)

Mamlatdar.

THE PRINCE OF WALES MUSEUM ACT, 1909.

—————
CONTENTS.
—————

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Property vested in the Board.
3. Constitution and powers of the Board.
- 3A. Term of office: election and appointment of new members if a vacancy.
- 3B. Power of Board to lend, exchange, sell or destroy articles in collections.
- 3C. Power of Board to keep collections not belonging to them.
4. Officers and servants to be public servants.
5. Rules.
6. Power to borrow from Central or Provincial Government or person.
7. Mortgage of immoveable property, or revenues.
8. Provisions as to sinking funds.
9. Annual examination of sinking fund.
10. Issue of debentures.
11. Form of debentures.
12. Prohibition of endorsements on allonges.
13. Issue of stock certificates.
14. Payment to survivors of joint payees.
15. Power of one or more joint holders to grant receipt.
16. Notice of trust not receivable.
17. Board empowered to make rules.

SCHEDULE

BOMBAY ACT No. III OF 1909.¹

[THE PRINCE OF WALES MUSEUM ACT, 1909.]

[19th August, 1909]

Amended, by Bom. Act 7 of 1913 ;

" " " " 6 of 1921 ;

" " " " 12 of 1922 ;

" " " " 7 of 1924 ;

" " " " 19 of 1933.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to provide for the erection and management of the
Prince of Wales Museum of Western India.**

WHEREAS it is intended to erect and maintain at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay ;

AND whereas certain land has been set apart and large sums of money have been and are being subscribed for these purposes ;

AND whereas three Trustees have been provisionally appointed to take the custody of the said moneys ;

AND whereas it is expedient to make provision for the erection, maintenance and management of the Museum and for the vesting and management of the said land and moneys and for the appointment of a permanent Board of Trustees ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Prince of Wales Museum Act, 1909, and Short title
and com-
mencement.

(2) It shall come into force at once.

2. All the estate, right, title and interest of His Majesty together with all other estates, rights, titles and interests in and to the land specified in the schedule to this Act and all moneys now in the custody of the three Trustees provisionally appointed to take the custody of the moneys subscribed for the purposes of erecting or maintaining at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay and all the other Property
vested in the
Board.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1908, Part VII, page 171; for Report of Select Committee, see *ibid.*, 1909, Part VII, page 91, and for Proceedings in Council, see *ibid.*, 1909, Part VII, pages 36 and 168.

property, whether immoveable or moveable, which has been or may hereafter be given, devised, bequeathed, transferred or otherwise acquired for the said purposes shall vest in the permanent Board of Trustees constituted by this Act on trust for the erection on the land specified in the said schedule of a Museum to be called "The Prince of Wales Museum of Western India," and for the maintenance and management of the said land and Museum.

Constitution
and powers
of the
Board.

3. (1) There shall be constituted for the purposes of this Act a permanent Board of Trustees to be called "The Trustees of the Prince of Wales Museum of Western India" and such Board (hereinafter called "the Board") shall be a body corporate, with perpetual succession and a common seal, and in the name of "The Trustees of the Prince of Wales Museum of Western India" shall sue and be sued, and shall have power to ¹[acquire and hold immoveable or moveable property, to let on hire, lease or mortgage any immoveable property vesting in them] to enter into contracts, and to do all acts necessary for and consistent with the purposes of this Act :

²[Provided that the Board shall not have power to mortgage any land specified in the schedule which is included within lines drawn parallel to, and at a distance of twenty feet from, above the plinths of the front corner towers of the present Museum building and extending from the Rampart Row boundary to the Esplanade Road boundary which area contains by admeasurement 14,606 square yards, be the same a little more or less, and is for greater clearness delineated on the plan referred to in section 2 of the Prince of Wales Museum (Amending) Act, 1913, or any building thereon.]

Bom.
VII o
1913.

(2) The Board shall consist of the following members, namely :—

- ³[(a) the Director of Industries for the Presidency of Bombay ;]
- (b) the Collector of Bombay ;
- (c) the Principal of the Sir Jamsetjee Jeejeebhoy School of Art ;
- (d) the Superintendent, Archæological Survey, Western Circle ;
- (e) such two members of the Municipal Corporation of the City of Bombay as shall from time to time be elected by the said Corporation in accordance with such regulations as may from time to time be made in this behalf by the said Corporation : provided that the election shall be by ⁴[ballot] ;
- ³[(f) three other persons be nominated by the ⁵[Provincial Government] ;]

¹ These words were substituted for the words "hold and acquire property" by s. 2 (a) of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

² This proviso was added by s. 2 (b) *ibid.*

³ This clause was substituted by s. 2 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

⁴ This word was substituted for the words "open vote, and" by *ibid.*

⁵ The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council,

¹[(g) so long as the collections installed in the Museum by the Bombay Natural History Society remain in the Museum, two other persons to be nominated by the Managing Committee of the Bombay Natural History Society ;

(h) so long as the loan collection of the Bombay branch of the Royal Asiatic Society remains in the museum, one other person to be nominated by the Bombay branch of that Society ;

²[(hh) one other person elected at a joint meeting of the Trustees of the Sir Dorabji Tata Trust constituted by a trust deed dated the eleventh day of March 1932 and of the Trustees of the Sir Ratan Tata Charities constituted by the will and codicil of Sir Ratan Tata dated the twenty-first day of March 1913 and the twenty-ninth day of February 1916 respectively, by a majority of votes of the Trustees present and voting at such meeting, the Chairman of such meeting having a casting vote in the case of an equality of votes ;]

(i) one other person to be nominated by the Syndicate of the University of Bombay ; and

(j) four other persons to be nominated by the Board, if the Board so desire, for such period as the Board may consider desirable.]

(3) In the case of *ex-officio* members the person for the time being performing the duties of any of the offices mentioned in sub-section (2) shall act as a member.

(4) All acts done by a majority of the members present and voting at a meeting of the Board shall be deemed to be acts of the Board.

(5) No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of, the Board.

(6) The Board may appoint a person to act as their Secretary.

(7) Orders for the payment of money on behalf of the Board shall be deemed to be sufficiently authenticated if signed by two members and countersigned by the Secretary.

³3A. (1) Members of the Board other than *ex-officio* members shall, save as herein otherwise provided, hold office for a period of three years.

Term of office : election and appointment of new members if a vacancy.

(2) If a member, other than an *ex-officio* member—

(a) dies, or

(b) is absent from the meetings of the Board for more than six consecutive months, or

¹ These clauses were inserted by s. 2 of the Prince of Wales Museum (Amendment) Act 1922 (Bom. 12 of 1922).

² Clause (hh) was inserted by Bom. 19 of 1933, s. 2.

³ Sections 3A, 3B and 3C were inserted by s. 3 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

- (c) leaves the Presidency of Bombay with the intention of being absent therefrom for more than six consecutive months, or
- (d) desires to be discharged, or
- (e) refuses to act or becomes incapable of acting.

a new member may be elected or nominated, as the case may be, in the same manner as was the member in whose place he is to be elected or nominated and he shall hold office for so long only as such member would have held it if the vacancy had not occurred.

Power of Board to lend, exchange, sell or destroy articles in collections.

¹[3B. Subject to the provisions of any rules made by the ²[Provincial Government] in this behalf the Board may, from time to time—

- (a) deliver by way of loan to any person the whole or any portion of, or any article contained in, any collection vested in them under this Act;
- (b) exchange or sell articles contained in any such collection and take or purchase, in the place of such articles, such articles as may in their opinion be worthy of preservation in the Museum;
- (c) present articles contained in any such collection to other Museums in India or elsewhere; and
- (d) remove and destroy any article contained in any such collection:

Provided that nothing herein contained shall authorise the Trustees to lend, exchange, sell, present, remove or destroy any article when such lending, exchange, sale, presentation, removal or destruction, as the case may be, is precluded by the terms on which the Trustees may have received any such article.]

Power of Board to keep collections not belonging to them.

¹[3C. Notwithstanding anything hereinbefore contained, the Board may, if they think fit, assume the custody and administration of collections which are not the property of the Board for the purposes of their trust under this Act and keep and preserve such collections either in the Museum or elsewhere.]

Officers and servants to be public servants.

4. All officers and servants employed by the Board shall be deemed XLV to be public servants within the meaning of the ³Indian Penal Code : of 1860.

Provided that this section shall not apply to persons in the service of any contractor employed by the Board.

¹ Sections 3A, 3B and 3C were inserted by s. 3 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

² The words " Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council,

³ Central Acts.

5. (1) The ¹[Provincial Government] may make rules to carry out Rules. the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide—

- (a) for the manner in which meetings of the Board shall be convened, the quorum necessary for the transaction of business, and the procedure at such meetings ;
- (b) for the appointment of committees of the Board, and the powers of expenditure and control which may be delegated to such committees ;
- (c) for the erection of the Museum on the land specified in the schedule to this Act and for the maintenance and management of the said land and Museum, the care and custody of the objects deposited in the Museum, and the conditions under which the public shall have access to the land or Museum ;
- (d) for the maintenance, management and disposal of any other immoveable property vested in the Board and for the investment and re-investment in public securities or otherwise and for the safe custody of the funds of the Board ;
- (e) for the form of accounts to be kept by the Board, and for the audit and publication of such accounts ; and
- (f) for the application to the officers and servants employed by the Board of the rules which apply to the civil servants of the Crown, or to any class of such civil servants ;
- ²(g) for the payment of contributions at such rates and subject to such conditions as may from time to time be prescribed by the Board to any provident fund which may be established by the Board for the benefit of the officers and servants employed by it.]

³6. The Board may from time to time borrow or reborrow and take up at interest from ⁴[the Central or the Provincial Government] or with the previous sanction of the ¹[Provincial Government] from any person any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them to carry out the purposes of this Act, or for the purpose of repaying either in whole or part any sums hereafter borrowed or owing by the Board.

5 * * * * *

¹ The words " Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

² Clause (g) was inserted by Bom. 7 of 1924, s. 2 (1). This clause shall be deemed to have had effect from such date as may be fixed by the Board in this behalf. See section 2 (2) *ibid.*.

³ Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

⁴ The words " the Central or the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

⁵ The proviso to s. 6 was omitted by *ibid.*

Mortgage of
immoveable
property, or
revenues.

¹7. (1) The Board may borrow or reborrow any such sum as aforesaid from any person on the security of any immoveable property vesting in them other than the property mentioned in the proviso to section 3 or of their revenues or of both of these securities.

(2) For the purpose of securing the repayment of any sum so borrowed with interest thereon they may mortgage to the person by or on behalf of whom such sum is advanced any such immoveable property or revenues of both of these securities.]

Provisions
as to
sinking
funds.

¹8. (1) In respect of every loan raised by the Board for a term exceeding one year, the Board shall either pay off the money borrowed by equal yearly or half-yearly instalments of principal or of principal and interest, or they shall in every year set apart as a sinking fund and accumulate in the way of compound interest by investing the same in the purchase of public securities or in such other securities as the ²[Provincial Government] may approve in this behalf such sum or sums as will, with accumulations in the way of compound interest, be sufficient after payment of all expenses to pay off the moneys so borrowed ³[within such period not exceeding sixty years from the date of the raising of the loan as the ²[Provincial Government] may in each case direct.]

(2) The Board may at any time apply the whole or any part of a sinking fund set apart under this section in or towards the discharge of the moneys for the repayment of which the fund has been established : Provided that they pay into the fund each time that interest would have been received by the Board in respect of the sinking fund or the part of the sinking fund so applied, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been so received.]

Annual
examination
of sinking
fund.

¹9. The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant General, Bombay, who shall ascertain whether the cash and the value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon. The Board shall pay forthwith into the sinking fund any amount which the Accountant General may certify to be deficient, unless the ²[Provincial Government] specially sanction a gradual re-adjustment.]

¹ Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

² The words " Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

³ These words were substituted for the words " within the period sanctioned " by s. 5 of the Prince of Wales Museum (Amendment) Act, 1922 (Bom. 12 of 1922).

¹[10. (1) In respect of any sinking fund which by this Act the Board are directed or empowered to invest in public securities or in such other securities as the ²[Provincial Government] may approve in this behalf, it shall be lawful for the Board to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the ²[Provincial Government] shall have been duly obtained, provided that the intention so to reserve and set apart such debentures shall have been notified as a condition of the issue of the loan. Issue of debentures.

(2) The issue of any such debentures direct to and in the name of "the Trustees of the Prince of Wales Museum of Western India" shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(3) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture issued by the Board shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.]

¹[11. (1) When money is raised by the Board on debentures the debentures shall be in such form as the Board, with the previous sanction of the ²[Provincial Government], shall from time to time determine. Form of debentures.

(2) The holder of any debenture in any form duly authorised under this section may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form authorised by the Board.

(3) Every debenture issued by the Board shall be transferable by endorsement.

(4) The right to payment of the moneys secured by any such debentures and to sue in respect thereof shall vest in the respective holders thereof for the time being without any preference by reason of some of such debentures being prior in date to others.]

¹[12. (1) Notwithstanding anything contained in section 15 of the ²Negotiable Instruments Act, 1881, the holder of any debenture issued under the provisions of this Act and transferable by endorsement shall not be said to endorse the debenture, or be called the endorser thereof, if when he signs the same for the purpose of negotiation he subscribes his signature for that purpose elsewhere than on the back of the debenture itself. Prohibition of endorsements on allonges.

XXVI
of
1881.

¹ Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

² The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ Central Acts.

Issue of
stock
certificates.

¹[13. (1) The Board may at their discretion at the time of issue or at any time during the currency of any debentures issued under the provisions of this Act, upon the application of the subscriber for, or holder of, any such debentures, issue to him, in lieu of the debentures deliverable to or held by him, a certificate in the nature of a stock certificate in respect of each loan to which such debentures relate, which shall be in such form as the Board, with the previous consent of the ²[Provincial Government], shall from time to time determine.

(2) The Board shall upon the application of the holder of a stock certificate convert the same into debentures of the loan to which it relates.]

Payment to
survivors of
joint payees.

¹[14. (1) Notwithstanding anything contained in section 45 of the ³Indian Contract Act, 1872, when money in respect of any debenture ^{IX of} or stock certificate issued under the provisions of this Act is payable ^{1872.} to two or more persons jointly and either or any of them dies, the money shall be payable to the survivor or survivors of those persons.

(2) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the money payable jointly to him or them and the deceased.]

Power of
one or
more joint
holders
to grant
receipt.

¹[15. Notwithstanding anything contained in section 45 of the ³Indian Contract Act, 1872, where two or more persons are joint holders ^{IX of} of any debenture or stock certificate issued under the provisions of ^{1872.} this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or stock certificate, unless notice to the contrary has been given to the Board by any other of those persons.]

Notice of
trust not
receivable.

¹[16. No notice of any trust in respect of any debenture, or stock certificate issued by the Board shall be receivable by the Board.]

Board
empowered
to make
rules.

¹[17. (1) The Board may from time to time make rules prescribing :—

- (a) the amounts for which debentures and stock certificates may be issued ;
- (b) the mode in which payment of interest in respect of all debentures and stock certificates issued under the provisions of this Act is to be made, recorded and acknowledged ;
- (c) the circumstances in which such debentures and stock certificates must be renewed before further payment of interest thereon can be claimed ;

¹ Sections 6 to 17 were added by s. 3 of the Prince of Wales Museum (Amendment) Act, 1921 (Bom. 6 of 1921).

² The words " Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

³ Central Acts.

- (d) the fees to be levied in respect of the issue of renewed debentures and stock certificates;
- (e) the form of transfer to be used, the formalities to be observed and the fees to be levied on a transfer of stock;
- (f) the form in which debentures and stock certificates delivered for renewal are to be received;
- (g) the proof to be produced by persons applying for duplicate debentures and stock certificates;
- (h) the circumstances and manner in which duplicate debentures and stock certificates may be issued in case of debentures and stock certificates alleged to have been wholly or partly lost or destroyed and the period after which interest may be paid or a duplicate be issued in case of such debentures and stock certificates and the fees to be levied in respect of the issue of duplicate debentures and stock certificates;
- (i) the nature and amount of indemnity to be given by a person applying for the payment of interest on debentures alleged to have been wholly or partly lost or destroyed, or the issue of duplicate debentures;
- (j) generally the measures to be adopted for carrying out the purposes of this Act.

(2) (a) No rule, or alteration or revocation of a rule, shall have effect until the same shall have been approved by the ¹[Provincial Government], and such approval shall have been published in the ²[*Official Gazette*]; and no rule, or alteration or revocation of a rule, shall be approved by the ¹[Provincial Government] until the same shall have been published for three weeks successively in the said Gazette.

(b) It shall be lawful for the ¹[Provincial Government] at any time by notification in the said Gazette to cancel any rule published under the provisions of this section.]

SCHEDULE.³

The semi-circular plot of land opposite the Sailors' Home and Elphinstone College, bounded on the north by Rampart Row, measuring 31,957 square yards or thereabouts and bearing Survey No. 8433 of the City of Bombay.

¹ The words " Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

² The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by *ibid.*

³ This Schedule has been amended by s. 2 of the Prince of Wales Museum (Amending) Act, 1913 (Bom. 7 of 1913).

BOMBAY ACT No. II OF 1912.¹[THE SOCIETIES REGISTRATION (AMENDMENT) ACT, 1912.]¹

[29th May, 1912]

An Act to amend the Societies Registration Act, 1860.

XXI WHEREAS it is expedient to amend the Societies Registration Act,
of 1860, in manner hereinafter appearing;

AND WHEREAS the previous sanction of the Governor-General required by section 5 of the ²Indian Councils Act, 1892, has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. Notwithstanding anything contained in section 14 of the ^{Amendment} Societies Registration Act, 1860. hereinafter called "the said Act," of section
XXI it shall be lawful for the members of any society dissolved under ^{14.}
of section 13 of the said Act to determine by a majority of
1860. the votes of the members present personally or by proxy at the time of dissolution of such society that any property whatsoever remaining after the satisfaction of all its debts and liabilities shall be given to Government to be utilised for any of the purposes referred to in section 1 of the said Act.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1912, Part VII, page 101, and for Proceedings in Council, see *ibid*, 1912, Part VII, pages 187, 255. The short title was given by Bom. II of 1921.

² See now the Government of India Act, 1935.

THE BOMBAY RACE-COURSES LICENSING ACT, 1912.**CONTENTS.****PREAMBLE.****SECTIONS.**

1. Short title and extent.
2. Definitions.
3. Prohibition against horse-racing on unlicensed race-courses.
4. Application for license for horse-racing.
Grant of license for horse-racing.
Cancellation of license.
5. Penalty for taking part in horse-race on unlicensed race-course.
6. Penalty for owner, etc., allowing racing in unlicensed place.
7. Penalty for contravening conditions of license.
8. Cognizance of offences under this Act.
9. Exemptions.

BOMBAY ACT No. III OF 1912.¹

[THE BOMBAY RACE-COURSES LICENSING ACT, 1912.]

[6th June, 1912]

Amended, by Bom. Act 4 of 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the licensing of race-courses in the Bombay Presidency.

WHEREAS it is expedient to make provision for the regulation of horse-racing in the Bombay Presidency; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Race-courses Licensing Act, 1912. Short title and extent.

(2) This section extends to the whole of the Bombay Presidency. The rest of the Act extends only to such areas as the ²[Provincial Government] may by notification in the ³[Official Gazette] direct.

2. In this Act—

Definitions.

(a) "horse-race" means any race in which any horse, mare or gelding runs or is made to run in competition with any other horse, mare or gelding for any prize of what nature or kind soever, or for any bet or wager made or to be made in respect of any such horse, mare or gelding or the riders thereof, and at which more than twenty persons shall be present;

(b) "race-course" means any ground on which a horse-race can be held.

3. (1) No horse-race shall be held save on a race-course for which a license for horse-racing granted in accordance with the provisions of this Act is in force. Prohibition against horse-racing on unlicensed race-courses.

(2) The terms of such license shall be published in the ³[Official Gazette].

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1912, Part VII, page 131; for Report of Select Committee, see *ibid*, 1912, Part VII, page 132; and for Proceedings in Council, see *ibid*, 1912, Part VII, pages 221 and 471.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The words "Official Gazette" were substituted for the words "*Bombay Government Gazette*" by *ibid*.

Application for license for horse-racing.

4. (1) The owner, lessee or occupier of any race-course may apply to the ¹[Provincial Government] for a license for horse-racing on such race-course,

Grant of license for horse-racing.

(2) The ¹[Provincial Government] may withhold such license or grant it subject to such conditions and for such period as ²[it] may think fit.

³[(3) The ¹[Provincial Government] may by such licence authorize the licensee to grant, subject to such conditions as shall be specified by the ¹[Provincial Government] in such licence, a licence or permit to any bookmaker for such period not exceeding the period of the licence granted to the licensee as the licensee may think fit; and]

Cancel-lation of license.

⁴(4) The ¹[Provincial Government] may at any time cancel any licence granted under this section in the event of any breach of the conditions subject to which it was granted.

Penalty for taking part in horse-race on unlicensed race-course.

5. Whoever takes part in any horse-race on any race-course for which a license granted in accordance with the provisions of section 4 is not in force shall be punishable with fine which may amount to two hundred rupees.

Penalty for owner, etc., allowing racing in unlicensed place.

6. If any horse-race is held on any race-course for which a license granted in accordance with the provisions of section 4 is not in force, any person being the owner, lessee or occupier of such race-course shall be punishable with fine which may amount to one thousand rupees.

Penalty for contra-vening conditions of license.

7. (1) If any person to whom a license has been granted in accordance with the provisions of section 4 contravenes any of the conditions subject to which such license was granted, such person shall be punishable with fine which may amount to one thousand rupees.

⁶[(2) If any person to whom a licence or permit has been granted by a licensee in pursuance of the provisions of sub-section (3) of section 4 contravenes any of the conditions subject to which such licence or permit was granted he shall be punishable with fine which may extend to one thousand rupees.]

Cognizance of offences under this Act.

8. No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try an offence under this Act.

Exemp-tions.

9. The ¹[Provincial Government] may from time to time by general or particular order published in the ⁷[Official Gazette] exempt any horse-race from the operation of this Act.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The word " it " was substituted for the word " he " by *ibid.*

³ This sub-section and the word " and " were inserted by Bom. 4 of 1931, s. 9 (a) (i).

⁴ Sub-section (3) was renumbered sub-section (4) by *ibid.*, s. 9 (a) (ii).

⁵ Section 7 was renumbered 7 (1) by Bom. 4 of 1931, s. 9 (b).

⁶ Sub-section (2) was inserted by *ibid.*

⁷ The words " Official Gazette," were substituted for the words " Bombay Government Gazette " by the Adaptation of Indian Laws Order in Council.

THE BOMBAY MEDICAL ACT, 1912.

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THE SCHEDULE.

BOMBAY ACT No. VI OF 1912.¹

[25th June, 1912]

Amended, by Bom. Act 9 of 1912 ;

" " " " 4 of 1918 ;

" " " " 12 of 1929.

Repealed in part and amended, by Bom. Act 3 of 1916 ;

" " " " " " " " 4 of 1916.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act for the registration of medical practitioners.

WHEREAS it is expedient to provide for the registration of medical practitioners in the Presidency of Bombay ; And whereas the previous sanction of the Governor-General required by section 5 of the Indian Councils Act, 1892², has been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Medical Act, 1912.

Short title,
extent and
definition.

(2) It extends to the whole of the Bombay Presidency.

(3) In this Act the expression " the Medical Acts " means the Medical Act, 1858, and any Acts amending the same.

³[2. (1) A Council, herein referred to as " the Medical Council ", Bombay which shall be called " the Bombay Medical Council ", shall be established Medical Council. for the Presidency of Bombay.

(2) The Medical Council shall consist of thirteen members registered under this Act who shall be appointed in the following manner, namely :—

- (a) a President nominated by the ⁴[Provincial Government] ;
- (b) six members nominated by the ⁴[Provincial Government] ;
- (c) four members elected by the Doctors, Bachelors and Licentiates of Medicine, and the Masters, Bachelors and Licentiates of Surgery of the University of Bombay who are registered under this Act ;

¹For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1911, Part VII, page 389 ; for Report of Select Committee, see *ibid*, 1912, Part VII, page 103 ; and for Proceedings in Council, see *ibid*, 1912, Part VII, pages 45 and 189.

²See now the Government of India Act, 1935.

³Section 2 was substituted by s. 2 of the Bombay Medical (Amendment) Act, 1918 (Bom. 4 of 1918).

⁴The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council,

(d) two members elected by the medical practitioners who are registered under this Act, and who are not Graduates in Medicine or Surgery or Licentiates in Medicine or Licentiates in Medicine and Surgery of the University of Bombay.

(3) Elections of members shall be held at such time and place and in such manner as the Medical Council shall direct by rules or regulations made from time to time in this behalf.]

Tenure of office.

3. (1) The members of the Medical Council shall hold office for a term of five years, and shall be capable of re-appointment.

(2) Any member may at any time resign his appointment by letter addressed to the President of the Medical Council.

(3) Upon the death or resignation of any member of the Medical Council, some other person shall be appointed a member of the Medical Council in his place by nomination or election, as the case may be, in accordance with the provisions of sub-section (2) of section 2, and such person shall hold office for the remainder of the period for which the member in whose place he is appointed was nominated or elected.

(4) (a) Leave of absence from India may be granted by the Medical Council to any member thereof for a period not exceeding six months.

(b) If any member of the Medical Council leaves India without the leave of the Medical Council, or does not return to India within the period of the leave granted by the Medical Council, the Medical Council may forthwith declare his seat vacant and such declaration shall have the same effect as resignation of his seat by the member concerned.

(c) In any case not provided for in clauses (a) and (b) if any member of the Medical Council shall absent himself from three consecutive meetings of the Medical Council, the Medical Council may forthwith declare his seat vacant and such declaration shall have the same effect as resignation of his seat by the member concerned.

Time and place of meeting of Council.

4. The Medical Council ^{1***} shall make such rules and regulations as may be necessary with respect to the times and places of the meeting of the Medical Council, and the mode of summoning the same. In the absence of any rule or regulation as to the summoning of a meeting of the Medical Council, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient, by letter addressed to each member; and at every meeting, in the absence of the President, some other member, to be chosen from the members

¹The words "shall hold their first meeting within three months from the commencement of this Act, in such place and at such time as the Governor in Council shall appoint and" were repealed by s. 3 and Schedule of the Bombay Medical (Amendment) Act, 1916 (Bom. 4 of 1916).

present, shall act as President; and all acts of the Medical Council shall be decided by the votes of the majority of the members present at any meeting, the whole number present not being less than eight, and at all such meetings the President for the time being shall, in addition to his vote as a member of the Medical Council, have a casting vote in case of an equality of votes.

5. (1) The Medical Council shall appoint a Registrar, and may from time to time grant leave to the Registrar and appoint a person to act in his place. Any order of the Medical Council appointing, granting leave to or dismissing a Registrar or appointing a person to act as Registrar shall be subject to the previous approval of the ¹[Provincial Government]. The Registrar and any person appointed to act as Registrar shall be paid by the Medical Council such salary and allowances as they may from time to time determine. Any person duly appointed to act as Registrar shall be deemed to be Registrar for all the purposes of this Act. Registrar and officers.

(2) The Medical Council with the previous approval of the ¹[Provincial Government] may appoint such other officers or clerks as may be necessary for the purposes of this Act.

(3) The Registrar and any other officer or clerk appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the ²Indian Penal Code. XLV of 1860.

6. The Registrar shall keep a register of medical practitioners in accordance with the provisions of this Act. The register shall be kept in such form as the ¹[Provincial Government] from time to time directs. The name, residence and qualifications of every person who is registered under this Act shall be entered in the register with the date on which each qualification was granted. It shall be the duty of the Registrar under the orders of the Medical Council to keep the register correct and from time to time to enter any necessary alterations in the addresses of persons registered, and to enter any additional qualifications which any registered person may have obtained subsequent to his registration, and to erase the names of all registered persons who have died; provided that the ¹[Provincial Government] may prescribe a fee for the entry of any additional qualification. To enable the Registrar duly to fulfil the duties imposed upon him it shall be lawful for him to write a letter to any registered person according to his address on the register to enquire whether he has ceased to practise or has changed his residence, and if no answer is returned to such letter within a period of six months from the sending of the letter, it shall be lawful to erase the name of such person from the register; provided that the same may be restored by direction of the Medical Council if they think fit to make an order to that effect. Register.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² Central Acts.

Persons
entitled to
be regis-
tered.

¹[7. (1) Every person for the time being registered under the Medical Acts shall be entitled to be registered under this Act free of charge on informing the Registrar of the date of his registration under the Medical Acts and giving a correct description of his qualifications with the dates on which they were granted.

²[(1-a) Every person for the time being registered under any Act for the registration of medical practitioners in force in any other province in India with the Medical Council of such province shall, if reciprocity of registration has been arranged with such Council, be entitled, on production of his registration certificate, to have registered under this Act, free of charge, such qualifications entered in the said certificate as are registrable under this Act.]

(2) Every person who is possessed of any of the qualifications described in the Schedule to this Act (subject to the provisions of section 20) shall be entitled to be registered under this Act on payment of a fee of fifteen rupees, and on giving evidence to the satisfaction of the Registrar of his possession of a qualification fitting him for registration.

(3) The ³[Provincial Government] may, after consulting the Medical Council, permit the registration of any person who was actually practising medicine in the Bombay Presidency before the 25th day of June, 1912.

(4) The Medical Council may refuse to permit the registration of any person who has been convicted of a cognizable offence as defined in the ⁴Code of Criminal Procedure, 1898, or who, being or having been subject to military law, has been convicted under the ⁵Army Act or under the ⁴Indian Army Act, 1911, of an offence which is also a cognizable offence as so defined, or who after due enquiry has been held guilty by the Medical Council of infamous conduct in any professional respect.]

Appeals
and
erasure of
incorrect
entries.

8. (1) Any appeal against the decision of the Registrar respecting a first registration or any subsequent alteration shall be heard and determined by the Medical Council under regulations which shall be made by the Medical Council in this behalf.

(2) Any entry in the register which shall be proved to the satisfaction of the Medical Council to have been fraudulently or incorrectly made may be erased from the register under the orders of the Medical Council.

¹ Section 7 was substituted by s. 3 of the Bombay Medical (Amendment) Act, 1916 (Bom. 3 of 1916).

² Sub-section (1-a) was inserted by Bom. 12 of 1929, s. 2.

³ The words "Provincial Government" were substituted for the word "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁴ Central Acts.

⁵ Collection of Statutes relating to India, Vol. I.

9. The Medical Council may direct that the name of any medical practitioner who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, 1898, ¹[or who, being or having been subject to military law, has been convicted under the ²Army Act or under the ³Indian Army Act, 1911, of an offence which is also a cognizable offence as so defined] or who after due enquiry has been held guilty by them of infamous conduct in any professional respect, shall be removed from the register, and may direct that any name so removed shall be re-entered.

V of
1898.
44 & 45
Vict.,
c. 58,
VIII
of
1911.

Removal
from
register.

10. (1) ⁴**** The expression "legally qualified medical practitioner," or "duly qualified medical practitioner," or any words importing a person recognized by law as a medical practitioner or member of the medical profession, shall, in all ⁵[Bombay Acts] and in all ⁶[Central Acts] in their application to the Bombay Presidency, mean a medical practitioner registered either under the Medical Acts or under this Act.

Qualified
practi-
tioners:
certificates.

(2) ⁴**** No certificate required by any Act from any medical practitioner or medical officer shall be valid unless the person signing the same shall have been registered under the Medical Acts or under this Act.

11. ⁷**** ⁸[Except with the special sanction of the ⁹[Provincial Government]] no person shall hold any appointment as a Physician, Surgeon or other Medical Officer in any dispensary, hospital, infirmary or lying-in-hospital, not supported entirely by voluntary contributions, or in any public establishment, body or institution, or as a Medical Officer of Health, unless he be registered under the Medical Acts or under this Act.

Unregist-
tered
persons
not to hold
certain
appoint-
ments.

12. Every Registrar of deaths on receiving notice of the death of a medical practitioner registered under this Act shall forthwith transmit by post to the Registrar appointed under this Act a certificate under his own hand of such death with the particulars of time and place of death and may charge the cost of such certificate and transmission as an expense of his office.

Notice of
death.

¹ These words and figures were inserted by s. 4 of the Bombay Medical (Amendment) Act, 1916 (Bom. 3 of 1916).

² Collection of Statutes relating to India, Vol. I.

³ Central Acts.

⁴ The words "After the commencement of this Act" were repealed by s. 3 and Schedule of the Bombay Medical (Amendment) Act, 1916 (Bom. 4 of 1916).

⁵ The words "Bombay Acts" were substituted for the words "Acts of the Governor of Bombay in Council" by the Adaptation of Indian Laws Order in Council.

⁶ The words "Central Acts" were substituted for the words "Acts of the Governor-General in Council" by *ibid.*

⁷ The words "On the expiry of three months from the commencement of this Act" were repealed by s. 3 and Schedule of the Bombay Medical (Amendment) Act, 1916 (Bom. 4 of 1916).

⁸ These words were inserted by s. 2, *ibid.*

⁹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Medical Council authorised to call for information and attend examinations.

13. The Medical Council shall have authority to call on the governing body or authorities of any Medical College or School and on any examining body included in or desirous of being included in the Schedule—

(a) to furnish such particulars as the Medical Council shall require of any course of study prescribed or examination held by such body or authority or in such School or College with reference to the grant of any medical or surgical qualification, and

(b) to permit any member of the Medical Council deputed by the Medical Council in this behalf to attend and be present at any such examination.

Exemption from serving on inquests.

14. Notwithstanding anything in any other law for the time being in force, every person who shall be registered under this Act shall be exempt, if he so desires, from serving on any inquest.

Fees payable to members.

15. There shall be paid to the members of the Medical Council such fees for attendance and such reasonable travelling expenses as shall from time to time be allowed by the Medical Council and approved by the ¹[Provincial Government].

Disposal of fees.

16. All monies received by the Medical Council as fees under this Act shall be applied for the purposes of this Act in accordance with such rules as may be made in this behalf by the ¹[Provincial Government].

Annual Medical List.

17. The Registrar shall in every year on or before a date to be fixed by the Medical Council cause to be printed and published a correct list of the names and qualifications of all persons for the time being entered in the register, and the dates when such qualifications were granted, in alphabetical order according to the surnames of the persons registered. Every Court shall presume that any person entered in such list is duly registered under this Act, and that any person who is not so entered is not registered.

Penalties.

18. Whoever falsely pretends to be registered under this Act or not being registered under this Act uses in connection with his name or title any words or letters representing that he is so registered shall, whether any person is actually deceived by such pretence or representation or not, be punished on conviction by a Presidency Magistrate or a Magistrate of the first class with fine that may extend to three hundred rupees.

Rules and regulations.

19. (1) Subject to the provisions of this Act, the Medical Council may from time to time make rules and regulations generally to carry out the provisions of this Act:

Provided that no rules or regulations made by the Medical Council whether under this or under any of the foregoing sections of this Act

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

shall have any force or effect unless the same shall have received the previous approval of the ¹[Provincial Government].

(2) All rules and regulations made by the Medical Council under this Act shall, when the same have received the approval of the ¹[Provincial Government], be published in the ²[*Official Gazette*].

(3) It shall be lawful for the ¹[Provincial Government], by notification in the ²[*Official Gazette*], to cancel any rule or regulation made under this Act.

20. If it shall appear to the ¹[Provincial Government], on the report of the Medical Council or otherwise, that the course of study and examinations prescribed by any of the Colleges or bodies conferring the qualifications described in the Schedule are not such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, or if it shall appear to the ¹[Provincial Government], on the report of the Medical Council or otherwise, that the course of study and examinations prescribed by any College or body conferring a qualification not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the ¹[Provincial Government] from time to time by notification in the ²[*Official Gazette*] to direct that the possession of any qualification entered in the Schedule shall not entitle any person to registration under this Act, or to direct that the possession of any qualification not entered in the Schedule shall, subject to the provisions of this Act, entitle a person to be so registered, as the case may be, and the Schedule shall thereupon be deemed for all purposes to be altered accordingly.

Alteration
in list of
qualifications
mentioned in
the Schedule.

21. If at any time it shall appear to the ¹[Provincial Government] that the Medical Council has failed to exercise or has exceeded or abused any power conferred upon it under this Act or has failed to perform any duty imposed upon it by this Act, the ¹[Provincial Government] may notify the particulars of such default, excess or abuse to the Medical Council; and if the Medical Council fails to remedy such default, excess or abuse within such time as may be fixed by the ¹[Provincial Government] in this behalf, the ¹[Provincial Government] may for the purpose of remedying such default, excess or abuse cause any of the powers and duties of the Medical Council to be exercised and performed by such agency and for such period as ³[it] may think fit.

Control.

⁴[22. This Act has effect subject to the provisions of Chapter III of Part V of the Government of India Act, 1935.]

Saving for
provisions of
the Govern-
ment of India
Act, 1935.

¹The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

²The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

³The word "it" was substituted for the word "he" by *ibid.*

⁴Section 22 was inserted by *ibid.*

THE SCHEDULE.

1. Doctor, Bachelor and Licentiate of Medicine, and Master, Bachelor and Licentiate of Surgery of the Universities of Bombay, Calcutta, Madras, Allahabad and Lahore.

2. Any person trained in a Government Medical College or School ¹[in India or Burma] who holds a diploma or certificate granted ²[by any Government in India or Burma] declaring him to be qualified to practise Medicine, Surgery and Midwifery, or to be qualified for the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon.

¹ The words "in India or Burma" were inserted by the Adaptation of Indian Laws Order in Council.

² The words "by any Government in India or Burma" were substituted for the words "by Government" by *ibid.*

THE BOMBAY SMOKE-NUISANCES ACT, 1912.

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BOMBAY ACT No. VII OF 1912.¹

[THE BOMBAY SMOKE-NUISANCES ACT, 1912.]

[27th June, 1912]

Repealed in part, by Act 8 of 1920.

Amended, by Bom. Act 10 of 1924 ;

“ “ “ “ 10 of 1929 ;

“ “ “ “ 8 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act for the abatement of nuisances arising from the smoke of furnaces in the Town and Island of Bombay and to provide for the extension thereof to other areas in the Bombay Presidency.

WHEREAS it is expedient to enact a law for the abatement of nuisances arising from the smoke of furnaces in the Town and Island of Bombay and to provide for the extension thereof to other areas in the Bombay Presidency ; It is hereby enacted as follows :—

1. (1) This Act may be called the Bombay Smoke-nuisances Act, Short title and extent.
1912.

(2) It extends in the first instance to the Town and Island of Bombay.

2. (1) ²[The Provincial Government] may, by notification published in the ³[*Official Gazette*] and in such other manner as ²[the Provincial Government] may determine, declare its intention to extend this Act to any specified area in the Bombay Presidency other than the Town and Island of Bombay : Power further to extend Act.

Provided that, if a military cantonment is situated within any area to which it is proposed to extend this Act, no notification shall be published under this sub-section in respect of such area without the previous sanction of the ⁴[Central Government].

(2) Any inhabitant of an area to which it is proposed to extend this Act may, if he objects to such extension, submit his objection in writing to ²[the Provincial Government] within a period of three months from the publication of the said notification in the ³[*Official Gazette*].

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1911, Part VII, page 383 ; for Report of Select Committee, see *ibid.*, 1912, Part VII, page 94 ; and for Proceedings in Council, see *ibid.*, 1912, Part VII, pages 42 and 231.

² The words “ the Provincial Government ” were substituted for the word “ Government ” by the Adaptation of Indian Laws Order in Council.

³ The words “ *Official Gazette* ” were substituted for the words “ *Bombay Government Gazette* ” by *ibid.*

⁴ The words “ Central Government ” were substituted for the words “ Governor-General in Council ” by *ibid.*

(3) At any time after the expiration of the said period, and after considering the objections, if any, submitted under sub-section (2), ¹[the Provincial Government] may, by notification in the ²[*Official Gazette*], extend this Act to the said area.

Definitions.

3. In this Act—

(1) “furnace” means any furnace or fire-place used—

(a) for working engines by steam, or

(b) for any other purpose whatsoever:

Provided that no furnace or fire-place—

(i) used for the burning of the dead;

(ii) used in a private house for domestic purposes other than the purpose specified in clause (a);

* * * * *

shall be deemed to be a furnace or fire-place within the meaning of this Act.

⁴[(1A) “Flue” or “chimney” means any “flue” or “chimney” joined to, connected with or forming part of a furnace.]

(2) “Inspector” means a Chief Inspector of Smoke-nuisances, or an Assistant Inspector of Smoke-nuisances, appointed under this Act;

(3) “the Commission” means the Bombay Smoke-nuisances Commission constituted under this Act;

(4) “occupier” means any person for the time being paying, or liable to pay, to the owner the rent or any portion of the rent of the land or building in respect of which the word is used;

(5) “owner” —

(a) when used in reference to a furnace ⁵[flue or chimney], includes any agent or lessee using the furnace ⁵[flue or chimney], and any foreman or other person superintending the working of the furnace ⁵[flue or chimney];

(b) when used in reference to any premises, has the meaning assigned to it in section 3 of the City of Bombay Municipal Act, 1888; and

Bom.
III o
1888.

(6) “Magistrate” means a Presidency Magistrate, a Magistrate of the first class, or a Bench of Magistrates exercising first class powers under the Code of Criminal Procedure, 1898.

¹ The words “the Provincial Government” were substituted for the word “Government” by the Adaptation of Indian Laws Order in Council.

² The words “*Official Gazette*” were substituted for the words “*Bombay Government Gazette*” by *ibid.*

³ Clause (ii) was repealed by s. 2 of the Bombay Smoke-nuisances (Amendment) Act, 1920 (Bom. 8 of 1920).

⁴ Sub-section (1A) was inserted by Bom. 10 of 1929, s. 2 (1).

⁵ The words “flue or chimney” were inserted by *ibid.*, s. 2 (2).

4. (1) ¹[The Provincial Government] shall, by notification in the ^{Constitution of Commission.} ²[*Official Gazette*], constitute a Commission, to be called the Bombay Smoke-nuisances Commission, to supervise and control the working of this Act.

(2) The said Commission shall consist of a President nominated by ¹[the Provincial Government] and so many other members as ¹[the Provincial Government] may determine.

(3) One-half of the members (exclusive of the President) shall be nominated by ¹[the Provincial Government]; and the remainder shall be elected, in such manner and for such period, as ¹[the Provincial Government] may direct, by bodies or associations whose interests are likely to be affected by this Act; and the appointment of all members, whether nominated or elected, shall be notified in the ²[*Official Gazette*].

(4) Where a casual vacancy occurs in the case of a nominated member ¹[the Provincial Government] shall make a fresh nomination, and where a casual vacancy occurs in the case of an elected member the election shall be made by the same body or association as that which elected, the member whose place is to be filled; and a member so nominated or elected shall hold office so long as the member whose place he fills would have been entitled to hold office had the vacancy not occurred.

(5) No act done by the Commission shall be questioned on the ground merely of the existence of any vacancy in or any defect in the constitution of the Commission.

5. (1) ¹[The Provincial Government] may, by notification in the ^{Appointment of Inspectors.} ²[*Official Gazette*], appoint a Chief Inspector of Smoke-nuisances and so many Assistant Inspectors of Smoke-nuisances as they may think fit.

(2) Every Assistant Inspector appointed under sub-section (1) shall be subordinate to the Chief Inspector, and all Inspectors shall be subordinate to, and subject to the control of, the Commission.

6. Every Inspector appointed under this Act shall, for the purposes of this Act, be deemed to be a public servant within the meaning of the ^{Inspectors to be public servants.} ³Indian Penal Code.

7. (1) ¹[The Provincial Government] may, by notification in the ^{Power to prohibit the erection of kilns or furnaces, or the manufacture of coke, in specified areas: and to inflict penalties.} ²[*Official Gazette*], prohibit within any specified area—

(a) the erection of brick, tile or lime kilns,

(b) the erection of furnaces to be used for the calcining or smelting of ores or minerals, or for the casting, puddling or rolling of iron or other metals or for the conversion of pig-iron into wrought iron, or

¹ The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

² The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid*

³ Central Act.

(c) the manufacture of coke in ovens or with special appliances, or

(d) the making of coke without ovens or special appliances :

Provided that where, prior to the issue of such notification, a license has been granted by the Municipal Commissioner under the provisions of section 394 of the City of Bombay Municipal Act, 1888, for the erection of a furnace to be used for any of the purposes mentioned in clauses (a) and (b), such notification shall not affect such furnace or kiln. Bom.
III of
1888.

(2) If any furnace or kiln be erected in contravention of any notification issued under sub-section (1), clause (a) or (b), the owner thereof shall be liable to fine which may extend to two hundred and fifty rupees.

(3) If any person manufactures coke in contravention of any notification issued under sub-section (1), clause (c), he shall be liable to fine which may extend on first conviction to two hundred and fifty rupees, and on any subsequent conviction to five hundred rupees.

If any person makes coke in contravention of any notification issued under sub-section (1), clause (d), he shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(5) If any coke is made in any building or place in contravention of a notification issued under sub-section (1), clause (d), the owner or occupier of such building or place shall be liable to fine which may extend on first conviction to twenty-five rupees, and on any subsequent conviction to fifty rupees.

(6) Where any coal is in process of being made or has been made into coke in contravention of a notification issued under sub-section (1), clause (d), an Inspector may seize such coal or coke, and report the seizure to a Magistrate who may, after such enquiry as he thinks necessary, order such coke or coal to be confiscated, and to be sold in accordance with rules to be made by ¹[the Provincial Government] in this behalf under section 11.

Power to
order
demolition
of kilns or
furnaces
unlawfully
erected.

8. (1) A Magistrate imposing a fine on any person under sub-section (2) of section 7 may by order direct such person to demolish the kiln or furnace within a period to be specified in the order.

(2) Any such person failing to demolish any kiln or furnace within the period prescribed in any such order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.

¹The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

9. (1) If smoke be emitted from any furnace in greater density, or at a lower altitude, or for a longer time, than is permitted by rules made under this Act, the owner of the furnace shall be liable to fine which may extend on first conviction to fifty rupees, on second conviction to one hundred rupees, and on any subsequent conviction to two hundred rupees.

Penalty for excessive emission of smoke.

(2) Sub-section (1) shall not apply to any furnace which is used—

(a) in connection with a brick, tile or lime kiln, or

(b) for the purpose mentioned in clause (d) of sub-section (1) of section 7.

¹9A. (1) No furnace, flue or chimney shall be erected, altered, added to or re-erected except in accordance with plans approved by the Commission.

No furnace, etc., to be erected unless plans are approved by Commission.

(2) If any furnace, flue or chimney is erected, altered, added to or re-erected in contravention of the provisions of sub-section (1), the owner of such furnace, flue or chimney shall be liable to fine which may extend to one hundred rupees; and, if any such furnace, flue or chimney is used without the permission of the Commission, to a further fine not exceeding twenty rupees for every day during which such use continues.]

¹9B. (1) A Magistrate imposing a fine on any person under sub-section (2) of section 9A may, by order, direct such person to demolish the furnace, flue or chimney within a period to be specified in the order.

Power to order demolition of furnace, flue or chimney unlawfully erected.

(2) Any such person failing to demolish any furnace, flue or chimney within the period specified in the order, or within such longer period as the Magistrate may, for reasons to be stated, allow, shall be liable to fine which may extend to twenty rupees for every day thereafter during which such failure continues.]

10. (1) Any Inspector may, after giving reasonable notice in writing to the owner, manager, engineer or person in charge—

Powers of Inspectors.

(a) enter and inspect, during working hours, any building or place which contains a furnace, ²[flue or chimney], and inspect such furnace, ²[flue or chimney];

(b) under the written authority of the Commission, use and test any appliance used for preventing the emission of smoke from such furnace, ²[flue or chimney]; and

(c) under the written authority of the Commission, direct that any such furnace, ²[flue or chimney] be worked ³* * experimentally, during his visit to such building or place, in any manner

¹ Sections 9A and 9B were inserted by Bom. 10 of 1929, s. 3.

² The words "flue or chimney" were inserted by *ibid.*, s. 4 (a).

³ The words "or stoked" were omitted by *ibid.*, s. 4 (b).

which he may consider suitable for preventing or reducing the emission of smoke, but not so as to interfere with the business carried on in such building or place further than is necessary for the purposes of the experiment.

(2) If any owner of a furnace, ¹[flue or chimney] in respect of which a direction is given under clause (c) of sub-section (1) fails to secure compliance with such direction, he shall be liable to fine which may extend to one hundred rupees :

Provided that where any Inspector has reason to believe that any offence under sub-sections (2), (3) or (4) of section 7 has been or is being committed on any premises it shall be lawful for him to enter on such premises without previous notice and without written authority from the Commission.

Rules.

11. (1) ²[The Provincial Government] may, ³* * * * after previous publication, make rules to carry out the objects of this Act.

(2) In particular, and without prejudice to the generality of sub-section (1), such rules may—

- (a) regulate the transaction of business by the Commission ;
- (b) prescribe the powers and duties to be exercised and performed by the Commission and by Inspectors, respectively, and regulate the exercise and performance of those powers and duties ;
- (c) prescribe a scale for the purpose of determining the density of smoke ;
- (d) prescribe the degree of density of smoke that may be emitted from a furnace ;
- (e) prescribe the time during which smoke of such density may be emitted from a furnace ;
- (f) prescribe the altitude below which smoke may not be emitted from a furnace ;

* * * * *

- (h) prescribe a procedure for the giving of warning to offenders before instituting a prosecution under this Act, and declare the minimum period which should be allowed to elapse in different classes of cases between the giving of such warning and the institution of a prosecution ;
- ⁵[(hh) prescribe the procedure regarding the submission and approval of plans under sub-section (1) of section 9A.]
- (i) fix the amount of fee payable to each or any member of the Commission attending a meeting of the Commission ; and

¹ The words " flue or chimney " were inserted by Bom. 10 of 1929, s. 4 (a).

² The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

³ The words " with the previous sanction of the Governor-General in Council and " were repealed by s. 3 of the Bombay Smoke-nuisances (Amendment) Act, 1920 (Bom. 8 of 1920).

⁴ Clause (g) was repealed by *ibid.*

⁵ Clause (hh) was inserted by Bom. 10 of 1929, s. 5.

- (j) prescribe a procedure for the sale and disposal of the receipts of the sale of coke or coal confiscated under sub-section (6) of section 7.

Bom.
I of
1904. (3) The date to be specified in accordance with clause (c) of section 24 of the Bombay General Clauses Act, 1904, as that after which a draft of rules proposed to be made under this section will be taken into consideration, shall not be less than three months from the date on which the draft of the proposed rules was published for general information.

(4) Any rule to be made under this Act shall, before it is published for criticism under sub-section (1), be referred to the Commission constituted under section 4, and the rule shall not be so published until the said Commission has reported as to the expediency of making the proposed rule and as to the suitability of its provisions.

12. A Magistrate may take cognizance of an offence against this Act only— Cognizance of offences.

(a) upon a complaint made by, ¹[an inspector with the previous sanction of the Commission or of a sub-committee appointed by the Commission], and

(b) within a period of two months from the date of the commission of the offence.

²[12A. (1) The President of the Commission or in the event of the illness or absence of the President from Bombay any member of the Commission authorized in writing by the President in this behalf may exercise the powers of the Commission under sections 9A, 10 and 12. Exercise of the powers of the Commission by the President

(2) The President or member authorized under sub-section (1) shall report to the Commission before its next ordinary meeting any action taken by him in the exercise of the powers under section 9A, 10 or 12.] or any member authorized by the President.

13. [*Disposal of fines.*] Omitted by the Adaptation of Indian Laws Order in Council.

¹ These words were substituted for the words "or with the written authority of, the Chief Inspector", by Bom. 10 of 1924, s. 2.

² Section 12A was inserted by Bom. 8 of 1935, s. 2.

BOMBAY ACT No. XII OF 1912.¹

[THE BOMBAY ABKARI (AMENDMENT) ACT, 1912]

[7th September, 1912]

An Act further to amend the Bombay Abkari Act, 1878.

Bom.
V of
1878. WHEREAS it is expedient further to amend the Bombay Abkari Act, 1878, in manner hereinafter appearing ;

And whereas the previous sanction of the Governor General required by section 5 of the Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

1-41. [*Amendments made by sections 1 to 41 have been incorporated in the principal Act.*]

XVI
of
1863. 42. "The Excise (Spirits) Act, 1863," shall be repealed as to the Local repeal of Act XVI of 1863.
Presidency of Bombay.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1912, Part VII, page 127 ; for Report of Select Committee, see *ibid.*, 1912, Part VII, page 405 ; and for Proceedings in Council, see *ibid.*, 1912, Part VII, pages 259, 500 and 664. The short title was given by Bom. 2 of 1921.

THE INDIAN LIMITATION (AMENDMENT) ACT, 1912.

CONTENTS.

PREAMBLE.**SECTIONS.**

1. Short title.
2. Amendment of section 31.
3. Applicability of section 4 of the Indian Limitation Act, 1908.
4. Retrospective effect of section 3.
5. Provision for restoration of suits.
6. Provision for restoration of applications.
7. Third parties protected.

BOMBAY ACT No. XIII OF 1912.¹

[THE INDIAN LIMITATION (AMENDMENT) ACT, 1912.]

[29th November, 1912]

An Act to amend the Indian Limitation Act, 1908.

X of 908. WHEREAS it is expedient to amend the ²Indian Limitation Act, 1908, in the manner hereinafter appearing :

AND WHEREAS the previous sanction of the Governor General required by section 5 of the ³Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Indian Limitation (Amendment) Short title. Act, 1912.

X of 908. 2. Notwithstanding anything contained in the ²Indian Limitation Amendment Act, 1908, hereinafter called "the said Act", in computing the period of two years mentioned in section 31 of the said Act in the case of any suit by a mortgagee for foreclosure or for sale for which a certificate granted under section 46 of the 'Dekkhan Agriculturists' Relief Act, 1879, is required the time intervening between the application made by the mortgagee under section 39 of the last mentioned Act, and the institution of such suit shall be excluded, provided that such suit has already been instituted, or is instituted within six months from the commencement of this Act ; and no such suit shall be dismissed on the ground that the certificate was not obtained within the year immediately preceding the filing of the suit. Amendment of section 31.

3. The period of two years mentioned in section 31 of the said Act shall for the purposes of this Act be deemed to be a period of limitation within the meaning of section 4 of the said Act. Applicability of section 4 of the Indian Limitation Act, 1908.

4. The provisions of section 3 shall be deemed to have come into operation from the seventh day of August, 1908. Retrospective effect of section 3.

XVII f 879. 5. (1) Where the claim of a mortgagee for foreclosure or for sale for which a certificate granted under section 46 of the 'Dekkhan Agriculturists' Relief Act, 1879, is required has been wholly or in part dismissed or withdrawn after the seventh day of August, 1910, and before the commencement of this Act either in a Court of first instance or of appeal or of revision, and the Court on application made as hereinafter provided is satisfied that such claim was so dismissed or withdrawn on the ground that— Provision for restoration of suits.

(a) the time intervening between the application made by the mortgagee under section 39 of the 'Dekkhan Agriculturists' Relief Act, 1879, and the grant of the certificate under

¹ For Statement of Object and Reasons, see *Bombay Government Gazette*, 1912, Part VII, page 536 ; and for Proceedings in Council, see *ibid*, 1912, Part VII, pages 787 and 806.

² Central Acts.

³ See now the Government of India Act, 1935.

⁴ Vol. I of this Code.

section 46 of the last mentioned Act or the institution of the suit, as the case may be, could not be excluded in computing the period of two years mentioned in section 31 of the said Act, or

- (b) the certificate was not obtained within the year immediately preceding the filing of the suit, or
- (c) the period of two years mentioned in section 31 of the said Act was not a period of limitation within the meaning of section 4 of the said Act,

the case shall be restored on an application in writing to the Court, by which the claim was dismissed or in which it was withdrawn; provided that such application is made within six months from the commencement of this Act.

(2) Where any such claim as aforesaid has been dismissed for failure to prosecute such claim after the seventh day of August, 1910, and before the commencement of this Act either in a Court of first instance or of appeal or of revision, and the Court on application made as hereinafter provided is satisfied that such failure was due to the belief that such claim, if prosecuted, would be dismissed for any of the grounds specified in clauses (a), (b) and (c) of sub-section (1),

the case shall be restored on an application in writing to the Court by which the claim was dismissed; provided that such application is made within six months from the commencement of this Act.

(3) The provisions of sections 2, 3 and 4 shall apply to any case restored under either of the foregoing sub-sections.

Provision
for
restoration
of
applications.

6. Any application by the mortgagee under section 39 of the ¹Dekhan Agriculturists' Relief Act, 1879, in respect of any claim for sale or foreclosure as to which the mortgagee was entitled to the benefit of the two years' period mentioned in section 31 of the said Act, made on or before the eighth day of August, 1910, and dismissed after the twenty-third day of February, 1911, shall be restored to the file of the Conciliator provided that the application for such restoration is made within two months from the commencement of this Act. XVII
of
1879.

Third
parties
protected.

7. Nothing in this Act shall affect the interests of third parties that may have come into existence between the twenty-third of February, 1911, and the twenty-eighth of September, 1912.

BOMBAY ACT No. IV OF 1913.¹

[THE BOMBAY LAND REVENUE (AMENDMENT) ACT, 1913.]

[28th May, 1913]

An Act to amend the Bombay Land Revenue Code, 1879, the Khoti Settlement Act, 1880, and the Gujarat Talukdars Act, 1888, and to repeal the Bombay Land Record-of-rights Act, 1903.

Bom. WHEREAS it is expedient to amend the Bombay Land Revenue
V of Code, 1879, the Khoti Settlement Act, 1880, and the Gujarat
1879 of Talukdars Act, 1888, in manner hereinafter appearing, and to repeal
Bom. I of 1880 the Bombay Land Record-of-rights Act, 1903 ; And whereas the previous
VI of 1888 sanction of the Governor General required by section 5 of the ²Indian
Bom. of Councils Act, 1892, has been obtained for the passing of section 41 of
IV of 1903 this Act ; It is hereby enacted as follows :—

PART I.

GENERAL.

1. This Act may be called the Bombay Land Revenue (Amendment) Short title.
Act, 1913.

Bom. 2. The Bombay Land Record-of-rights Act, 1903, shall be repealed. Repeal.
IV of 1903

3. Wherever this Act amends an enactment which has previously Previous
been amended by an Act passed before the commencement of this Act, amending
then any of the provisions of such previous amending Act which may Acts.
be inconsistent with any of the provisions of this Act shall be
repealed to the extent to which they are inconsistent therewith.

4-94. [*Amendments made by sections 4 to 94 both inclusive have been incorporated in the Bombay Land Revenue Code, 1879, the Khoti Settlement Act, 1880, and the Gujarat Talukdars Act, 1888.*]

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1912, Part VII, page 905 ; for Report of Select Committee, see *ibid*, 1913, Part VII, page 28 ; and for Proceedings in Council, see *ibid*, 1913, Part VII, pages 56 and 134.

² See now the Government of India Act, 1935.

BOMBAY ACT No. VII OF 1913.¹

[THE PRINCE OF WALES MUSEUM (AMENDING) ACT, 1913.]

[4th October, 1913]

An Act to amend the Prince of Wales Museum Act, 1909.

Bom.
III of
1909.

WHEREAS it is expedient to amend the ²Prince of Wales Museum Act, 1909, in the manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Prince of Wales Museum (Amending) Act, 1913. Short title.

2. From the area comprised in the schedule to the Prince of Wales Museum Act, 1909 (hereinafter referred to as "the said Act"), the following area shall be excluded, namely:— Amendment of schedule.

All that piece or parcel of land containing by admeasurement 359·52 square yards, be the same a little more or less, of which 275·57 square yards are contained between the outer side of the curve at the North-East angle of the boundary of the site of the Prince of Wales Museum of Western India and lines tangential to the extremities of the said curve, and the remaining area amounting to 83·95 square yards is contained in an irregular figure projecting outwards from the tangential line of the said curve which runs more or less parallel to Apollo Street, the whole of the said piece or parcel of land with the boundaries thereof being delineated for greater clearness on a plan signed by the Executive Engineer, Presidency District, and a majority of the Trustees of the Prince of Wales Museum of Western India and deposited with the Secretary to Government in the General Department.

3. All the estate, right, title and interest of the Trustees of the Prince of Wales Museum of Western India in and to the area excluded from the schedule to the said Act by the last preceding section shall vest in His Majesty. Property excluded from schedule to be re-vested in His Majesty.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1913, Part VII, page 107; and for Proceedings in Council, see *ibid.*, 1913, Part VII, page 533.

² *Supra.*

THE BOMBAY TOWN PLANNING ACT, 1915.

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BOMBAY ACT No. I OF 1915.¹

[6th March, 1915]

Repealed in part and amended, by Bom. Act 2 of 1919.

Amended, by Bom. Act 13 of 1920.

” ” ” ” 16 of 1920.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the making and execution of town-planning schemes.

WHEREAS it is expedient that the development of certain areas should be regulated with the general object of securing proper sanitary conditions, amenity and convenience to the persons living in such areas and in neighbouring areas ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the ²Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Bombay Town Planning Act, Short title
and extent.
1915.

(2) It shall extend in the first instance to the Island of Salsette, but the ³[Provincial Government] may by notification in the ⁴[*Official Gazette*] direct that it shall extend in whole or in part to any part of the Bombay Presidency :

Provided that this Act shall not be extended in whole or in part to the City of Bombay or any part thereof except on the previous application of the Municipal Corporation of the City of Bombay in this behalf to the ³[Provincial Government], such application having been previously assented to by a majority of the whole of the Municipal Corporation.

2. In this Act, unless there is anything repugnant in the subject Interpreta-
tion-clause.
or context :—

(a) “ local authority ” means a Municipality or, where there is no Municipality, a committee appointed for a notified area under the provisions of Chapter XIV of the Bombay District Municipal Act, 1901, as modified by this Act ;

Bom.
11 of
1901.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1913, Part VII, page 845 ; for Report of Select Committee, see *ibid.*, 1914, Part VII, page 510 ; and for Proceedings in Council, see *ibid.*, 1914, Part VII, page 78 ; *ibid.*, 1915, page 11.

² See now the Government of India Act, 1935.

³ The words “ Provincial Government ” were substituted for the words “ Governor in Council ” by the Adaptation of Indian Laws Order in Council.

⁴ The words “ *Official Gazette* ” were substituted for the words “ *Bombay Government Gazette* ” by *ibid.*

- (b) "prescribed" means prescribed by rules made under this Act ;
- (c) "owner" includes an owner in severalty, in common or joint ; and includes also an occupant as defined in clause (16) of section 3 of the Bombay Land Revenue Code, 1879 ; Bom.
V of
1879.
- (d) "plot" means a continuous portion of land held in one ownership, other than land used, allotted or reserved for any public or municipal purpose ;
- (e) "reconstituted plot" means a plot which is in any way altered by the making of a town-planning scheme otherwise than by the severance of land used, allotted or reserved for any public or municipal purpose.
- Explanation.*—"Altered" includes alteration of ownership.
- (f) "scheme" includes a plan relating to a town-planning scheme.

Contents of
planning
scheme.

3. A town-planning scheme may make provision for any of the following matters :—

- (a) the construction, diversion, alteration and stopping up of streets, roads and communications ;
- (b) the construction, alteration, and removal of buildings, bridges and other structures ;
- (c) the plotting out of land as building-sites whether such land is intended to be used for building purposes in the immediate future or not ;
- (d) the allotment or reservation of land for roads, open spaces, gardens, recreation grounds, schools, markets and public purposes of all kinds ;
- (e) drainage inclusive of sewerage and of surface drainage and sewage disposal ;
- (f) lighting ;
- (g) water supply ;
- (h) the preservation of objects of historical interest or natural beauty and of buildings actually used for religious purposes or regarded by the public with special religious veneration ;
- (i) the imposition of conditions and restrictions in regard to the open space to be maintained about buildings, the number, height and character of buildings allowed in specified areas and the purposes to which buildings or specified areas may or may not be appropriated ;
- (j) the suspension, so far as may be necessary for the proper carrying out of the scheme, of any rule having the force of law, bye-law, Act, or other provision¹ * * * which is in force in the area included in the scheme :

¹ The words "under whatever authority made" were repealed by section 3 and Schedule II of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

¹[Provided that it shall not be lawful to suspend in any such area any Act of Parliament or, ²[any Indian law relating to any of the matters enumerated in List I in the Seventh Schedule to the Government of India Act, 1935].]

(k) such other matter not inconsistent with the objects of this Act as may be prescribed.

4. (1) Where there is a disputed claim as to the ownership of any piece of land included in an area in respect of which any of the provisions of this Act are to be applied and any entry in the record-of-rights or mutation register relevant to such disputed claim is inaccurate or inconclusive, an enquiry may be held by such officer as the ³[Provincial Government] in the City of Bombay or the Commissioner elsewhere may appoint for the purpose of deciding who shall be deemed to be the owner for the purposes of this Act. Disputed ownership.

(2) Such decision shall not be subject to appeal but it shall not operate as a bar to a regular suit.

(3) Such decision shall, in the event of a Civil Court passing a decree which is inconsistent therewith, be corrected, modified or rescinded in accordance with such decree as soon as practicable after such decree has been brought to the notice of the local authority either by the Civil Court or by some person affected by such decree.

5. For the purpose of the preparation, making, or execution of any town-planning scheme any person authorized by the local authority or any public servant or person duly appointed or authorised under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land and do all acts necessary for such purpose. Right of entry.

IX of 1914. 6. (1) A local authority as defined in this Act shall be deemed to be a local authority as defined in the ⁴Local Authorities Loans Act, 1914, for the purpose of borrowing money under that Act, and the making and execution of a town-planning scheme shall be deemed to be a work which such local authority is legally authorized to carry out. Powers of local authority to borrow money and to make and execute a town-planning scheme.

(2) Any expenses incurred by a local authority under this Act or any town-planning scheme made thereunder may be defrayed out of its funds.

Bom. III of 1901. 7. Notwithstanding anything contained in sub-section (3) of section 187 of the Bombay District Municipal Act, 1901, the ³[Provincial Government] may declare any specified area, for which it is proposed to make a town-planning scheme, to be a notified area. Notified areas.

¹ This proviso was added by section 2 and Schedule I, Part II, of the Bombay Repealing and Amending Act, 1919 (Bom. 2 of 1919).

² These words were substituted for the words "without the sanction of the Governor-General, any Act of the Governor-General in Council" by the Adaptation of Indian Laws Order in Council.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

⁴ Central Acts.

CHAPTER II.

DECLARATION OF INTENTION TO MAKE A SCHEME, AND
PREPARATION OF DRAFT SCHEME.

Land in respect of which a town-planning scheme may be made.

8. (1) A town-planning scheme may be made in accordance with the provisions of this Act in respect of any land which is in course of development or is likely to be used for building purposes.

(2) Where it appears to the ¹[Provincial Government] that a piece of land already built upon, or a piece of land not likely to be used for building purposes is so situated with respect to any land which is in course of development or likely to be used for building purposes that it ought to be included in any town-planning scheme intended to be made with respect to the last-mentioned land, the ¹[Provincial Government] may sanction the making of a scheme including such piece of land as aforesaid, and providing for the demolition or alteration of any buildings thereon so far as may be necessary for carrying the scheme into effect.

(3) The expression "land likely to be used for building purposes" shall include any land likely to be used as, or for the purpose of providing, open spaces, roads, streets, parks, pleasure or recreation grounds, or for the purpose of executing any work upon or under the land incidental to a town-planning scheme, whether in the nature of a building work or not, and the decision of the ¹[Provincial Government] as to whether land is likely to be used for building purposes or not shall be final.

Powers of a local authority to resolve on a declaration of intention to make a scheme and of the Provincial Government to sanction such declaration.

9. (1) The local authority having jurisdiction over any such land as is referred to in section 8 may by resolution declare its intention to make a town-planning scheme in respect of the whole or any part of such land and of any land which is in the vicinity of such land but which is not included in any other municipal or notified area, provided that for the making of such scheme the sanction of the ¹[Provincial Government] shall be necessary.

(2) Within twenty-one days from the date of such declaration (hereinafter referred to as a declaration of intention to make a scheme), the local authority shall despatch a copy thereof for publication in the ²[Official Gazette] and shall publish it in the prescribed manner and shall apply to the ¹[Provincial Government] for sanction for the making of such scheme.

(3) With its application for such sanction the local authority shall send to the ¹[Provincial Government] a plan showing the area which it proposes to include in the town-planning scheme and the surrounding lands.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

(4) A copy of such plan shall be open to the inspection of the public at all reasonable hours at the head office of the local authority.

(5) If within one month from the date of such publication in the ¹[*Official Gazette*] any person likely to be affected by such scheme communicates in writing to the ²[Provincial Government] any objection or suggestion relating to such scheme the ²[Provincial Government] shall consider such objection or suggestion.

(6) After receiving such application and after making such inquiry as ³[it] may think fit, the ²[Provincial Government] may, by notification in the ¹[*Official Gazette*], either sanction the making of such scheme with or without modifications and subject to such conditions as ³[it] may think fit to impose, or ³[it] may by a similar notification refuse to give sanction.

10. (1) Within twelve months from the date of the notification sanctioning the making of a town-planning scheme the local authority shall in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given. Preparation and publication of draft scheme.

(2) If such publication is not made by the local authority within twelve months from the date of such notification, the ²[Provincial Government] in the City of Bombay or the Commissioner elsewhere may in consultation with the owners prepare, and publish in the prescribed manner, a draft scheme for the area in respect of which sanction has been given within a further period of nine months.

(3) If such publication is not made by the ²[Provincial Government] or the Commissioner, as the case may be, within the further period specified in sub-section (2), the sanction of the ²[Provincial Government] for the making of such town-planning scheme shall lapse, and until a period of three years has elapsed from the date of such sanction it shall not be competent to the local authority to apply for fresh sanction for the making of any town-planning scheme for the same area or for any part of it. Lapsing of sanction.

11. The draft scheme shall contain the following particulars :—

- (a) the area, ownership and tenure of each original plot ;
- (b) the land allotted or reserved under clause (d) of section 3, with a general indication of the uses to which such land is to be put ;
- (c) the extent to which it is proposed to alter the boundaries of original plots ;
- (d) an estimate of the net cost of the scheme to be borne by the local authority ;
- (e) a full description of all details of the scheme under such clauses of section 3 as may be applicable ; and
- (f) any other prescribed particulars.

Contents of draft scheme.

¹ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

² The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

³ The word "it" was substituted for the word "he" by *ibid.*

Reconstituted plots.

12. (1) In the draft scheme the size and shape of every reconstituted plot shall be so determined as to render it, so far as may be, suitable for building purposes.

(2) In order to render original plots more suitable for building purposes the draft scheme may contain proposals—

- (a) to form a reconstituted plot by the alteration of the boundaries of an original plot,
- (b) to provide with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall hereafter, with or without alteration of boundaries, be held in ownership in common as a reconstituted plot,
- (c) to allot a plot to any owner dispossessed of land in furtherance of the scheme, and
- (d) to transfer the ownership of a plot from one person to another.

Objections to the draft scheme to be considered.

13. If within one month from the date of publication of the draft scheme any person affected by such scheme communicates in writing to the local authority any objection relating to such scheme the local authority shall consider such objection and may, at any time before submitting the draft scheme to the ¹[Provincial Government] as hereinafter provided, modify such scheme as it thinks fit.

Power of the Provincial Government to sanction a draft scheme.

14. (1) The local authority shall then submit the draft scheme with any modifications which it may have made therein together with the objections which may have been communicated to it to the ¹[Provincial Government] and shall at the same time apply for ²[its] sanction.

(2) After receiving such application and after making such inquiry as ³[it] may think fit, the ¹[Provincial Government] may, by notification in the ⁴[Official Gazette] either sanction such scheme with or without modifications and subject to such conditions as ³[it] may think fit to impose, or ³[it] may by a similar notification refuse to give sanction.

(3) If the ¹[Provincial Government] sanctions such scheme, ³[it] shall in such notification state at what place and time the draft scheme shall be open to the inspection of the public.

Restrictions after declaration.

15. (1) When a local authority has published a declaration of intention to make a scheme—

- (a) no person shall within the area included in the scheme erect or proceed with any building or work ⁵[or remove, pull down

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The word "its" was substituted for the word "his" by *ibid.*

³ The word "it" was substituted for the word "he" by *ibid.*

⁴ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

⁵ These words were inserted by section 2 (a) of the Bombay Town Planning (Amendment) Act, 1920 (Bom. 13 of 1920).

or alter any building or part of a building or remove any earth, stone or material] unless such person has applied for and obtained the necessary permission which shall be contained in a commencement certificate granted by the local authority in the form prescribed ;

- (b) the local authority on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after enquiry may either grant or refuse such certificate or grant it subject to such conditions as may be consistent with the scheme ; but if the local authority communicates no decision to the applicant within three months from the date of such acknowledgment he shall be deemed to have been granted such certificate ;
- (c) if in the opinion of the local authority any person contravenes the provisions contained in clause (a) or clause (b), the local authority after making enquiry in the prescribed manner may by notice in writing direct such person to stop any work in progress ;
- (d) any expenses incurred by the local authority under clause (c) shall be a sum due to the local authority under this Act from the person in default ;

¹(e) any diminution in the value of an original plot occasioned by any contravention of clause (a) or clause (b) shall, notwithstanding anything contained in section 16, 17 or 19, be taken into account in fixing the market value of such plot.]

(2) No person shall be entitled to compensation in respect of any damage, loss or injury resulting from any action taken by the local authority under the provisions of this section or of section 43, except in respect of a building or work begun or a contract entered into before the date on which the local authority published a declaration of intention to make a scheme, and only in so far as such building or work has proceeded at the time of the publication of the declaration of intention to make a scheme.

(3) The restrictions imposed by this section shall cease to operate in the event of the ²[Provincial Government] refusing to sanction the making of a town-planning scheme, or in the event of the sanction of the ²[Provincial Government] for the making of such scheme lapsing, or in the event of the ²[Provincial Government] refusing to sanction the draft scheme.

¹ This clause was added by section 2 (b) of the Bombay Town Planning (Amendment) Act, 1920 (Bom. 13 of 1920).

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

CHAPTER III.

FINANCE.

Costs of the scheme.

16. (1) The costs of a town-planning scheme shall include—

- (a) all sums payable by the local authority under the provisions of this Act which are not specifically excluded from the costs of the scheme ;
- (b) all sums spent or estimated to be spent by the local authority in the making and in the execution of the scheme ;
- (c) all legal expenses of the local authority incurred in the making and in the execution of the scheme ; and
- (d) any amount by which the total of the values of the original plots exceeds the total of the values of the plots included in the final scheme, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme with all the buildings and works thereon at that date and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries.

(2) If in any case the total of the values of the plots included in the final scheme exceeds the total of the values of the original plots, each of such plots being estimated in the manner provided in clause (d) of sub-section (1), then the amount of such excess shall be deducted in arriving at the costs of the scheme, as defined in sub-section (1).

Calculation of increment.

17. ¹[For the purposes of this Act the increment shall be deemed to be the amount by which at the date of the declaration of intention to make a scheme the market value of a plot included in the final scheme estimated on the assumption that the scheme has been completed would exceed at the same date the market value of the same plot estimated without reference to improvements contemplated in the scheme :]

provided that in estimating such values the value of buildings or other works erected or in the course of erection on such plot shall not be taken into consideration.

Contribution towards the costs of the scheme.

18. (1) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the local authority on each plot included in the final scheme calculated in proportion to the increment which is estimated to accrue in respect of such plot by the Tribunal of Arbitration :

provided that—

- (i) no such contribution shall exceed half the increment estimated by the Tribunal of Arbitration to accrue in respect of such plot ; and

¹ This paragraph was substituted by s. 3 of the Bombay Town Planning (Amendment) Act, 1920 (Bom. 13 of 1920).

- (ii) where a plot is subject to a mortgage with possession or to a lease, the Tribunal of Arbitration shall determine in what proportion the mortgagee or lessee on the one hand and the mortgagor or lessor on the other hand shall pay such contribution.

(2) The owner of each plot included in the final scheme shall be primarily liable for the payment of the contribution leviable in respect of such plot. Owner primarily liable for contribution.

19. The amount by which the total value of the plots included in the final scheme with all the buildings and works thereon allotted to a person falls short of or exceeds the total value of the original plots with all the buildings and works thereon of such person shall be deducted from or added to, as the case may be, the contributions leviable from such person, each of such plots being estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme other than improvements due to the alteration of its boundaries. Certain amount to be added to or deducted from the contribution leviable from a person.

20. Any right in an original plot which in the opinion of the arbitrator is capable of being transferred wholly or in part, without prejudice to the making of a town-planning scheme, to a reconstituted plot shall be so transferred and any right in an original plot which in the opinion of the arbitrator is not capable of being so transferred shall be extinguished: Transfer of right from original to reconstituted plot, or extinction of such right.

Provided that an agricultural lease shall not be transferred from an original plot to a reconstituted plot without the consent of all the parties to such lease.

21. The owner of any property or right which is injuriously affected by the making of a town-planning scheme shall, if he makes a claim before the arbitrator within the prescribed time, be entitled to obtain compensation in respect thereof from the local authority or from any person benefited or partly from the local authority and partly from such person, as the Tribunal of Arbitration may in each case determine: Compensation in respect of property or right injuriously affected by scheme.

Provided that the value of such property or right shall be held to be its market value at the date of the declaration of intention to make a scheme without reference to improvements contemplated in the scheme.

22. (1) Where property or a private right of any sort is alleged to be injuriously affected by reason of any provisions contained in a town-planning scheme, no compensation shall be paid in respect thereof if or in so far as the provisions are such as would have been enforceable without compensation under any rule having the force of law, by-law or Act in force at the time. Exclusion or limitation of compensation in certain cases

(2) Property or a private right of any sort shall not be deemed to be injuriously affected by reason of any provisions inserted in a town-planning scheme, which, with a view to securing the amenity of the area included in such scheme or any part thereof, impose any conditions and restrictions in regard to any of the matters specified in clause (i) of section 3.

Provision for case in which amount payable to owner exceeds amount due from him.

23. If the owner of an original plot is not provided with a plot in the final scheme, or if the contribution to be levied from him under section 18 is less than the total amount to be deducted therefrom under any of the provisions of this Act, the net amount of his loss shall be payable to him by the local authority in cash, or in such other way as may be agreed upon by the parties.

Provision for case in which value of developed plot is less than amount payable by owner.

24. (1) If from any cause the total amount which would be due to the local authority under the provisions of this Act from the owner of a plot to be included in the final scheme exceeds the value of such plot estimated on the assumption that the scheme has been completed, the arbitrator shall, at the request of the local authority, direct the owner of such plot to make payment to the local authority of the amount of such excess.

(2) If such owner fails to make such payment within the prescribed period, the arbitrator shall, if the local authority so requests, acquire the original plot of such defaulter and apportion the compensation among the owner and other persons interested in the plot on payment by the local authority of the value of such plot estimated at its market value at the date of the declaration of intention to make a scheme and without reference to improvements contemplated in the scheme; and thereupon the plot included in the final scheme shall vest absolutely in the local authority, free from all encumbrances but subject to the provisions of this Act:

provided that the payment made by the local authority on account of the value of the original plot shall not be included in the costs of the scheme.

Payment by adjustment of account.

25. All payments due to be made to any person by the local authority under this Act shall, as far as possible, be made by an adjustment in such person's account with the local authority in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment shall be paid in cash or in such other way as may be agreed upon by the parties.

Payment of net amount due to local authority.

26. (1) The net amount payable under the provisions of this Act by the owner of a plot included in the final scheme may at the option of the contributor be paid in one sum or in such instalments including charges for interest as shall be fixed by the local authority with the sanction of the ¹[Provincial Government] in the City of Bombay or the Commissioner elsewhere.

(2) Where more than one plot included in the final scheme is in the same ownership the net amount payable by such owner under the provisions of this Act shall be distributed over his several plots in proportion to the increment which is estimated to accrue in respect of each plot, unless the owner and the local authority agree to a different method of distribution.

¹The words "Provincial Government" were substituted for the words "Governor in Council." by the Adaptation of Indian Laws Order in Council.

27. (1) A local authority shall be competent to make any agreement with any person in respect of any matter which is to be provided for in a town-planning scheme, subject to the power of the ^{local authority to make} ^{Power of} ^{agreements.} ^{Government]} to modify or disallow such agreement and, unless it is otherwise expressly provided therein, such agreement shall take effect on and after the day on which the town-planning scheme comes into force.

(2) Such agreement shall not in any way affect the duties of the arbitrator or of the Tribunal of Arbitration as described in Chapter IV or the rights of third parties, but it shall be binding on the parties to the agreement notwithstanding any decision that may be passed by the arbitrator or by the Tribunal of Arbitration :

provided that if the agreement be modified by Government, either party shall have the option of avoiding it if he so elects.

28. Any sum due to the local authority under this Act which is not paid on the day when it becomes due shall be recovered by the Collector, according to law and under the rules for the time being in force for the recovery of arrears of land-revenue, on application being made to him by the local authority. ^{Recovery of arrears.}

CHAPTER IV.

THE ARBITRATOR AND THE TRIBUNAL OF ARBITRATION.

29. After a draft scheme has been sanctioned the ^{Appointment of arbitrator.} ^{Government]} shall appoint an arbitrator with sufficient establishment whose duties shall be as hereinafter provided.

30. In accordance with the prescribed procedure the arbitrator shall— ^{Duties of the arbitrator.}

(1) after notice given by him in the prescribed manner define and where it is in his opinion necessary, demarcate the areas allotted to, or reserved for, the local authority, and the reconstituted plots ;

(2) after notice given by him in the prescribed manner determine, in a case in which a reconstituted plot is to be allotted to persons in ownership in common, the shares of such persons ;

(3) fix the difference between the total of the values of the original plots and the total of the values of the plots included in the final scheme, in accordance with the provisions contained in clause (d) of sub-section (1) of section 16 ;

(4) estimate the increment to accrue in respect of each plot included in the final scheme, in accordance with the provisions contained in section 17 ;

(5) calculate the proportion in which the increment of the plots included in the final scheme shall be liable to contribution to the costs of the scheme, in accordance with the provisions contained in section 18 ;

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

(6) calculate the contribution to be levied on each plot included in the final scheme ;

(7) determine the amount to be deducted from or added to, as the case may be, the contributions leviable from a person, in accordance with the provisions contained in section 19 ;

(8) provide for the total or partial transfer of any right in an original plot to a reconstituted plot or provide for the extinction of any right in an original plot, in accordance with the provisions contained in section 20 ;

(9) estimate in reference to claims made before him, after notice given by him in the prescribed manner, the compensation to be paid to the owner of any property or right injuriously affected by the making of a town-planning scheme, in accordance with the provisions contained in section 21 and subject to the provisions contained in section 22 ;

(10) draw up in the prescribed form the final scheme in accordance with the draft scheme :

provided that—

(i) he may make variations from the draft scheme ;

(ii) any variation estimated by him to involve an increase of ten per centum in the costs of the scheme as described in section 16 shall require the sanction of the ¹[Provincial Government]:

provided further that he shall make no substantial variation without the consent of the local authority and without hearing any objections that may be raised by the owners concerned ; and that in the case of any substantial variation made by him the owners concerned shall have the right of appeal to the ¹[Provincial Government].

Certain decisions of the arbitrator shall be final.

31. Except in matters arising out of clauses (4), (5), (6) and (9) of section 30, and subject to the provisos contained in clause (10) of section 30, every decision of the arbitrator shall be final and conclusive and binding on all persons.

Arbitrator shall make proposals in certain matters.

32. In matters arising out of clauses (4), (5), (6) and (9) of section 30, the arbitrator shall estimate or calculate what is required by such clauses to be estimated or calculated and shall forthwith make proposals on all such matters to the President of the Tribunal of Arbitration for the decision of such Tribunal.

Constitution of the Tribunal of Arbitration.

33. (1) The Tribunal of Arbitration shall consist of a President and two Assessors.

(2) The President shall, in the City of Bombay, be a person who holds or has held office as a Judge of the High Court of Judicature, to be appointed by the Chief Justice, in the district of Karachi, be such Additional Judicial Commissioner as may be appointed by the Judicial Commissioner, and elsewhere the District Judge.

¹The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

(3) One of the Assessors shall be an impartial person to be appointed, in the City of Bombay, by such person who holds or has held office as a Judge of the High Court, in the district of Karachi, by such Additional Judicial Commissioner, and elsewhere by the District Judge.

(4) The other Assessor shall be the arbitrator.

(5) The President and the Assessor shall be appointed members of the Tribunal of Arbitration for such period as may be required by such Tribunal to decide in connection with a particular town-planning scheme all matters arising out of clauses (4), (5), (6) and (9) of section 30.

(6) The ¹[Provincial Government] may, if ²[it] thinks fit, remove for inability or misconduct or any other good and sufficient reason the Assessor appointed under sub-section (3) or the Arbitrator.

(7) If any member of the Tribunal of Arbitration is removed or dies or refuses or neglects to act or becomes incapable of acting, the authority who appointed such member shall appoint forthwith a fit person to take the place of such member.

34. The Tribunal of Arbitration may sit either at the Headquarters Place of the President or at any other place, within the local limits of his jurisdiction, which he may consider convenient for the decision of any matter before such Tribunal. where the Tribunal may sit.

35. Every party to any proceeding before the Tribunal of Arbitration shall be entitled to appear either in person or by his recognised agent. Right to appear by recognised agent.

36. All questions of law and procedure shall be decided by the President. All other questions shall be decided by the President and the two Assessors or by the majority of them. Decision of questions of law and procedure and other questions.

37. (1) After making such enquiry as the President may think fit the Tribunal of Arbitration may accept, modify, vary, or reject the proposals of the arbitrator and shall decide all matters arising out of clauses (4), (5), (6) and (9) of section 30. Powers of the Tribunal to decide matters finally.

(2) Every decision of the Tribunal of Arbitration shall be final and conclusive and binding on all persons.

38. Nothing contained in this Act shall be deemed to constitute the Tribunal of Arbitration to be a Court. Tribunal not a Court.

39. (1) The arbitrator, the President of the Tribunal of Arbitration, and the Assessor shall, save where they are salaried ³[servants of the Crown], be entitled to such remuneration, either by way of monthly salary or by way of fees or partly in one way and partly in the other, as the ¹[Provincial Government] may from time to time determine. Remuneration of arbitrator and Assessor and payment of incidental expenses of Tribunal.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The word " it " was substituted for the word " he " by *ibid.*

³ The words " servants of the Crown " were substituted for the words " officers of Government " by *ibid.*

(2) The salary of an arbitrator, a President of the Tribunal of Arbitration or an Assessor who is a salaried ¹[servant of the Crown], and any remuneration payable under sub-section (1) and all expenses incidental to the working of the Tribunal of Arbitration shall, unless the ²[Provincial Government] otherwise determines, be defrayed out of the funds of the local authority and shall be added to the costs of the scheme.

Final
scheme.

40. (1) After the Tribunal of Arbitration has decided all matters arising out of clauses (4), (5), (6) and (9) of section 30, the arbitrator shall forward the final scheme through the local authority to the ²[Provincial Government], ³[which], on sanctioning the same, shall publish a notification relating thereto in the ⁴[*Official Gazette*] and in any other way which may be prescribed.

(2) In such notification it shall be stated where the final scheme is open to the inspection of the public and the price at which copies may be obtained, and a date not earlier than one month after the publication of such notification shall be fixed as the date on which all liabilities created by the scheme shall take effect and the final scheme shall come into force.

(3) On and after the date fixed in such notification a town-planning scheme shall have effect as if it were enacted in this Act.

Effect of
final scheme.

41. On the day on which the final scheme comes into force—

- (a) all lands required by the local authority shall, unless it is otherwise determined in such scheme, vest absolutely in the local authority free from all encumbrances;
- (b) all rights in original plots which have been reconstituted shall determine and the reconstituted plots shall become subject to the rights settled by the arbitrator.

Power of
local
authority
to evict
summarily.

42. On and after the day on which the final scheme comes into force any person continuing to occupy any land which he is not entitled to occupy under the final scheme may, in accordance with the prescribed procedure, be summarily evicted by the local authority.

Power to
enforce
scheme.

43. (1) On and after the day on which the final scheme comes into force the local authority may after giving the prescribed notice and in accordance with the provisions of the scheme—

- (a) remove, pull down, or alter any building or other work in the area included in the scheme which is such as to contravene the scheme or in the erection or carrying out of which any provision of the scheme has not been complied with;

¹ The words "servant of the Crown" were substituted for the words "officer of Government" by the Adaptation of Indian Laws Order in Council.

² The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

³ The word "which" was substituted for the word "who" by *ibid.*

⁴ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(b) execute any work which it is the duty of any person to execute under the scheme in any case where it appears to the local authority that delay in the execution of the work would prejudice the efficient operation of the scheme.

(2) Any expenses incurred by a local authority under this section may be recovered from the persons in default in the manner hereinbefore provided for the recovery of sums due to the local authority under the provisions of this Act.

(3) If any question arises as to whether any building or work contravenes a town-planning scheme, or whether any provision of a town-planning scheme is not complied with in the erection or carrying out of any such building or work, that question shall be referred to the ¹[Provincial Government] in the City of Bombay or the Commissioner elsewhere, and ²[its or his] decision shall be final and conclusive and binding on all persons.

44. For the purposes of this Act an officer appointed under sub-section (1) of section 4, an arbitrator or a Tribunal of Arbitration may summon and enforce the attendance of witnesses including the parties interested or any of them and compel them to give evidence and compel the production of documents by the same means and, as far as possible, in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.

Power to compel attendance of witnesses.

⁷ of 1908.

CHAPTER V.

MISCELLANEOUS.

45. (1) When two or more local authorities are of opinion that the interests of contiguous areas within their respective jurisdictions can best be served by the making of a joint town-planning scheme, and the ¹[Provincial Government] agrees with such opinion, a joint Town Planning Board shall be constituted.

Joint town-planning schemes.

(2) Such Board shall consist of representatives of each of the several local authorities and of persons nominated by the ¹[Provincial Government] in such proportion as may be prescribed.

(3) The representatives of the several local authorities shall be elected in the prescribed manner on dates appointed by the ¹[Provincial Government] in the City of Bombay and by the Commissioner elsewhere.

(4) Such Board, when duly constituted, shall make a declaration of intention to make a joint town-planning scheme in respect of the contiguous areas in the manner provided in section 9 and thereafter the procedure shall follow all the provisions of this Act and such Board shall have all the powers and be liable to all the duties of a local authority under the provisions of this Act.

(5) The draft joint town-planning scheme shall specify the parts of the scheme to be executed by the several local authorities in the

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "its or his" were substituted for the word "his" by *ibid.*

several contiguous areas and the several parts of the scheme shall, when notified in the final scheme, have effect in the several contiguous areas as if they were separate schemes :

provided that any part of a joint town-planning scheme may be executed jointly by two or more local authorities. .

Vesting of property and rights of a local authority ceasing to exist or ceasing to have jurisdiction.

¹[45A. When any local authority ceases to exist or ceases to have jurisdiction over any area included in a town-planning scheme the property and rights vested in such local authority under this Act shall, subject to all charges and liabilities affecting the same, vest in such other local authority or authorities as the ²[Provincial Government] may, with the consent of such authority or authorities, by notification in the ³[*Official Gazette*] direct; and such local authority or each one of such local authorities shall have all the powers under this Act in respect of such scheme or such part of a scheme as comes within its jurisdiction which the local authority ceasing to exist or ceasing to have jurisdiction had.]

Power to vary or revoke a town-planning scheme.

46. (1) A town-planning scheme may at any time be varied or revoked by a subsequent scheme prepared, published and sanctioned in accordance with this Act.

(2) The ²[Provincial Government], on the application of the local authority or of any person appearing to ⁴[it] to be interested, may at any time, by notification in the ³[*Official Gazette*], revoke a town-planning scheme if ⁴[it] thinks that under the special circumstances of the case the scheme should be so revoked.

Compensation when final scheme is varied or revoked.

47. If at any time after the day on which the final scheme has come into force such scheme is varied or revoked, any person who has incurred expenditure for the purpose of complying with such scheme shall be entitled to receive compensation from the local authority, in so far as any such expenditure is rendered abortive by reason of the variation or revocation of such scheme.

Provincial Government may itself or through any person exercise power or perform duty conferred or imposed on a local authority.

48. If in the opinion of the ²[Provincial Government] any local authority is not competent to exercise or perform, or neglects or fails to exercise or perform, any power conferred or duty imposed upon it under any of the provisions of this Act, the ²[Provincial Government], or any person or persons appointed in this behalf by the ²[Provincial Government], may exercise such power or perform such duty.

¹ Section 45A was inserted by s. 2 of the Bombay Town Planning (Second Amendment) Act, 1920 (Bom. 16 of 1920).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

⁴ The word "it" was substituted for the words "him" and "he" by *ibid.*

49. No suit or other legal proceeding shall be maintained in respect of the exercise of any discretion conferred by this Act or against any public servant or person duly appointed or authorised under this Act in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Bar of legal proceedings.

XVI
of
1908.

50. (1) Nothing in the ¹Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a final scheme which has come into force and which has not been revoked.

Registration of document, plan or map in connection with a final scheme is not required.

XVI
of
1908.

(2) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the ¹Indian Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act :

provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

I of
1894.

51. Land needed for the purpose of a town-planning scheme shall be deemed to be land needed for a public purpose, within the meaning of the ¹Land Acquisition Act, 1894.

Land needed for purpose of town-planning scheme may be compulsorily acquired.

52. (1) The ²[Provincial Government] may make rules consistent with the provisions of this Act to provide for all matters not specifically enacted therein.

Rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules shall be made to determine the following matters :—

- (a) the procedure to be followed by the officer appointed to hold an enquiry for the purpose of deciding a disputed claim as to ownership under section 4 ;
- (b) the notice to be given under section 5 ;
- (c) the manner of publication of a declaration of intention to make a scheme under sub-section (2) of section 9 ;
- (d) the manner of publication of a draft scheme under section 10 ;
- (e) the further particulars to be prescribed for inclusion in the draft scheme under clause (f) of section 11 ;
- (f) the form of the commencement certificate to be granted by a local authority under clause (a) of sub-section (1) of section 15 and the conditions, if any, to be included therein ;
- (g) the procedure to be followed by a local authority in making an enquiry under clause (c) of sub-section (1) of section 15 ;

¹ Central Acts.

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

- (h) the time to be allowed for making a claim to compensation under section 21 ;
 - (i) the period within which payment is to be made to the local authority under section 24 ;
 - (j) the procedure to be prescribed under section 30 and the notices to be given under sub-sections (1), (2) and (9) of that section ;
 - (k) the form in which the arbitrator is to draw up the final scheme under sub-section (10) of section 30 ;
 - (l) the way in which the ¹[Provincial Government] is to publish a notification relating to the final scheme under sub-section (1) of section 40 ;
 - (m) the procedure to be followed by the local authority in summarily evicting a person under section 42 ;
 - (n) the notice to be given by the local authority before it takes action under section 43 ;
 - (o) the proportion of elected and nominated persons on a Joint Planning Board under sub-section (2) of section 45 ;
 - (p) the manner of election of representatives of the several local authorities under sub-section (3) of section 45 ;
 - (q) the manner in which documents, plans and maps shall be made accessible to the public under the proviso to section 50 ;
 - (r) the procedure to be adopted for securing co-operation on the part of the local authority with the owners or persons interested in land proposed to be included in a town-planning scheme at every stage of the proceedings by means of conferences and such other means as may be expedient ;
 - (s) the procedure to be followed by an arbitrator appointed under this Act ;
 - (t) the procedure to be followed by a Tribunal of Arbitration under this Act ;
 - (u) the procedure to be followed generally in carrying out the provisions and objects of this Act ;
 - (v) the extent to which the proceedings of local authorities under this Act shall be regulated by any municipal or local law applicable to such authorities.
- (3) The power to make rules under this Act shall be subject to the condition of previous publication.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. III OF 1915.¹

[THE BOMBAY DECENTRALIZATION ACT, 1915.]

[15th June, 1915]

Repealed in part, by Bom. Act 7 of 1920.

" " " " " Act 3 of 1937.

An Act to decentralize and otherwise to facilitate the administration of certain enactments in force in the Presidency of Bombay.

WHEREAS it is expedient to decentralize and otherwise to facilitate the administration of certain enactments in force in the Presidency of Bombay ;

AND WHEREAS the previous sanction of the Governor General required by section 5 of the ²Indian Councils Act, 1892, has been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Decentralization Act, Short title.
1915.

2. The enactments specified in the third columns of the Schedules I Amendments and II are hereby amended to the extent and in the manner specified of certain in the fourth columns thereof. enactments.

3. Any appointment, notification, order, scheme, rule, form or Saving of bye-law made or issued by an authority for the making or issuing of orders, etc., which a new authority is substituted by or under this Act shall, unless issued by inconsistent with this Act, be deemed to have been made or issued by previous such new authority unless and until superseded by an appointment, notification, scheme, rule, form or bye-law made or issued by such new authorities. authority.

SCHEDULE I.

[The amendments made by Schedule I have been incorporated in the principal Acts.]

SCHEDULE II.

[Rep. by Act 3 of 1937, schedule.]

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1914, Part VII, page 1066; for Report of Select Committee, see *ibid.*, 1915, Part VII, page 97; and for Proceedings in Council, see *ibid.*, 1915, Part VII, pages 84 and 245.

² See now the Government of India Act, 1935.

THE BOMBAY CITY SURVEY ACT, 1915.

CONTENTS.

PREAMBLE.**SECTIONS.**

1. Short title and extent.
2. Interpretation clause.
3. Provincial Government may order survey and appoint Superintendent.
4. Superintendent may enter upon land.
5. Notice to be served on holders to attend.
6. After service of notices Superintendent may proceed with survey.
7. Survey map and register.
8. Superintendent may erect boundary marks.
9. Maintenance of temporary boundary marks.
10. Survey-fee may be charged.
11. All documents connected with the survey to be sent to the Collector.
12. Maintenance of survey map and register.
13. Revision of maps.
14. How notices may be served.
15. Privilege of title-deeds.
16. Amendment of section 19 of Bombay Act II of 1876.
17. Amendment of section 31 of Bombay Act II of 1876.
18. Rules.
19. Proceedings not to be affected by informality.

BOMBAY ACT No. IV OF 1915.¹

[THE BOMBAY CITY SURVEY ACT, 1915.]

[7th October, 1915]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for a survey of the Town and Island of Bombay.

WHEREAS it is expedient to provide for the survey and demarcation of land in the Town and Island of Bombay; It is hereby enacted as follows :—

1. (1) This Act shall be called the Bombay City Survey Act, 1915; Short title.
and extent.
- (2) It extends to the Town and Island of Bombay.
2. In this Act unless there is anything repugnant in the subject or context,— Interpretation
clause.
 - (a) "Survey" includes identification of boundaries and all other operations antecedent to, or connected with, survey; "Survey".
 - (b) "Superintendent" means Superintendent of Survey under this Act; "Superintendent".
 - (c) "Land" includes anything attached to the earth or permanently fastened to anything attached to the earth; "Land".
 - (d) "Holder", in relation to any land, means the occupier of such land, or where rent is paid for such land, any person in receipt of rent for such land who does not pay rent to another person; "Holder".

Explanation.—"Rent" in this clause does not include money paid for land to ²[the Crown] or to the Municipal Corporation of the City of Bombay or to the Trustees for the Improvement of the City of Bombay or to the Trustees of the Port of Bombay or to a fazendar, except when such money is paid by a person holding such land on a tenancy for a term of less than one year.

3. (1) The ³[Provincial Government] may, whenever ⁴[it] thinks fit, order that a survey shall be made of the lands situated in the Town and Island of Bombay, and for such purpose may appoint a Superintendent of Survey and one or more Assistant Superintendents of Survey. Provincial
Government
may order
survey and
appoint
Superintend-
ent.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1914, Part VII, page 1058; for Report of Select Committee, see *ibid.*, 1915, Part VII, page 105; and for Proceedings in Council, see *ibid.*, 1915, Part VII, pages 70 and 415.

² The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by *ibid.*

⁴ The word "it" was substituted for the word "he" by *ibid.*

(2) The Assistant Superintendents shall exercise such powers as may be delegated to them by the Superintendent.

Superintendent may enter upon land.

4. The Superintendent or any other officer employed in the survey may enter, between the hours of sunrise and sunset, upon any land within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry or of anything done on such land in pursuance of this Act :

Provided that no such entry shall be made unless a notice of the intention to make such entry has been posted at least twenty-four hours previously in some conspicuous manner on the land.

Notice to be served on holders to attend.

5. Before entering on any land for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on the holder or occupier of the land about to be surveyed and on the holders or occupiers of conterminous lands, calling upon them to attend either personally or by agent on such land before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice), for the purpose of pointing out boundaries and of affording such information as may be needed for the purposes of this Act, and intimating that in the event of their failing to attend he or such officer will proceed with the survey in their absence.

After service of notices Superintendent may proceed with survey.

6. After due service of notice under section 5, the Superintendent, or such officer as may be authorized by him, may proceed with the survey whether the persons upon whom notices have been served are present or not.

Survey map and register.

7. (1) The Superintendent shall prepare a map and a register of all lands which have been surveyed under this Act.

(2) To every piece of land separately shown on the map and entered in the register an indicative number shall be assigned, and the name of the person appearing to be the holder thereof at the time of the survey shall be entered in the register.

(3) Nothing contained in such map or register shall affect the rights of any person.

Superintendent may erect boundary marks.

8. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary marks of such materials and in such number and manner as he may determine to be sufficient for the purpose of the survey :

Provided that no permanent boundary mark shall be erected when the boundary is defined by a permanent building, wall or fence.

Maintenance of temporary boundary marks.

9. (1) When any temporary boundary mark has been erected under section 8, the Superintendent may cause a notice in writing under his hand to be served on the holder of the land whereon, or adjoining which, such boundary mark is situate, requiring him to maintain such boundary mark till the survey has been completed.

(2) Should such holder not comply with such notice, the Superintendent may repair the boundary mark and expenses shall be recoverable from such holder as an arrear of land revenue under the provisions of the Bombay City Land-revenue Act, 1876.

Bom.
II of
1876.

10. (1) The holder of any land surveyed under this Act shall be liable to the payment of a survey-fee assessed on the area and rateable value of such land :

Survey-fee
may be
charged.

Provided that the aggregate amount of the survey-fees assessed under this section shall not be greater than one-half of the total cost of the survey.

(2) The amount of the survey-fee payable under sub-section (1) shall be regulated by the Collector in accordance with rules made by the ¹[Provincial Government] under section 18 :

Provided that—

(a) no survey-fee shall be payable by ²[the Crown] or by the Municipal Corporation of the City of Bombay or by the Trustees for the Improvement of the City of Bombay or by the Trustees of the Port of Bombay ;

(b) the holder of any land of which the area and rateable value do not exceed such limit as may be prescribed by rule made by the ¹[Provincial Government] under section 18 shall be exempt from the payment of any survey-fee in respect of that land ;

(c) no survey-fee shall be payable in respect of buildings and lands exclusively occupied for public worship or for charitable purposes which under the City of Bombay Municipal Act, 1888, are exempt from the levy of the general tax.

Bom.
III of
1888.

(3) Any survey-fee assessed in accordance with sub-sections (1) and (2) shall be payable within three months from the date of a notice to be served by the Collector upon the person liable therefor after the completion of the survey of the Town and Island of Bombay, and such survey-fee shall be leviable as an arrear of land revenue under the provisions of the Bombay City Land-revenue Act, 1876.

Bom.
II of
1876.

(4) Any person who has paid the survey-fee assessed on any land under this section shall be entitled to receive free of charge a certified extract from the map and a certified extract from the register prepared under section 7, so far as they relate to such land.

11. (1) After the survey of any part of the town has been completed, the Superintendent shall deposit with the Collector all maps, registers and other documents connected with the survey of such part.

All
documents
connected
with the
survey
to be sent
to the
Collector.

(2) Such deposit shall be notified in the ³[Official Gazette], and any person interested in the survey may, at any time within two months

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " the Crown " were substituted for the word " Government " by *ibid.*

³ The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

from the date of such notification, inspect such maps, registers and other documents free of charge.

(3) During such period the Collector may, if necessary and without prejudice to the rights of any of the parties concerned, cause the map or the register prepared under section 7 to be corrected free of charge.

Maintenance
of survey
map and
register.

12. (1) The map and register prepared under section 7 shall be maintained by the Collector, who shall cause the map to be revised and the entries in the register to be corrected from time to time as may be necessary, without prejudice to the rights of any person :

Provided that no person shall for the purposes of this Act be required to give notice of the acquisition of any interest in land.

(2) The Collector may assess the cost of the revision of any part of the map and all contingent expenses on the land to which such part relates, and such cost shall be payable by the holder of such land, subject to the same exemption as is provided in section 10, sub-section (2), proviso (a), with reference to the payment of survey-fees and shall be leviable as an arrear of land revenue under the provisions of the Bombay City Land-revenue Act, 1876.

Bom
II of
1876

Revision of
maps.

13. Subject to rules made in this behalf by the ¹[Provincial Government] under section 18, any officer acting under the orders of the Collector of Bombay may, for the purpose of revising any map prepared under this Act, exercise any of the powers of a Superintendent under this Act.

How notices
may be
served.

14. Every notice required by this Act to be served on any person may be served—

(a) by delivering the same to such person, or when such person cannot be found, by posting the same on some conspicuous part of the house in which such person usually resides or holds his office or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family, and, in the case of a notice served under section 5 or section 9, by fixing a copy in some conspicuous manner on the land to which it relates ; or

(b) by sending a registered cover through the post office containing such notice addressed to such person at the place where he resides.

Privilege of
title-deeds.

15. No person shall for the purposes of this Act be compelled to produce his title-deeds to any land or to disclose their contents.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

16-17. [*Amendments made by sections 16 and 17 have been incorporated in the Bombay City Land-revenue Act, 1876 (Bom. II of 1876.)*]

18. (1) The ¹[Provincial Government] may make rules not Rules. inconsistent with this Act to carry out the objects and provisions thereof.

(2) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

19. No proceedings under this Act shall be affected by reason of any informality, provided that the provisions of this Act be in substance and effect complied with. Proceedings not to be affected by informality.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

THE BOMBAY DISQUALIFICATION OF ALIENS ACT, 1918.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Disqualification of aliens.
4. Effect of subsequent disqualification.
5. Exemption.
6. Modification of schedule.

SCHEDULE.

BOMBAY ACT No. VI OF 1918.¹

[THE BOMBAY DISQUALIFICATION OF ALIENS ACT, 1918.]

[17th September, 1918]

Repealed in part, by Act 38 of 1920.

Amended, by Bom. Act 4 of 1920.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to disqualify certain aliens from being members, and from voting at elections of members, of certain local authorities in the presidency of Bombay.

WHEREAS it is expedient that certain aliens should be disqualified from being members, and from voting at elections of members, of certain local authorities in the presidency of Bombay; It is hereby enacted as follows:—

1. This Act may be called the Bombay Disqualification of Aliens Short title. Act, 1918.

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

²[(a) “alien” means—

(i) a person who is neither a British subject nor a subject of ³[an Indian State], or

(ii) a person who, whether he is himself within the foregoing definition or not, represents an alien firm as defined in clause (aa) for the purpose of voting at an election of a member of any of the local authorities specified in the schedule or for the purpose of membership of any of the said authorities;

(aa) “alien firm” means any firm, company, association or body of individuals (whether incorporated or not), a majority of the members of which are aliens as defined in sub-clause (i) of clause (a), or the business of which is carried on under the control or mainly for the benefit of aliens as so defined;]

⁴(b) “ * * * * *

(c) “member” includes a municipal councillor and a member of a body of trustees.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1918, Part V, page 266; and for Proceedings in Council, see *ibid.*, 1918, Part V, pages 857 to 889.

² These clauses were substituted for original clause (a) by s. 2 of the Bombay Disqualification of Aliens (Amendment) Act, 1920 (Bom. 4 of 1920).

³ The words “an Indian State” were substituted for the words “a State in India” by the Adaptation of Indian Laws Order in Council.

⁴ Clause (b) was omitted by *ibid.*

Disqualification of aliens.

3. Save as hereinafter otherwise provided, no alien shall be qualified to be a member of any of the local authorities specified in the schedule or to vote at any election of a member of any of the said authorities.

Effect of subsequent disqualification.

4. (1) If any person having become a member of any of the local authorities specified in the schedule, subsequently becomes an alien, his seat shall thereupon become vacant.

(2) Section 18 of the ¹City of Bombay Municipal Act, 1888, shall be read and construed as if, after the word "aforesaid", the words "or under the Bombay Disqualification of Aliens Act, 1918", were inserted. ^{Bom. III of 1888.}

(3) Section 15, sub-section (3) of the ²Bombay District Municipal Act, 1901, shall be read and construed as if, after the word "section" the words "or under the Bombay Disqualification of Aliens Act, 1918", were inserted. ^{Bom. III of 1901.}

Exemption.

5. The ³[Provincial Government] ⁴* * * may, by notification in the ⁵[Official Gazette], exempt any person or class of persons from the operation of this Act.

Modification of Schedule.

6. The ³[Provincial Government] may, by notification in the ⁵[Official Gazette], direct that the name of any of the local authorities specified in the schedule shall be omitted therefrom, or that the name of any other local authority shall be entered therein, and such direction shall have effect accordingly.

THE SCHEDULE.

Local authority.	Enactment under which the local authority is constituted.
The trustees of the port of Bombay	The Bombay Port Trust Act, 1879 (Bom. VI of 1879).
All local boards	⁶ The Bombay Local Boards Act, 1884 (Bom. I of 1884).
The trustees of the port of Karachi	The Karachi Port Trust Act, 1886 (Bom. VI of 1886).
The Municipal Corporation of the City of Bombay.	The City of Bombay Municipal Act, 1888 (Bom. III of 1888).
⁷ ***	* * *
The trustees for the improvement of the city of Bombay.	⁸ The City of Bombay Improvement Act, 1898 (Bom. IV of 1898).
All municipalities in municipal districts outside the city of Bombay.	The Bombay District Municipal Act, 1901 (Bom. III of 1901).

¹ Vol. III of this Code.

² *Supra*.

³ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

⁴ The words "with the approval of the Governor-General in Council" were repealed by s. 2 and Schedule I of the Devolution Act, 1920 (38 of 1920).

⁵ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

⁶ See now Bom. 6 of 1923.

⁷ The entry relating to the trustees of the port of Aden was omitted by the Adaptation of Indian Laws Order in Council.

⁸ The City of Bombay Improvement Act, 1898 (Bom. 4 of 1898), has been repealed by Bom. 16 of 1925 which in turn is repealed by Bom. 13 of 1933.

THE BOMBAY PUBLIC CONVEYANCES ACT, 1920.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Definitions.

Licensing of Public Conveyances.

3. Public conveyances to be licensed.
4. Licenses for public conveyances.
5. Grounds on which license may be refused or cancelled.
6. Number, etc., to be inscribed on conveyance.
7. Fees for public conveyance licenses.

Licensing of horses.

8. Licensing of horses.
9. Branding of horses.
10. Grounds on which license for horse may be refused or cancelled and examination by a veterinary practitioner.

Licensing of Drivers.

11. Drivers to be licensed.
12. Grounds on which driver's license may be refused or cancelled.
13. Drivers' badges.
14. Fees for drivers' licenses.

Provisions relating to licensees.

15. Licenses when suspended or cancelled to be returned.
16. Change of address of licensee to be reported.
- 16A. Licensee to report name of person left in charge of conveyance during his absence.
17. Public conveyance or horse to be produced for inspection when required.

Fares and stands.

18. Rates of fares.
19. Stands.
20. Driver to have his license as driver and list of fares.
21. Book of fares to be issued.

Offences and punishments.

22. Keeping public conveyance without license.
23. Failure to cause public conveyance to ply when so required by the police.
24. Licensee of public conveyance permitting unlicensed driver to use the same or permitting the same to be drawn by unlicensed horse.
25. Failure to produce public conveyance or horse for inspection.
26. Offences by drivers of public conveyances.
27. Failure to return license or to notify address.
28. Injury to public conveyance.
29. Compensation payable by driver causing damage.

Procedure.

30. Arrest by police.
31. Procedure in case of dispute.
32. Licensee may be required to produce driver : penalty.
33. Refusal to pay fare.

Miscellaneous.

34. Disposal of property : penalty.
35. Rules.
36. Extention of Act.
37. Power to apply or adapt certain provisions to vehicles not used for the purpose of plying for hire.
38. Powers may be exercised from time to time.
39. Repeal of certain enactments.

SCHEDULE.

BOMBAY ACT No. VII OF 1920.¹

[THE BOMBAY PUBLIC CONVEYANCES ACT, 1920.]

[17th June, 1920]

Amended by Bom. Act 2 of 1924.

" " " " 11 ,, 1924

" " " " 7 ,, 1928.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the Law relating to the regulation of public conveyances.

WHEREAS it is expedient to amend the law relating to the regulation of public conveyances; And whereas the previous sanction of the Governor General required by sub-section (2) of section 79 of the Government of India Act, 1915, has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 and 6
Geo. 5,
c. 61.

1. (1) This Act may be called the Bombay Public Conveyances Act, 1920. Short title
and extent.

(2) This section and sections 36, 38 and 39 extend to the whole of the Presidency of Bombay. The rest of the Act extends, subject to the provisions of section 36, only to the City of Bombay.

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

- (a) "Commissioner of Police" means the Commissioner of Police for the City of Bombay and includes any person authorised by him to exercise or perform any power or duty imposed or conferred on the Commissioner of Police by this Act;
- (b) "public conveyance" means a wheeled vehicle, drawn by one or more horses or other animals or by hand, which is used for the purpose of plying for hire for the conveyance of persons or goods;
- ²(c) "licensing year" means the year commencing on such date as the Commissioner of Police shall, subject to the condition of previous publication, fix for the purpose of licenses granted under this Act.
- (d) "driver" includes a conductor, attendant or other person in charge of a public conveyance;
- (e) "licensee" means the holder of a license granted under this Act for a public conveyance or a horse or a driver of a public conveyance.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1919, Part V, page 945; for Report of Select Committee, see *ibid*, 1920, Part V, page 51; and for Proceedings in Council, see *ibid*, 1919, Part V, page 1092; *ibid* 1920, page 265.

² Clause (c) was substituted for the original clause by Bom. 7 of 1928, s. 2.

Licensing of Public Conveyances.

Public conveyances to be licensed.

3. (1) No person shall keep or let for hire any public conveyance without a license granted by the Commissioner of Police in this behalf.

(2) On every public conveyance—

(a) the number of the conveyance as entered in the license granted for the same, and

(b) where the conveyance is licensed to carry passengers, the number of passengers which it is licensed to carry,

shall be clearly inscribed in such manner as the Commissioner of Police may direct.

Licenses for public conveyances.

4. (1) Such licenses shall remain in force for the licensing year, unless sooner determined under the provisions of this Act, and shall be renewable.

(2) Such licenses shall contain the following and such other particulars and conditions as the Commissioner of Police may prescribe :—

(a) the full name and address of the licensee ;

(b) the date on which the license was granted and the date on which it will expire by efflux of time ;

(c) the local area for which the license is granted ;

(d) the number and class of the conveyance ;

(e) the number of horses or other animals (if any) by which it is to be drawn ;

(f) the number of passengers (if any) which it may carry.

(3) Such licenses shall not be transferred by the licensee to any other person without the sanction of the Commissioner of Police and if transferred without such sanction shall thereupon become void. Such sanction when granted shall be endorsed on the license.

Grounds on which license may be refused or cancelled.

5. (1) The Commissioner of Police may refuse to grant a license for a public conveyance if in his opinion the conveyance is insufficiently found or is otherwise unfit for the purpose for which it is intended.

(2) The Commissioner of Police may refuse to renew, and may at any time suspend or cancel, a license for a public conveyance on either of the foregoing grounds, or if in his opinion—

(i) the licensee has committed a breach of any provision of this Act or of a rule made under this Act or of a condition of the license, or

(ii) a conveyance licensed for carrying goods has been used for carrying passengers.

(3) When refusing to renew, or suspending or cancelling a license for a public conveyance, the Commissioner of Police may erase the inscription made thereon in accordance with this Act.

6. (1) When granting or renewing a license for a public conveyance, and at other times when necessary, the Commissioner of Police shall cause the particulars required by clauses (a) and (b) of sub-section (2) of section 3 to be painted or otherwise clearly inscribed upon the conveyance. Number,
etc., to be
inscribed on
conveyance.

(2) No fee shall be charged for any inscription made under the foregoing sub-section when it is made at the time when the license is granted or at the annual renewal of the license, but when such inscription is made at any other time ¹[the licensee shall pay such sum towards the cost of such inscription as the Commissioner of Police shall by rules direct].

7. (1) For the grant of a license for a public conveyance a fee shall be charged at such rate as the Commissioner of Police shall prescribe. Fees for
public
conveyance
licenses.

(2) For the renewal of such license a fee at one-half of the rate chargeable under the foregoing sub-section shall be charged.

Licensing of horses.

8. (1) No horse shall be used for drawing a public conveyance except under a license granted by the Commissioner of Police in respect of such horse. Licensing
of horses.

(2) Such licenses shall remain in force for the licensing year unless sooner determined under this Act, and shall be renewable.

(3) Such licenses shall contain the following and such other particulars and conditions as the Commissioner of Police may prescribe :

- (a) the full name and address of the licensee ;
- (b) the date on which the license was granted and the date on which it will expire by efflux of time ;
- (c) the local area for which the license is granted ;
- (d) a description of the horse for which the license is granted and the marks of identification of the same ;
- (e) the class of conveyance to draw which the horse may be used.

(4) Such licenses may not be transferred by the licensee to any person without the sanction of the Commissioner of Police and if transferred without such sanction shall thereupon become void. Such sanction shall be endorsed on the license.

²[(5) Such licenses shall if so directed by the Commissioner of Police be carried in the public conveyance for drawing which the horse is being used and shall be produced for inspection whenever required by any police officer.]

¹ These words were substituted for the words " a fee at one-half of the rate chargeable for the grant of a license for a public conveyance under section 7, sub-section (1), shall be charged " by Bom. 7 of 1928, s. 3.

² This sub-section (5) was added by *ibid*, s. 4.

Branding
of horses.

9. When granting a license for a horse the Commissioner of Police ¹[may, if he thinks it necessary] brand such horse on the hoof in such manner that it may be easily identified.

Grounds
on which
license for
horse may
be refused
or cancelled
and exami-
nation by
a veterinary
practitioner.

10. (1) The Commissioner of Police may refuse to grant or renew, and may at any time suspend, a license for a horse if in his opinion such horse is in any way unfit for use in a public conveyance.

(2) In case of such refusal or suspension the owner of the horse or licensee, as the case may be, may require that such horse be examined by a veterinary practitioner of the Government or of a local authority, and, if in the opinion of such practitioner the horse is fit for use in a public conveyance, the Commissioner of Police shall grant or renew the license or cancel the order of suspension.

Licensing of Drivers.

Drivers to be
licensed.

11. (1) No person shall act as driver of a public conveyance without a license granted by the Commissioner of Police in this behalf.

(2) Such licenses shall remain in force for the licensing year unless sooner determined under this Act, and shall be renewable.

(3) Such licenses shall contain the following and such other particulars and conditions as the Commissioner of Police may prescribe :

- (a) the full name and address of the licensee ;
- (b) the date on which the license was granted and the date on which it will expire by efflux of time ;
- (c) the local area for which the license is granted ;
- (d) the class of public conveyance which the licensee is licensed to drive.

Grounds
on which
driver's
license may
be refused or
cancelled.

12. (1) The Commissioner of Police may refuse to grant a license to a driver if in his opinion such driver ²[is not competent and careful or] is unfit on account of youth, infirmity, bad character or any other reason to pursue the occupation of driver of a public conveyance.

(2) The Commissioner of Police may refuse to renew, and may at any time suspend or cancel, a driver's license on the foregoing grounds or if the holder has committed a breach of any provision of this Act or of a rule made under this Act or of a condition of the license.

Drivers'
badges.

13. (1) When granting a license to a driver the Commissioner of Police shall provide him with a metal badge bearing the number of the license.

(2) Every driver who has received such badge shall wear the same on a conspicuous part of his dress at all times when pursuing his occupation as driver.

¹ These words were substituted for the word " shall " by Bom. 7 of 1928, s. 5.

² These words were inserted by Bom. 2 of 1924, s. 2.

(2) No driver who has received such badge shall permit any other person to wear the same : provided that any person, other than the driver to whom a badge has been given by the Commissioner of Police, who shall wear such badge shall be presumed, until the contrary is proved, to wear it with such driver's permission.

14. (1) For the grant of a license to a driver a fee shall be charged at such rate as the Commissioner of Police shall prescribe. Fees for drivers' licenses.

(2) For the renewal of such license a fee at one-half of the rate chargeable under the foregoing sub-section shall be charged.

Provisions relating to licensees.

15. Every license which has been suspended or cancelled shall be returned by the licensee to the Commissioner of Police within twenty-four hours after the suspension or cancellation thereof. Licenses when suspended or cancelled to be returned.

16. Whenever a licensee shall change his residence he shall within one week thereafter give notice thereof in writing signed by himself to the Commissioner of Police. Change of address of licensee to be reported.

¹[16A. Whenever the licensee of a public conveyance shall be absent from the City of Bombay for a period exceeding fifteen days he shall, if the public conveyance is used for the purpose of plying for hire, give, previous to his departure, notice thereof in writing signed by himself to the Commissioner of Police. Such notice shall state the name of the person left in charge of the public conveyance. Such person shall, until the return of the licensee, perform all the duties of a licensee of a public conveyance and be liable to all the penalties to which such licensee is liable under this Act.] Licenses to report name of person left in charge of conveyance during hi absence.

17. Every licensee of a public conveyance or horse shall produce such conveyance or horse for inspection whenever the Commissioner of Police shall require him to do so. Public conveyance or horse to be produced for inspection when required.

Fares and stands.

18. The Commissioner of Police shall, subject to the conditions of previous publication and the previous sanction of the ²[Provincial Government], fix the legal rates of fares for public conveyances. Rates of fares.

19. The Commissioner of Police shall appoint stands or places, at which alone public conveyances may stand to ply for hire ³[and may, at any time, abolish any such stand or place]. Stands.

¹ Section 16A was inserted by Bom. 7 of 1928, s. 6.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

³ These words were added by Bom. 7 of 1928, s. 7.

Driver to have his license as driver and list of fares.

20. (1) Every driver of a public conveyance shall have with him when pursuing his occupation as driver the license granted to him under section 11 of this Act and a clean and legible list, in English and such vernacular language or languages as the Commissioner of Police may direct, bearing the name in full of the licensee of the conveyance and showing the rates of fares fixed for the time being for the hire of the conveyance, with an abstract of the law relating to public conveyances.

(2) Every such driver shall on demand by a police officer produce for inspection such license and list.

(3) Every such driver shall on demand produce such list for the information of any hirer of, or passenger travelling in, the conveyance.

Book of fares to be issued.

21. Lists of the fares fixed for public conveyances, as for the time being in force, together with the abstract referred to in the preceding section, shall be prepared by the Commissioner of Police and sold to the public at a reasonable price.

Offences and punishments.

Keeping public conveyance without license.

22. Any person who shall—

(a) keep or let for hire any public conveyance without a license granted by the Commissioner of Police in this behalf and for the time being in force, or

(b) who shall keep or let for hire any public conveyance on which the number and other particulars required by section 3 are not clearly inscribed in such manner as the Commissioner of Police directs,

shall be punishable with fine which may extend to one hundred rupees.

Failure to cause public conveyance to ply when so required by the police.

23. Any licensee of a public conveyance who shall without sufficient reason fail to cause such conveyance to ply for hire when required to do so by a police officer and any driver of a public conveyance who shall without sufficient reason fail duly to pursue his occupation when required to do so by a police officer, shall be punishable with fine which may extend to fifty rupees.

Licensee of public conveyance permitting unlicensed driver to use the same or permitting the same to be drawn by unlicensed horse.

24. Any licensee of a public conveyance who shall, when the same is used for the purpose of a public conveyance, permit any person to act as driver thereof other than a driver duly licensed under this Act, or who shall, when such conveyance is used for the purpose aforesaid, permit the same to be drawn by a horse other than a horse for which a license is in force under this Act, shall be punishable with fine which may extend to fifty rupees.

25. Whoever, being the licensee of a public conveyance or horse, shall fail to produce such conveyance or horse for inspection when required to do so by the Commissioner of Police shall be punishable with fine which may extend to twenty rupees.

Failure to produce public conveyance or horse for inspection.

26. (1) Whoever shall act as driver of a public conveyance without a driver's license granted by the Commissioner of Police in this behalf and for the time being in force, or ¹[without a badge, if he has received a badge from the Commissioner of Police or, when acting as such driver, shall fail to wear a badge so received] on a conspicuous part of his dress; and

Offences by drivers of public conveyances.

(2) Whoever, being the driver of a public conveyance, shall—

- (a) permit any other person to use his license or badge;
- (b) permit more passengers to be carried in a public conveyance than it is licensed to carry;
- (c) conceal or permit to be concealed from public view the inscription made on a public conveyance in accordance with this Act, or prevent or attempt to prevent any person taking note of such inscription;
- (d) permit any person to be carried, without the express consent of the hirer, in a public conveyance the whole of which has been hired by any person;
- (e) fail to produce, on demand by a police officer, the license, ²[if any], granted to him under ³[section 8 or section 11] or a list of the legal rates of fares as required by this Act;
- (f) fail to produce, on demand by a hirer of, or passenger travelling in, a public conveyance a list of the legal rates of fares for such conveyance as required by this Act;
- (g) refuse or neglect to give way, if he conveniently can, to any private conveyance, or obstruct or hinder the driver of any other public conveyance in taking up or setting down any person into or from such other public conveyance;
- (h) be intoxicated at any time while pursuing his occupation as driver;
- (i) make use of insulting or abusive language or gesture;
- (j) refuse to obey the reasonable orders of any person hiring a public conveyance of which he is in charge;
- (k) when acting as driver, permit the inside of a public conveyance of which he is in charge to be dirty; or

¹ These words were substituted for the words "without a badge granted to him by the Commissioner of Police or, when acting as such driver, shall fail to wear such badge" by Bom. 7 of 1928, s. 8 (a).

² The words "if any" were inserted by *ibid.*, s. 8 (b).

³ The words and figures "section 8 or section 11" were substituted for the word and figures "section 11" by *ibid.*

- (l) when in charge of a public conveyance other than a cart used for conveyance of goods,—
- (i) demand prepayment of his fare, or
 - (ii) refuse without reasonable cause to carry any person desiring to hire the conveyance, or
 - (iii) refuse or delay to proceed with reasonable expedition, or
 - (iv) demand for the hire of the conveyance more than the legal fare, or
 - (v) stand to ply for hire at any place other than a stand or place appointed under this Act or loiter for the purpose of being hired in or upon any public street, road or place,

shall be punishable with fine which may extend to fifty rupees.

Failure to return license or to notify address.

27. Any licensee

- (a) who shall fail to return a license which has been suspended or cancelled to the Commissioner of Police within twenty-four hours after the suspension or cancellation thereof, or
- (b) who, after changing his residence, shall fail to give notice thereof in writing signed by himself to the Commissioner of Police within one week after such change has taken place, or
- ¹[(bb) who, before leaving the City of Bombay for a period exceeding fifteen days shall fail to give notice thereof in writing signed by himself to the Commissioner of Police, or]
- (c) who shall contravene any condition of his license,

shall be punishable with fine which may extend to twenty rupees.

Injury to public conveyance.

28. Any person using a public conveyance who shall wilfully or negligently injure the same shall be punishable with fine which may extend to twenty rupees, and shall also pay the owner of such conveyance such compensation as the Magistrate may direct, and such compensation shall be leviable as a fine.

Compensation payable by driver causing damage.

29. The driver of any public conveyance who shall by negligence or misconduct, cause any hurt or damage shall, in addition to any punishment to which he may be liable by law, pay the complainant such reasonable compensation as the Magistrate may direct, and such compensation shall be leviable as a fine.

Procedure.

Arrest by police.

30. Any police officer may arrest without warrant any person who has committed any offence under this Act, and may seize and detain any conveyance or horse in relation to which such offence has been committed.

¹ Clause (bb) was inserted by Bom. 7 of 1923, s. 9.

31. (1) In case of any dispute between the hirer and driver of a public conveyance, either party may require the other to proceed forthwith to the nearest Magistrate's Court, where the dispute shall be determined in a summary manner by the Magistrate then sitting. Procedure in case of dispute.

(2) If no Magistrate is then sitting, either party may require the other to proceed to the ¹[officer in charge of the nearest police station] who shall, if necessary, arrange for the hearing of the case at the next sitting of the Court.

(3) On failure of either party to appear before the Magistrate in pursuance of a requisition under sub-section (1) or sub-section (2), or to attend the Court at any subsequent sitting to which the case may be adjourned, the Magistrate may decide the case *ex parte* and his decision shall be binding on both parties.

(4) Provided that, if the hirer is about to leave the City of Bombay, a police officer to whom reference has been made under sub-section (2) may, after hearing both parties, require the hirer to deposit such sum, if any, as appears to be due by him, and, if any compensation appears to be due under section 28, an additional sum of ten rupees, and the hirer shall not be required to attend the Magistrate's Court. The police officer shall report the dispute to the Magistrate and the Magistrate may award the driver such sum, if any, not being in excess of the amount deposited by the hirer, as he considers just, and if any offence appears to have been committed, shall inquire into the same according to law. In either case where any surplus remains of the deposit made by the hirer, the Magistrate shall give notice hereof to the hirer and return it to him on demand.

(5) Where the Magistrate is satisfied that one party had no reasonable ground for requiring the other party to proceed to his Court or to the nearest police officer, he may direct the former party to pay to the latter such compensation not exceeding fifty rupees as he thinks fit, and such compensation shall be leviable as a fine.

32. (1) When a complaint is made before a Magistrate against a driver of a public conveyance under this Act, the Magistrate may, if the driver fails to appear, summon the licensee of such conveyance to appear and produce the driver. Licensee may be required to produce driver :

(2) If the licensee after being duly summoned fails without reasonable excuse to appear or to produce the driver he shall be punishable with fine not exceeding fifty rupees. penalty.

33. If any person who has hired a public conveyance refuses to pay the legal fare thereof, the Magistrate may order payment of such fare and also of reasonable compensation for loss of time; such fare and compensation shall be leviable as a fine. Refusal to pay fare.

¹ These words were substituted for the words "nearest police officer of rank not below that of inspector" by Bom. 7 of 1928, s. 10.

Miscellaneous.

Disposal of
property :
penalty.

34. (1) All property left in any public conveyance shall be forthwith deposited by the licensee or driver of such conveyance at the nearest police station.

(2) The Commissioner of Police shall cause such property to be returned to such person as shall prove to his satisfaction that he is entitled to the same, on payment by such person of all expenses reasonably incurred and of such compensation to the driver of the public conveyance as the Commissioner of Police may consider just.

(3) Any licensee or driver failing to deposit any property as required by sub-section (1) shall be punishable with fine which may extend to fifty rupees.

Rules.

35. (1) The Commissioner of Police, subject to the condition of previous publication, may make rules not inconsistent with this Act,—

(a) fixing the sum to be paid towards the cost of an inscription under sub-section (2) of section 6 ;

(b) generally for the regulation of public conveyances.

(2) Such rules shall be published in the ²[*Official Gazette*].

³[(3) Such rules may provide that a contravention thereof shall be punishable with fine which may extend to thirty rupees.]

Extension of
Act.

36. (1) The ⁴[Provincial Government] or the Commissioner of a division may by notification in the ²[*Official Gazette*] extend this Act or any specified provisions thereof to any area within ⁵[its or his] jurisdiction from a date to be stated in such notification.

(2) Where this Act or any portion thereof is extended to any such area, the ⁴[Provincial Government] or the Commissioner of the division, as the case may be,—

(a) shall by notification appoint some person to perform the functions assigned by this Act to the Commissioner of Police, and

(b) may by notification direct that any particular Magistrates or classes of Magistrates shall exercise jurisdiction under this Act and

⁶(c) may by notification direct that any class of vehicles shall be exempt from all or any of the provisions of this Act.

¹ Sub-section (1) was substituted for the original by Bom. 7 of 1928, s. 11 (a).

² The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

³ Sub-section (3) was inserted by Bom. 7 of 1928, s. 11 (b).

⁴ The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

⁵ The words "its or his" were substituted for the word "his" by *ibid.*

⁶ Clause (c) was substituted for the original clause by Bom. 7 of 1928, s. 12 (a).

(3) A notification under this section extending this Act or any portion thereof to any area shall be published at least thirty days before the date fixed for its coming into effect.

¹[(3A) When this Act or any specified provisions thereof are extended to any area by a notification under this section the expression "City of Bombay" occurring in the foregoing provisions of this Act shall be construed as meaning the area to which this Act or any specified provisions thereof are extended by such notification.]

(4) When this Act or any portion thereof is extended to any area, the powers of fixing fees and of appointing ²[and abolishing] stands and of making rules shall be exercised subject to the approval of the ³[Provincial Government] or the Commissioner of the division, as the case may be.

⁴(5) * * * * *

⁵37. The ⁶[Provincial Government], or, in any area to which this Act or any specified provisions thereof have been extended under section 36 the ³[Provincial Government], or the Commissioner of a division, as the case may be, may, by notification in the ⁷[Official Gazette], apply or adapt all or any of the provisions of this Act, except those which relate to plying for hire, or any part of any such provision, to vehicles or to any class of vehicles which are kept, or ordinarily let, for hire, but which are not used for the purpose of plying for hire.

Power to apply or adapt certain provisions to vehicles not used for the purpose of plying for hire.

Explanation.—A vehicle shall not be deemed to be kept for hire if it is let for hire only occasionally by private agreement.

38. All powers conferred by this Act may be exercised from time to time as occasion requires.

Powers may be exercised from time to time.

39. The enactments specified in the Schedule are hereby repealed to the extent stated in the fourth column thereof.

Repeal of certain enactments.

THE SCHEDULE.

(See section 39.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
<i>Act of the Governor General in Council.</i>			
1895	XVI	The Amending Act, 1895	The entry in the second Schedule relating to Bombay Act No. VI of 1863.

¹ Sub-section (3A) was inserted by Bom. 7 of 1928, s. 12 (b).
² These words were inserted by *ibid* s. 12 (c).
³ The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.
⁴ Sub-section (5), which was substituted for the original sub-section (5) by s. 2 of Bom. 11 of 1924, was omitted by the *ibid*.
⁵ Section 37 was substituted for the original section by Bom. 7 of 1928, s. 13.
⁶ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.
⁷ The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid*.

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
<i>Acts of the Governor of Bombay in Council.</i>			
1863	VI	An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.	So much as has not been repealed.
1887	V	An Act to amend Bombay Act No. VI of 1863.	The whole.
1915	III	¹ The Bombay Decentralization Act, 1915.	The entry in Schedule I relating to Bombay Act No. VI of 1863.

¹ *Supra.*

THE CITY OF BOMBAY PRIMARY EDUCATION ACT, 1920.

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BOMBAY ACT No. XV OF 1920¹

[THE CITY OF BOMBAY PRIMARY EDUCATION ACT, 1920.]

[13th December, 1920]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the extension of primary education in the City of Bombay.

WHEREAS it is expedient to provide for the extension of primary education in the City of Bombay ; It is hereby enacted as follows :—

1. (1) This Act may be called the City of Bombay Primary Education Act, 1920. Short title, extent and construction.

(2) It extends only to the City of Bombay.

Bom. 111 of 1888. (3) It shall be construed as part of and supplementary to the City of Bombay Municipal Act, 1888, hereinafter called "the principal Act".

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

(1) to "attend" a recognized primary school means to be present for instruction at such school on such days and at such time or times on each day as may be required by the Schools' Committee with the approval of the prescribed educational authority ;

(2) "child" means a child whose age is not less than six and not more than eleven years ;

(3) "parent" includes a guardian and any person who has the actual custody of a child ;

(4) "prescribed" means prescribed by rules made by the ²[Provincial Government] under this Act ;

(5) "primary education" means such education as is for the time being recognized as such by the ²[Provincial Government].

(6) "recognized primary school" means a school (or a department of a school) in which instruction in primary education is given and which is for the time being recognized by the prescribed educational authority ;

(7) "Schools' Committee" means a committee appointed under section 39 of the principal Act.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1920, Part V, page 391 ; for Report of Select Committee, see *ibid.*, 1920, Part V, page 754 (a) ; and for Proceedings in Council, see *ibid.*, 1920, Part V, pages 645 and 968.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council,

Issue of notification making primary education compulsory.

3. (1) The Corporation may with the previous sanction of the ¹[Provincial Government] declare by notification that the primary education of boys or of girls or of children of both sexes shall be compulsory in the City of Bombay or in any ward or part of a ward thereof from a date to be mentioned in the notification; provided that, where a notification has been issued under this section with reference to children of one sex only, the Corporation may with the like sanction issue a subsequent notification with reference to children of the other sex.

(2) A notification under this section shall be published in the ²[Official Gazette] and shall be posted at the municipal office and at such other places, if any, as the Corporation shall deem necessary.

Corporation to make provision for primary education.

4. A notification shall not be issued under section 3 unless the Corporation satisfy the ¹[Provincial Government] that they are in a position to make and will make adequate provision in municipal or other recognized schools for free and compulsory primary education.

Resolution to be passed before issue of notification.

5. A notification shall not be issued under section 3 unless the Corporation have so determined by resolution passed at a general meeting specially called in this behalf, and unless such resolution has been supported by at least two-thirds of the councillors present at the meeting and by at least one-half of the whole number of councillors.

Duty of Schools' Committee.

6. Where a notification has been issued under section 3 for any ward or part of a ward, it shall be the duty of the Schools' Committee, subject to the provisions of this Act and the principal Act, to enforce the provisions of this Act respecting the attendance of children at school and the employment of children.

Duty of parents to cause children to attend school.

7. Where a notification under section 3 is in force in any ward or part of a ward, the parent of every child to which such notification applies shall, in the absence of a reasonable excuse as hereinafter provided, and if such parent and child ordinarily reside in such ward or part of a ward, cause such child to attend a recognized primary school therein.

Meaning of reasonable excuse.

8. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend a recognized primary school in any of the following cases :—

- (a) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause;
- (b) where the child is receiving, otherwise than in a recognized primary school, instruction which in the opinion of the Schools' Committee is efficient, or has already completed his primary education;
- (c) where there is no recognized primary school within one mile, measured according to the nearest road, from the residence of the child.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by *ibid.*

9. Where the Schools' Committee is satisfied that the parent of any child who is bound under the provisions of section 7 to cause such child to attend a recognized primary school, has failed to do so, the Schools' Committee, after giving the parent an opportunity of being heard and after such enquiry as it considers necessary, may pass an order directing the parent to cause such child to attend a recognized primary school on and from a date which shall be specified in the order.

Issue of attendance order.

10. (1) Any parent against whom an order with reference to a child has been passed under section 9 and who fails to comply with the provisions of section 7 with respect to such child on and after the date specified in such order, shall, on conviction before a magistrate, be liable to a fine not exceeding five rupees.

Penalty for failure to cause child to attend school.

(2) No court shall take cognizance of an offence under this section except on the complaint of the Schools' Committee.

11. (1) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any other person, any child in respect of whom the provisions of section 7 apply, so as to interfere with the efficient instruction of such child, shall, on conviction before a magistrate, be liable to a fine not exceeding twenty-five rupees.

Penalty for employing child liable for compulsory education.

(2) No court shall take cognizance of an offence under this section except on the complaint of the Schools' Committee, and before making any complaint under this section against any person, the Schools' Committee shall, unless such person has previously been convicted under this section in respect of the same child, cause a warning to be given to such person.

12. A complaint to a magistrate under section 10 or section 11 may be made on behalf of the Schools' Committee by such person as may be authorized by the committee in this behalf.

Schools' Committee may authorise person to appear.

13. For the purposes of this Act the Corporation may, under the provisions of the principal Act, impose any fresh tax or increase any tax which is already levied in the municipal district.

Taxation for the purposes of this Act.

14. Where a notification under section 3 is in force in any ward or part of a ward, no fee shall be charged in any municipal school in respect of the primary education of any child of the sex specified in such notification whose age does not exceed eleven years.

Remission of fees.

15. The ¹[Provincial Government] may by notification in the ²[Official Gazette] exempt any particular class or community from the operation of this Act.

Power to exempt particular classes or communities.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

² The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

Withdrawal
of notification
on default.

16. If in the opinion of the ¹[Provincial Government], the Corporation have made default in any of the requirements of this Act, after giving the Corporation an opportunity of furnishing an explanation the ¹[Provincial Government] may by notification in the ²[*Official Gazette*] cancel any notification which has been issued under section 3.

17. [*Fines to be credited to Corporation.*] Omitted by the Adaptation of Indian Laws Order in Council.

Rules.

18. (1) The ¹[Provincial Government] may by notification in the ²[*Official Gazette*] make rules for the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made—

- (a) prescribing the educational authority by whom the duties imposed by section 2, sub-sections (1) and (6), shall be performed ;
- (b) prescribing the manner in which application may be made for sanction to issue a notification under section 3 ;
- (c) determining generally what shall be considered to be adequate provision for free and compulsory primary education under section 4 ;
- (d) requiring the Corporation to prepare and publish a register of children liable for compulsory primary education in the municipal district ; and
- (e) when the ³[Provincial Government] determine to share the cost of providing free and compulsory primary education, specifying the extent to which the cost thereof shall be borne by the ³[Provincial Government].

19-20. [*Amendments made by sections 19 and 20 have been incorporated in Bom. III of 1888.*]

Bom.
III of
1888.

¹ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

² The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

³ The words "Provincial Government" were substituted for the words "local Government" by *ibid.*

THE BOMBAY PLEADERS ACT, 1920.

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SCHEDULE I.

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SCHEDULE III.

BOMBAY ACT No. XVII OF 1920.¹

[THE BOMBAY PLEADERS ACT, 1920.]

[13th December, 1920]

repealed in part by Act 21 of 1926.

„ „ „ „ „ 22 of 1926.

Amended by Bombay Act 11 of 1928.

„ „ „ „ 6 of 1929.

„ „ „ „ 18 of 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to consolidate and amend the Law relating to pleaders in the Presidency of Bombay.

5 and
6 Geo.
5, c.
61.

WHEREAS it is expedient to consolidate and amend the law relating to pleaders in the presidency of Bombay; and whereas the previous sanction of the Governor General required by section 79, sub-section (2), of the Government of India Act, 1915, has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay Pleadors Act, 1920.

Short title
and extent.

(2) It extends to the whole of the presidency of Bombay except Sind * *.

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

(1) “the High Court” means the High Court of Judicature at Bombay;

(2) “court subordinate to the High Court” means any court, tribunal, or person whose decree, order, decision or award is, or may hereafter be, subject to the appellate or revisional jurisdiction of the High Court;

(3) “pleader” means a pleader admitted under this or any previous Act, and includes an attorney of the High Court appearing, leading or acting for a client elsewhere than in the City of Bombay, but nothing in sections 3, 4, 5, 6, 11, 12, 13, 24, 25, 27, or 30 shall apply to an attorney of the High Court;

(4) “district” means the local limits of the jurisdiction of a principal civil court of original jurisdiction other than the High Court;

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1920, Part V, page 402; for Report of Select Committee, see *ibid.*, 1920, Part V, page 794 (a); and for Proceedings in Council, see *ibid.*, 1920, Part V, pages 671 and 971.

² The words “and Aden” were omitted by the Adaptation of Indian Laws Order in Council.

(5) "the Letters Patent" means the Amended Letters Patent of the High Court of Judicature for the presidency of Bombay, dated the 28th December 1865, subject to any amendments thereto and alterations therein made or hereinafter to be made pursuant to clause 44 thereof or section 106 (1A) of the Government of India Act;

(6) "prescribed" means prescribed by rules made under this Act.

Classes of
pleaders.

3. Pleaders admitted by the High Court under this Act shall be of two classes, namely, vakils of the High Court and district pleaders.

Sanads.

4. (1) The High Court shall issue to every pleader on his admission a sanad in form A or form B in Schedule II, as the case may be, or in such other form as the High Court may prescribe.

(2) In the case of the sanad of a district pleader, the name of the district ¹[or districts] for which the sanad is available shall be specified therein.

Extent and
transfer of
sanads.

5. (1) No district pleader shall hold a sanad in respect of more than one district at the same time:

²[Provided that when a district for which a sanad is to be issued comprises any area which for the purpose of administration of revenue or criminal justice or both is also included in any other district the sanad may be held in respect of both such districts.]

(2) On the application of a district pleader holding a sanad which is available for any ^{3*} district the High Court may from time to time, by endorsement on such sanad, render the same available for any other district.

(3) A pleader holding a sanad in respect of any district may appear, plead and act for a client in any particular civil proceeding in a Court of any other district with the previous written authority of the District Judge in such other district.

Conditions
of admission.

6. (1) Any person who is duly qualified and is of good moral character and is not in Government service shall be entitled to be admitted as a pleader.

(2) The number of pleaders shall not be limited.

(3) If a pleader after obtaining a sanad accepts Government service, he shall not be entitled to practise whilst in such service, even if he be on leave.

Where
vakils of
High Court
are entitled
to practise.

7. (1) Subject to the provisions of any law for the time being in force and, with respect to the right of vakils of the High Court to practise in the High Court, subject to any rules for the time being in force under clause 10 of the Letters Patent, a vakil of the High Court shall be entitled to practise—

(a) in the High Court;

(b) in any court subordinate to the High Court;

¹ The words "or districts" were inserted by Bom. 6 of 1929, s. 2.

² This proviso was inserted by *ibid*, s. 3 (1).

³ The word "one" was deleted by *ibid*, s. 3 (2).

Bom.
IV of
1898.

(c) before the tribunal of appeal constituted under the ¹City of Bombay Improvement Act, 1898 ;

(d) in or before any other court, tribunal or person in or before which or whom vakils of the High Court are or may hereafter be entitled by law to practise ; and

(e) before any public officers in any of the following proceedings :—

Bom.
111 of
1874.

an investigation held in accordance with the first paragraph of section 73 and on appeal under section 77 of the Bombay Hereditary Offices Act ;

Bom.
V of
1879.

proceedings under section 87 of the Bombay Land Revenue Code, 1879 ;

Bom.
I of
1915.

proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915 ;

such proceedings under any enactment in force in the Bombay Presidency as the ²[Provincial Government], by notification in the ³[Official Gazette] may specify.

(2) The provisions of sub-section (1) shall apply, *mutatis mutandis*, to attorneys of the High Court.

8. Subject to the provisions of any law for the time being in force, ^{Where} a district pleader shall, within the district ⁴[or districts] in respect of ^{district} which he holds a sanad, be entitled to practise— ^{pleaders are} ^{entitled to} ^{practise.}

(a) in such civil court or courts as the District Judge may from time to time assign to him ;

(b) in any criminal court ;

(c) in or before any other court, tribunal or person in or before which or whom district pleaders are or may hereafter be entitled by law to practise ; and

(d) before any public officer in any of the following proceedings :—

Bom.
111 of
1874.

an investigation held in accordance with the first paragraph of section 73 and an appeal under section 77 of the Bombay Hereditary Offices Act ;

Bom.
V of
1879.

proceedings under section 87 of the Bombay Land Revenue Code, 1879 ;

Bom.
I of
1915.

proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915 ;

¹ This Act has been repealed by Bom. 16 of 1925 which also has been repealed by Bom. 13 of 1933.

² The words " Provincial Government " were substituted for the words " local Government " by the Adaptation of Indian Laws Order in Council.

³ The words " Official Gazette " were substituted for the words " Bombay Government Gazette " by *ibid.*

⁴ The words " or districts " were inserted by Bom. 6 of 1929, s. 4.

such proceedings under any enactment in force in the Bombay Presidency as the ¹[Provincial Government] by notification in the ²[*Official Gazette*], may specify.

Appearance in civil court by unauthorized person forbidden.

9. No person shall appear, plead or act for any party in any civil proceeding in any court unless he is a pleader as defined in this Act and is entitled and duly empowered to appear, plead and act for such party in such proceeding :

Provided that nothing in this section shall apply—

(a) to any party appearing, pleading or acting on his own behalf, or appearing or acting by his recognized agent as defined in rule 2, Order III of the Code of Civil Procedure, 1908, or

V of
1908.

(b) to any advocate of the High Court.

10. [*Cases in which vakalatnama is required.*] Repealed by Act 22 of 1926, s. 3.

Retaining fee.

11. (1) A party engaging a pleader shall pay him a retaining fee of an amount not less than one rupee.

(2) Where a party fails so to do, the pleader shall demand such fee and shall not perform any services for such party until the fee has been paid.

(3) Every pleader receiving such fee shall give a receipt in writing for the same, specifying the date of receipt.

Pleader not to act for party adverse to his client, and not to refuse to act for his client without the permission of the Court.

12. No pleader after accepting a retaining fee shall without the permission of the Court—

(a) appear, plead or act, or agree so to do, on behalf of any other party whose interest in the case is adverse to that of his client, or

(b) refuse or omit to appear, plead or act for his client.

Receipt to be given for documents.

13. Every pleader receiving a document of any kind from his client shall—

(a) on demand give a receipt in writing for such document at the time when he receives it, and

(b) subject to the provisions of section 30 return such document if his client requires the same and gives a receipt in writing therefor.

Pleaders bound to attend on day fixed for proceeding except in certain cases.

14. (1) A pleader shall be bound to attend in court on any day which, by notice duly given or in accordance with the practice of the court, is fixed for the hearing of a proceeding in which he is employed.

¹ The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

² The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by *ibid.*

(2) Where a pleader employed in any such proceeding is, from indisposition or any other reasonable cause, unable to attend on such day or at the time when the proceeding is called on, he shall notify the same to the court and thereupon the proceeding shall be stayed for such time as the court may deem reasonable :

Provided that in proceedings in which a party is represented by more than one pleader and one of such pleaders is present, the court may proceed therewith.

(3) In any proceeding in which a pleader ceases, temporarily or permanently, to act for his client, because he has accepted Government service, or has been permitted to withdraw from the proceeding, or has been suspended or dismissed, or has died, or for any other reason, the proceeding shall be stayed for such time as the court may deem reasonable.

15. No pleader shall tender, give, retain or consent to retain any gratification for procuring or having procured the employment of himself or of any other pleader in any legal business.

Pleaders not to give or take commission.

16. No pleader shall—

(a) take instructions in any proceeding except from the party on whose behalf he is retained or from some person who is, within the meaning of the Code of Civil Procedure, 1908, the recognized agent of such party, or from some person authorized by such party to give such instruction, or

Pleaders not to take instructions except from client or authorized agent, or accept employment through a tout.

(b) accept any employment in any legal business through a person who has been proclaimed as a tout.

17. [*Fee may be settled by private agreement.*] Repealed by Act 21 of 1926, s. 6.

18. (1) Where costs are awarded to a party in any proceeding, the amount of the pleader's fee to be taxed in the bill of costs as recoverable by such party, if represented by a pleader, from his adversary, shall be computed in accordance with the rules in Schedule III unless such fee has been settled under the provisions of section 1³ of the Legal Practitioners (Fees) Act, 1926] for a lesser amount in which case no more than such lesser amount shall be recoverable.

Computation of taxed fee.

(2) Nothing contained in sub-section (1) of this section or in section 20 shall apply to fees payable to pleaders in the Court of Small Causes of Bombay.

19. [*Amount payable by client to pleader.*] Repealed by Act 21 of 1926, s. 6.

¹ These words and figures were substituted for the figures " 17 " by Bom. 11 of 1923, s. 2, First Schedule.

When fees of two pleaders may be taxed.

20. (1) Where a party has, before the first hearing of a proceeding, engaged more than one pleader, the fees of two pleaders may be taxed in the bill of costs in the following cases :—

(a) in any original suit, of which the amount or value of the subject matter exceeds Rs. 5,000, in any court subordinate to the High Court ;

(b) in any contested proceeding under the ¹Indian Succession Act, 1865, the ¹Probate and Administration Act, 1881, or the ²Land Acquisition Act, 1894, of which the amount or value of the subject matter exceeds Rs. 5,000, in any court subordinate to the High Court ;

(c) in any appeal to the High Court from a decree deciding on the merits any suit or any contested proceeding of the kind referred to in clause (a) or clause (b) ;

(d) in any suit of which the amount or value of the subject matter is less than Rs. 5,000 where the court certifies by order in writing that the fees of two pleaders may be taxed :

Provided that nothing in this section shall affect suits or appeals by paupers, or suits or appeals governed by the ³Dekkhan Agriculturists Relief Act, 1879.

X of 1865.
V of 1881.
I of 1894.
Bom. XVII of 1879.

(2) Except in the cases specified in this section, a party employing more than one pleader shall not be entitled to recover from his adversary more than one set of pleader's fees.

Cases where there are several parties having the same interest or putting forward the same defence.

21. Where in any proceeding there are several parties having the same interests or putting forward the same defence they shall not, if awarded costs, be allowed more than one set of pleaders' fees on party and party taxation unless the Court otherwise directs.

Taxation of costs in appeals to High Court.

22. In any civil appeal or application to the High Court from the decree or order of a court, subordinate to the High Court, if costs between party and party are awarded by the High Court, such costs shall be taxed by an officer of the High Court and included in the bill of costs attached to the decree or order of that Court in the prescribed manner.

Taxation of costs in mufassal courts.

23. In any court subordinate to the High Court situate elsewhere than in the City of Bombay, the amount of the pleader's fee to be taxed

¹ See now the Indian Succession Act, 1925.

² Central Acts.

³ Vol. I of this Code.

in the bill of costs attached to the decree or order of that Court shall not be in excess of the amount computed in accordance with the rules in Schedule III :

VII of 1913. Provided that nothing in this section shall apply to bills of costs framed under the provisions of the ¹Indian Companies Act, 1913.

24. The High Court may suspend or remove from practice a pleader who has been convicted by any criminal court in British India of a criminal offence implying a defect in his character which in the opinion of the High Court renders him unfit to be a pleader.

Suspension or removal of pleader by High Court on conviction of criminal offence.

25. On the application of the Government Pleader in the High Court, or on a report from a District Court or Court of Session, or from the Chief Judge of the Court of Small Causes of Bombay, or from the Chief Presidency Magistrate for Bombay, or otherwise, the High Court may suspend or remove from practice, or may fine or reprimand, a pleader on reasonable cause.

Punishment of pleader by High Court for improper conduct.

26. Where it appears to a District Court or Court of Session or to the Chief Judge of the Court of Small Causes of Bombay, or to the Chief Presidency Magistrate for Bombay, that a pleader has been guilty of neglect of duty or of a violation of any of the provisions of this Act or of any other improper conduct, such court may hold an inquiry regarding such conduct and report the result of such inquiry to the High Court.

Powers of District Court or Court of Session in respect of improper conduct of pleader.

27. (1) Where any case under section 24, section 25 or section 26 is heard by the High Court, the Advocate General or such counsel or pleader as may appear for the Crown shall argue the case against the pleader against whom the allegation is made, and such pleader may appear in person or by counsel or pleader.

Conduct of case in High Court against pleader.

(2) In any such case the High Court may make such order as to costs as it thinks fit.

28. [*Legal proceedings against pleaders not affected.*] Repealed by Act 21 of 1926, s. 6.

29. A pleader whose bill of cost has been taxed may apply to the Court by which or by whose officer the same has been taxed, for an order against his client for the sum allowed on taxation or such sum as may remain due. The Court may make such order or may refer the pleader to a suit.

Recovery of taxed fees.

V of 1908. Any such order may be executed under order 21 of the Code of Civil Procedure, 1908, as a decree for money.

30. In every matter in which costs are due to a pleader by his client which have been or are capable of being taxed the pleader shall as

Lien for taxed fees.

against his client be entitled to a lien for the amount of such costs, as taxed, upon—

- (a) all documents come into his possession in the course of his engagement in connection with such matter, and for which he has given a receipt in accordance with the provisions of section 13 (a) and
- (b) all movable property recovered or preserved by his exertions in such matter.

Rules.

31. (1) The High Court may make rules consistent with the provisions of this Act—

- (a) prescribing the qualifications and mode of admission of pleaders and the fees payable for admission ;
- (b) prescribing the fees payable in respect of examinations (if any) held for the office of pleader ;
- (c) regulating, and providing for the recognition of, bar associations and for granting sanction to the rules of such associations ;
- (d) requiring that a pleader shall be a member of, and submit to the rules of, a bar association ;
- (e) requiring that a pleader shall be a member of, and subscribe to, the law library attached to the principal Court in which he practices ;
- (f) providing for the taxation of costs between party and party ;
- (g) providing for the allowance and taxation of costs between pleader and client whether in litigious or non-litigious business ;
- (h) prescribing, in lieu of the forms in Schedule II, the form of sanad to be given to pleaders and the form of vakalatnamas ;
- (i) prescribing, in lieu of or in addition to the rules in Schedule III, the manner in which the pleader's fee shall be computed, and the amount of the pleader's fee, and determining the amount or value of the subject matter in particular classes of cases or in cases generally, for the purpose of calculating the pleader's fee ;
- (j) prescribing the manner in which costs in appeals or applications to the High Court from decrees or orders of courts subordinate to the High Court shall be taxed, in cases where costs between party and party are awarded by the High Court ;
- (k) fixing the scale of costs which may be awarded in cases under sub-section (2) of section 27 ;

(1) generally, to give effect to such provisions of this Act as may require to be provided for by rules.

(2) Where the High Court prescribes any new forms in lieu of the forms in Schedule II, or makes any new rules in lieu of or in addition to the rules in Schedule III, such new forms or rules respectively shall on publication be deemed to be enacted in such Schedule in lieu of or in addition to the forms or rules now therein enacted.

(3) All rules made under this Act shall be published in the ¹[Official Gazette] and shall thereupon have effect as if enacted in this Act.

32. Nothing in this Act shall be deemed to limit or otherwise affect Savings. the powers conferred upon the High Court by sections 106 and 107 of the Government of India Act, 1915, or by clauses 9 and 10 of the Letters Patent or by any law for the time being in force.

5 & 6.
Geo. 5,
c. 61.

33. Nothing in this Act regarding the appointment, appearance or remuneration of pleaders or the taxation of costs shall apply in respect of any proceedings pending in any court at the commencement of this Act, and all such proceedings, until their final disposal by the court in which they are pending, shall be governed, in respect of such matters, by the laws and rules in force immediately before the commencement of this Act.

Pending cases.

34. The enactments mentioned in Schedule I are hereby repealed to the extent specified in the third column thereof.

SCHEDULE I.

(See section 34.)

No. and date of enactment.	Title.	Extent of repeal.
Bombay Regulation II of 1827.	A Regulation for defining the constitution of the Courts of Civil Justice and the Powers and Duties of the Judges and Officers thereof.	So much as has not already been repealed, excepting the part of section 21 which prohibits interference of the civil courts in caste questions.
Act I of 1846	An Act for amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole, excepting section 5.
Act XX of 1853	An Act to amend the law relating to Pleaders in the Courts of the East India Company.	Section 2.

¹The words "Official Gazette" were substituted for the words "Bombay Government Gazette" by the Adaptation of Indian Laws Order in Council.

SCHEDULE II.

FORM A.

Sanad for a Vakil of the High Court.(Clause 10 of the Amended Letters Patent and section 4 of the
Bombay Pleaders Act, 1920.)**In His Majesty's High Court of Judicature, Appellate Side, Bombay.**

Bombay, 19 .

To

In conformity with the Rules made under the provisions of clause 10 of the Amended Letters Patent constituting the High Court of Judicature at Bombay and published under the date _____ and in conformity with the provisions of the Bombay Pleaders Act, 1920, you _____ are hereby approved, admitted and enrolled as a Vakil of the said High Court and you will not be liable to be removed or suspended from practice, except for reasonable cause.

By order of His Majesty's High Court
of Judicature at Bombay,

Deputy Registrar.

Sealer.

The _____ day of _____ 19 .

FORM B.

Sanad for a District Pleader.

(Section 4 of the Bombay Pleaders Act, 1920.)

In His Majesty's High Court of Judicature, Appellate Side, Bombay.

Bombay, 19

To

In conformity with the provisions of the Bombay Pleaders Act, 1920, you _____ are hereby appointed to the office of District Pleader in the district of _____

You will not be liable to be removed or suspended from practice except for reasonable cause.



By order of His Majesty's High Court
of Judicature at Bombay,

Deputy Registrar.

Sealer.

The .

day of

19

[Form C " Vakalatnama "] Repealed by Act 22 of 1926, s. 3.

SCHEDULE III.

(See section 18.)

Rules for computing the pleader's fee.

I.—¹[Subject to the provisions of rule VI]—

- (a) in suits which decide on the merits the real dispute between the parties.
- (b) in appeals from decrees (including preliminary decrees) other than appeals from execution proceedings, which decide on the merits the real dispute between the parties,
- (c) in applications or proceedings under the

²(i) Indian Succession Act, 1925, excepting application or appeals falling under sub-clauses (ii) and (iii) of clause (e) of rule V.

³(ii) Land Acquisition Act, 1894,

the amount of the pleader's fee shall be computed on the amount or value of the subject matter in dispute in the suit, appeal, application or proceeding at the rates specified below :—

⁴[If the amount or value of the subject matter in dispute does not exceed Rs. 5,000, at 3 per cent.]

If such amount or value exceeds Rs. 5,000 but does not exceed Rs. 10,000, on Rs. 5,000 as above and on the remainder at 2 per cent.

If such amount or value exceeds Rs. 10,000 but does not exceed Rs. 20,000, on Rs. 10,000 as above and on the remainder at 1 per cent.

If such amount or value exceeds Rs. 20,000, on Rs. 20,000 as above and on the remainder at $\frac{1}{2}$ per cent.

¹ These words and figures were inserted by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

² Sub-clause (i) was substituted for the original sub-clauses (i) and (ii) by Bombay H. Ct. (A.S.) Notification No. 2539 dated 23rd December 1932.

³ Sub-clause (iii) was renumbered sub-clause (ii) by *ibid.*

⁴ These words and figures were substituted for the words and figures

" If the amount or value of the subject matter in dispute does not exceed Rs. 2,000, at 5 per cent.

If the amount or value exceeds Rs. 2,000 but does not exceed Ra. 5,000, on Rs. 2,000 as above and on the remainder at 3 per cent."

by Bom. 18 of 1931, s. 2.

¹[*Exception.*—²[Subject as aforesaid] the amount of pleaders' fees in a suit, appeal, application, or proceeding between landlord and tenant shall be calculated on the amount or value of the claim for the purposes of Court fees and not on the amount or value of the claim for the purposes of jurisdiction :

Provided that the amount may at the discretion of the Court be calculated on the amount or value of the claim for the purposes of jurisdiction when the Court is of opinion, having regard to the labour involved in the preparation of the case or to the complexity of the issues arising therein, that the higher rate of valuation is appropriate.]

II.—³[Subject to the provisions of rule VI]—

(a) in appeals from orders,

(b) in civil applications or proceedings other than applications and proceedings necessary for the progress of a suit or appeal and other than applications, proceedings or appeals falling under rules I, IV and V, and

(c) in all other cases not otherwise provided for,

the amount of the pleader's fee to be allowed shall be one-fourth of that payable according to the rates specified in rule I.

III.—³[Subject to the provisions of rule VI] the fee prescribed in rules I and II shall be taken to be the remuneration for the pleader's services until the final decree or order in the suit, appeal, application, reference or proceeding, is passed.

IV.—⁴[Subject to the provisions of Rule VI, the pleader's fees to be allowed in execution proceedings] be one-fourth of the fee calculated at the rates specified in rule I on the amount or value of the relief or money claimed in the application to execute the decree. ⁵[Such fee shall be chargeable on the first application and on every subsequent contested application.]

V.—³[Subject to the provisions of rule VI]—

(a) in any reference made to the High Court under section 113 of ^{V of} the Code of Civil Procedure, 1908,

(b) in any application to the High Court under section 115 of the said Code,

(c) in any application to the High Court under section 25 of the Provincial Small Causes Courts Act, 1887,

¹ The Exception with its Proviso was inserted by Bombay H. Ct. (A.S.) No. 2025, dated 28th March 1928.

² The words "Subject as aforesaid" were inserted by Bombay H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

³ The words "Subject to the provisions of rule VI" were inserted by *ibid.*

⁴ These words were substituted for the words "In execution proceedings the pleader's fee to be allowed shall" by *ibid.*

⁵ These words were inserted by Bombay H. Ct. (A.S.) Notification No. 2124, dated 28th April 1925,

(d) in any application for the exercise of the High Court's Extraordinary Jurisdiction in civil matters,

(e) in all applications or appeals under

(i) the Guardians and Wards Act, 1890,

¹(ii) Part X of the Indian Succession Act, 1925,

¹(iii) Part VII of the Indian Succession Act, 1925,

(iv) the Indian Trusts Act, 1882,

(v) the Provincial Insolvency Act, ²[1920],

(vi) any other special or local Act,

a sum of Rs. 30 shall be allowed as the pleader's fee.

³[VI.—In all suits, appeals, applications or proceedings in which a commission is issued under the provisions of section 75 of the Civil Procedure Code the pleader's fee shall consist of—

(a) an amount computed in accordance with whichever of rules I to V would be applicable to the suit, appeal, application or proceeding but for the issue of the commission,

(b) and such fees not exceeding Rs. 20 per day for appearing before the Commissioner as the Court may in its discretion allow ;

provided

(i) that no fees shall be allowed for appearing before a Commissioner if the Court when issuing the commission certifies that the presence of a pleader before the Commissioner is not necessary.

(ii) and provided further that no fees shall be allowed for appearing before a Commissioner in the town or village which is the headquarters of the Court issuing the Commission.]

⁴VII.—In no case, whether specially provided for in this Schedule or otherwise, shall the pleader's fee payable in any civil suit, appeal, application, or proceeding other than execution proceedings be less than—

(a) Rs. 30 in the High Court,

(b) Rs. 15 in a District Court,

(c) Rs. 15 in the Court of a Subordinate Judge subject to the provisions of clause (d) and the proviso below,

(d) Rs. 5 in the Court of a Subordinate Judge, in suits of the nature cognizable by a Court of Small Causes, or in the Court of a Jagirdar or Inamdar exercising jurisdiction under Bombay Regulation XIII of 1830 and Act XV of 1840, or in the Court of a Mamlatdar under the Mamlatdar's Courts Act, 1906.

¹ Sub-clauses (ii) and (iii) were substituted for the original sub-clauses by H. Ct. (A.S.) Notification No. 2539, dated 23rd December 1932.

² The figures "1920" were substituted for the figures "1907" by *ibid.*

³ Rule VI was inserted by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

⁴ Rule VI which was substituted for the original by H. Ct. (A.S.) Notification No. 311, dated 26th January 1929, was renumbered as rule VII by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

Provided that suits by a superior holder for the recovery of his dues in the Court of a Subordinate Judge shall be governed by clause (d) and not by clause (c), unless in the opinion of the Court the suit involves questions of a complicated nature affecting title to land.

¹[Provided further that if a Commission is issued under the provisions of section 75, Civil Procedure Code, in the suit, appeal, application or proceeding, in calculating for the purposes of this rule the pleader's fee payable in such suit, appeal, application or proceeding, the fees payable under the provisions of rule VI, clause (b), shall be excluded.]

¹ The proviso to rule VII was inserted by H. Ct. (A.S.) Notification No. 2036, dated 30th August 1935.

BOMBAY ACT No. 1 OF 1921¹.

[THE DEPUTY PRESIDENT'S SALARY ACT, 1921.]

[11th June, 1921]

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1921, Part V, page 11. This Act has ceased to have effect under the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. II OF 1921.¹

[THE BOMBAY SHORT TITLES ACT, 1921.]

[21st June, 1921]

An Act to facilitate the citation of certain Acts in force in the
Presidency of Bombay.

5 & 6,
Geo. 5,
c. 61.

WHEREAS it is expedient to facilitate the citation of certain Acts in force in the Presidency of Bombay; And whereas the previous sanction of the Governor General required by clause (e) of sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Bombay Short Titles Act, 1921. Short title.
2. Each of the Acts described in the first three columns of the schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof. Citation of Acts in schedule.

THE SCHEDULE.

Part I—Acts of the Governor General in Council.

Year.	No.	Subject.	Short title.
1	2	3	4
1835	XIX	Empowering appointment of an Assistant to the Agent for the Sardars of the Dekkhan.	The Dekkhan Assistant Agent's Appointment Act, 1835.
1838	XVI	Providing that suits as to tenures should be brought in the Courts of Adalat.	The Bombay Courts of Adalat Act, 1838.
1838	XIX	Regulating Coasting Vessels	The Bombay Coasting Vessels Act, 1838.
1839	XX	Empowering the Prohibition of the Levy of Haqq.	The Bombay Haqqa Prohibition Act, 1839.
1840	XV	Applying Bombay Regulation XIII of 1830 to certain Agents.	The Bombay Regulation XIII of 1830 (Application) Act, 1840.
1844	XIX	Abolishing Town-duties	The Bombay Town-duties Abolition Act, 1844.
1852	XI	Providing for the Adjudication of Titles to Rent-free Estates.	The Bombay Rent-free Estates Act, 1852.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1921' Part V, page 10.

Part I—Acts of the Governor General in Council—(contd.)

Year.	No.	Subject.	Short title.
1	2	3	4
1853	XI	Providing for the Removal of Nuisances below High-water Mark.	The Shore-Nuisances (Bombay and Kolaba) Act, 1853.
1857	IV	Regulating Duties on Tobacco in Bombay City.	The Tobacco Duty (Town of Bombay) Act, 1857.
1857	XXIX	Providing for Land-customs	The Bombay Land-customs Act, 1857.
1864	II	Providing for the Administration of Civil and Criminal Justice at Aden.	The Aden Civil and Criminal Justice Act, 1864.
1866	XXIII	Correcting Errors in the Letters Patent of the High Court, Bombay.	The Bombay High Court (Letters Patent) Act, 1866.
1868	V	Empowering the Delegation of Powers to the Commissioner in Sindh.	The Commissioner in Sindh (Delegation of Powers) Act, 1868.
1872	V	Removing Doubts as to the Jurisdiction of the High Court of Bombay over Sindh.	The High Court's Jurisdiction (Sindh) Act, 1872.
1877	XIV	Relieving from Incumbrances the Estates of Thakurs in Broach and Kaira.	The Broach and Kaira Incumbered Estates Act, 1877.
1888	XII	Supplementing the City of Bombay Municipal Act, 1888.	The City of Bombay Municipal (Supplementary) Act, 1888.
1904	XIV	Supplementing the City of Bombay Improvement Act, 1898.	The City of Bombay Improvement (Supplementary) Act, 1904.
<i>Part II—Acts of the Governor of Bombay in Council.</i>			
1862	I	Bringing certain Lands ceded by His Highness the Gaikwar of Baroda under the Regulations and Acts in force in the Presidency of Bombay.	The Gaikwar of Baroda Ceded Lands Laws Act, 1862.
1862	IV	Regulating the Establishment of Markets and Fairs.	The Markets and Fairs Act, 1862.
1862	V	Preserving the Bhagdari and Narvadari Tenures.	The Bhagdari and Narvadari Act, 1862.
1862	VI	Ameliorating the Condition of Taluqdars in the Ahmedabad Collectorate.	The Ahmedabad Taluqdars Act, 1862.
1863	I	Providing for the Registry of Vessels plying on the Indus.	The Indus Vessels Act, 1863.
1863	II	Providing for the Adjustment of unsettled Claims to Exemption from Land-revenue in certain Parts of the Presidency of Bombay.	The Exemptions from Land-revenue (No. 1) Act, 1863.

Part II—Acts of the Governor of Bombay in Council—(contd.)

Year.	No.	Subject.	Short title.
1	2	3	4
1863	III	Bringing under the Regulations and Acts in force in the Presidency of Bombay Territories in Satara, Sholapur and the Southern Maratha Country.	The Satara, Sholapur and Southern Maratha Country Laws Act, 1863.
1863	V	Conferring powers on the Bombay Gas Company and other Gas Companies.	The Gas Companies Act, 1863.
1863	VII	Providing for the Settlement of Claims to Exemption from Land-revenue in certain Parts of the Presidency of Bombay.	The Exemptions from Land-revenue (No. 2) Act, 1863.
1864	II	Applying certain Provisions of the Merchant Shipping Act to Steam-vessels proceeding from Ports in the Presidency of Bombay.	The Bombay Steam-vessels Act, 1864.
1865	I	Providing for the granting of Leases to Khots.	The Khota Leases Act, 1865.
1865	III	Amending Act XXI of 1848 (for avoiding Wagers).	The Act for Avoiding Wagers (Amendment) Act, 1865.
1865	VII	Extending the Religious Endowments Act, 1863, to Kanara.	The Religious Endowments (Extension to Kanara) Act, 1865.
1866	XII	Declaring the Constitution of the Civil and Criminal Courts of Sindh.	The Sindh Courts Act, 1866.
1866	XIII	Providing for the Attendance and Examination of witnesses before the Legislative Council, Bombay.	The Legislative Council Witnesses Act, 1866.
1866	XIV	Bringing under the Regulations and Acts in force in the Presidency of Bombay the Parganas of Edulabad and Warangaon.	The Edulabad and Warangaon Parganas Laws Act, 1866.
1867	VI	Providing for the better Sanitary Regulation of the City of Bombay.	The Bombay City Sanitary Regulation Act, 1867.
1867	VII	Regulating the District Police in the Presidency of Bombay.	The Bombay District Police Act, 1867.
1868	III	Amending Bombay Act V of 1867	The Bombay Act V of 1867 (Amendment) Act, 1868.
1874	II	Regulating Civil Jails in the Presidency of Bombay.	The Civil Jails Act, 1874.
1875	III	Enabling Government to levy Tolls on Public Roads and Bridges.	The Tolls on Roads and Bridges Act, 1875.
1886	V	Amending the Bombay Hereditary Offices Act, 1874.	The Bombay Hereditary Offices (Amendment) Act, 1886.

Part II—Acts of the Governor of Bombay in Council—(contd.)

Year.	No.	Subject.	Short title.
1	2	3	4
1888	II	Amending the Sindh Village-officers Act, 1881.	The Sind Village-officers (Amendment) Act, 1888.
1897	II	Amending the Bombay Boiler Inspection Act, 1891.	The Bombay Boiler Inspection (Amendment) Act, 1897.
1897	III	Amending the Female Infanticide Prevention Act, 1870, as to the Presidency of Bombay.	The Female Infanticide Prevention (Amendment) Act, 1897.
1898	II	Amending the Sindh Village-officers Act, 1881.	The Sind Village-officers (Amendment) Act, 1898.
1898	III	Amending the Bombay District Police Act, 1890.	The Bombay District Police (Amendment) Act, 1898.
1899	I	Amending the Bombay Port Trust Act, 1879.	The Bombay Port Trust (Amendment) Act, 1899.
1900	II	Amending the City of Bombay Municipal Act, 1888.	The City of Bombay Municipal (Amendment) Act, 1900.
1900	III	Amending the Bombay City Land-revenue Act, 1876.	The Bombay City Land-revenue (Amendment) Act, 1900.
1901	I	Amending the Bombay Salt Act, 1890.	The Bombay Salt (Amendment) Act, 1901.
1903	II	Amending the Bombay Boiler Inspection Act, 1891.	The Bombay Boiler Inspection (Amendment) Act, 1903.
1903	III	Amending the Bombay District Municipal Act, 1901.	The Bombay District Municipal (Amendment) Act, 1903.
1903	V	Amending the City of Bombay Municipal Act, 1888.	The City of Bombay Municipal (Amendment) Act, 1903.
1904	IV	Amending the Bombay District Municipal Act, 1901.	The Bombay District Municipal (Amendment) Act, 1904.
1905	III	Amending the Bombay Abkari Act, 1878.	The Bombay Abkari (Amendment) Act, 1905.
1909	II	Amending the Karachi Port Trust Act, 1886.	The Karachi Port Trust (Amendment) Act, 1909.
1912	I	Amending the Dekkhan Agriculturists' Relief Act, 1879, and the Bombay Repealing and Amending Act, 1910.	The Dekkhan Agriculturists' Relief (Amendment) Act, 1912.
1912	II	Amending the Societies' Registration Act, 1860.	The Societies' Registration (Amendment) Act, 1912.
1912	IV	Amending the Bombay District Police Act, 1890.	The Bombay District Police (Amendment) Act, 1912.

Part II—Acts of the Governor of Bombay in Council—(concl'd.)

Year.	No.	Subject.	Short Title.
1	2	3	4
1912	V	Amending the Bombay Civil Courts Act, 1869.	The Bombay Civil Courts (Amendment) Act, 1912.
1912	X	Amending the Bombay District Municipal Act, 1901.	The Bombay District Municipal (Amendment) Act, 1912.
1912	XI	Amending the Bombay Land-revenue Code, 1879.	The Bombay Land-revenue Code (Amendment) Act, 1912.
1912	XII	Amending the Bombay Abkari Act, 1878.	The Bombay Abkari (Amendment) Act, 1912.
1913	V	Amending the Bombay District Police Act, 1890, and the Bombay City Police Act, 1902.	The Bombay District and City Police (Amendment) Act, 1913.
1913	VI	Amending the City of Bombay Municipal Act, 1888.	The City of Bombay Municipal (Amendment) Act, 1913.
1914	III	Amending the Bombay Tramways Act, 1874.	The Bombay Tramways (Amendment) Act, 1914.
1914	VI	Amending the Bombay Port Trust Act, 1879.	The Bombay Port Trust (Amendment) Act, 1914.
1918	III	Declaring the law in force in certain Territory ceded by His Highness the Gaikwar of Baroda.	The Gaikwar of Baroda Ceded Lands Laws Act, 1918.

**THE BOMBAY COTTON CONTRACTS CONTROL (WAR
PROVISIONS) REPEAL ACT, 1922.**

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Repeal of Bom. I of 1919.
3. Provision for the settlement of certain contracts and disputes after repeal.
4. Disposal of property of Bombay Cotton Contracts Board.
5. Bom. I of 1919, section 5, not to apply in certain cases.

BOMBAY ACT No. III OF 1922.¹

[THE BOMBAY COTTON CONTRACTS CONTROL (WAR PROVISIONS)
REPEAL ACT, 1922.]

[5th May, 1922]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act to repeal the Bombay Cotton Contracts Control
(War Provisions) Act, 1919.**

Bom. I of 1919. WHEREAS it is expedient to repeal the Bombay Cotton Contracts Control (War Provisions) Act, 1919 ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Cotton Contracts Control Short title. (War Provisions) Repeal Act, 1922.

Bom. I of 1919. 2. The Bombay Cotton Contracts Control (War Provisions) Act, 1919, hereinafter called "the said Act," is, with effect from 1st June 1922 and except to the extent mentioned in section 3, hereby repealed. Repeal of Bom. I of 1919.

3. The said Act and the rules and bye-laws made thereunder shall continue in force thereafter only for the purpose of settling contracts and disputes in relation thereto, for the purchase and sale of cotton to be delivered on or before 31st May 1922, and the Bombay Cotton Contracts Board shall deal with such contracts and disputes and the powers and functions of the Board in relation thereto shall as regards such contracts and disputes remain in full force and effect, provided that the application for the exercise of the powers and functions of the Board under its rules and bye-laws is made not later than 15th July 1922. Provision for the settlement of certain contracts and disputes after repeal.

4. On the settlement of the last such dispute, the property of the Bombay Cotton Contracts Board shall vest in the ²[Provincial Government] and the proceeds thereof shall, after the liabilities of the Board shall have been discharged, be applied by the ²[Provincial Government] for the benefit of the cotton trade of the City of Bombay. Disposal of property of Bombay Cotton Contracts Board.

5. Notwithstanding anything contained in section 5 of the said Act, no contract for the purchase or sale of cotton to be delivered after 31st May 1922, whether made before or after the passing of this Act, shall be void by reason of its contravening any rule or bye-law made by the Bombay Cotton Contracts Board. Bom. I of 1919, section 5, not to apply in certain cases.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Part V, page 7.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

BOMBAY ACT No. IV OF 1922.¹

[THE MAHUL CREEK (EXTINGUISHMENT OF RIGHTS) ACT, 1922.]

[20th May, 1922]

Amended by Bom. Act 16 of 1927.

WHEREAS it is expedient to facilitate the laying by the Trustees of the Port of Bombay of a new oil pipe line to the oil pier at Trombay ;

And whereas for the proper laying and protection of the said pipe line it is necessary to keep the drawbridge now maintained by the Port Trust Railway over the Mahul Creek permanently closed and thus to cut off from access to the sea a portion of the said creek ;

And whereas it is therefore necessary to extinguish all * * * rights of navigation in the said creek over and above the site of the said bridge ;

And whereas the previous sanction of the Governor-General required by clauses (e) and (f) of sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Mahul Creek (Extinguishment of Short title. Rights) Act, 1922.

2. From the first day of June 1922 all * * * rights of navigation in that part of the Mahul Creek which lies over and above or to the north of the drawbridge now to be kept permanently closed by the Trustees of the Port of Bombay, and spanning the said creek at a point specified in the Schedule hereto, shall be extinguished. Extinguish-
ment of
rights.

3. (1) On the passing of this Act, the Collector of Bombay shall commence to take order for the award of compensation for any loss or damage caused to any person by the extinction of such rights, in the same manner, as nearly as may be, as if he had been directed under section 7 of the Land Acquisition Act, 1894, to take order for the acquisition of land. Compen-
sation to
be awarded
for loss or
damage
caused by
extinction
of rights.

(2) Compensation shall be determined and awarded in accordance, as nearly as may be, with the provisions of the Land Acquisition Act, 1894, by the said Collector, or, if his award is not accepted, by the Court.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Part V, page 2.

² The words "tidal rights and" were repealed by Bom. 16 of 1927. This repeal shall be deemed to have been made and to have had effect from the date on which Bom. 4 of 1922 came into operation :

Provided that if a claim for compensation for loss of tidal rights has been preferred before the Collector of Bombay and the claim has not been adjudicated upon when this Act comes into force, the time during which the proceedings were pending before the Collector shall be excluded in calculating limitation for any suit that may be filed hereafter for damages for interference with such tidal rights. See Bom. 16 of 1927, s. 3.

420 *Mahul Creek (Extinguishment of Rights) Act, 1922* [BOM. IV OF 1922]

SCHEDULE.

(See section 2.) .

The site of the drawbridge is about 600 feet, measured along the western edge of the Mahul Creek, to the north of the centre line of the Pakdi Creek, as shown on City Survey Sheet No. 587, and 900 feet measured along the western edge of the Mahul Creek to the south of the centre line of the Chandani Creek, as shown on City Survey Sheet No. 589. It is approximately 730 feet to the east of the old Tower situate near the Laxman Govind Salt Pan Works as shown on City Survey Sheet No. 587.

BOMBAY ACT No. XI OF 1922.¹

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT)
ACT, 1922.]

[14th December, 1922]

An Act to amend the Identification of Prisoners Act, 1920.

XXXIII WHEREAS it is expedient to amend the Identification of Prisoners
of Act, 1920, in its application to the City of Bombay in manner hereinafter
1920. appearing; AND WHEREAS the previous sanction of the Governor
5 & 6, General required by clause (f) of sub-section (3) of section 80A of
Geo. 5, the Government of India Act has been obtained for the passing of this
c. 61. Act; It is hereby enacted as follows:—

1. (1) This Act may be called the Identification of Prisoners (Bombay Short title
Amendment) Act, 1922. and extent.

(2) It extends to the City of Bombay.

2. In clause (b) of section 2 of the Identification of Prisoners Act, Amendment
1920, hereinafter called "the said Act", after the figures "1898" the of section 2
Bom. words and figures "or Chapter V of the City of Bombay Police Act, of XXXIII
IV of 1902" shall be inserted. of 1920.

3. In section 5 of the said Act

(a) after the figures "1898" the words and figures "or the City Amendment
of Bombay Police Act, 1902" shall be inserted; and of section 5
Bom. of XXXIII
IV of of 1920.

(b) to the first proviso, the words "or a Presidency Magistrate"
shall be added.

4. In section 7 of the said Act, after the word "Officer" the words Amendment
"or in the City of Bombay, the Commissioner of Police" shall be of section 7
Bom. of XXXIII
IV of of 1920.
inserted.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Part V, page 96.

BOMBAY ACT No. XIII OF 1922.¹

[THE PREVENTION OF CRUELTY TO ANIMALS (BOMBAY AMENDMENT)
Act, 1922.]

[28th December, 1922]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

**An Act further to amend the Prevention of Cruelty to
Animals Act, 1890.**

WHEREAS it is expedient further to amend the ²Prevention of Cruelty
to Animals Act, 1890, in its application to the Presidency of Bombay
in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Prevention of Cruelty to Animals Short title.
(Bombay Amendment) Act, 1922.

2. In section 3 of the Prevention of Cruelty to Animals Act, 1890, Amendment
hereinafter called "the said Act"— of section 3
of XI of
1890.

(a) the words "in any street or in any other place, whether open
or closed, to which the public have access, or within sight of
any person in any street or in any such other place" shall
be repealed, and

(b) after clause (c) the following two clauses shall be added,
namely:—

"or (d) in any area to which this clause is by special notification
as aforesaid extended, without sufficient excuse neglects
to supply any animal under his control with sufficient
food or drink; or

(e) in any area to which this clause is by special notification
as aforesaid extended, without sufficient excuse abandons
or turns loose any animal without making due provision
for its sustenance."

3. For section 6 of the said Act the following section shall be Amendment
substituted namely:— of section 6
of XI of
1890.

"6. (1) If any person employs in any work or labour any animal Penalty for
which by reason of any disease, infirmity, wound, sore or other cause is employing
unfit to be so employed, or permits any such unfit animal in his possession animal
or under his control to be so employed, he shall be punished with fine unfit for
which may extend to one hundred rupees. labour.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1921, Part V, page 82, and for Report of Select Committee, see *ibid*, 1922, Part V, page 147.

² Central Acts.

(2) The ¹[Provincial Government] may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until, except as provided for in sub-section (4), it is in his opinion or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed. If however the Magistrate decides that the animal will never again be fit he may direct that it shall be destroyed or sent to a pinjrapole.

(4) Within any specified area the ¹[Provincial Government] may, when any animal has been sent to an infirmary under sub-section (3), authorize any veterinary officer to issue a certificate that in his opinion such animal is fit for the work or labour on which it has been ordinarily employed and such animal shall not be released from detention unless and until such certificate shall have been issued or the Magistrate directs that it shall be destroyed or sent to a pinjrapole.

(5) The cost of the transport to the infirmary and the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency town, the Commissioner of Police may from time to time prescribe.

(6) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(7) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him.

(8) If the cost incurred under sub-section (5) shall exceed the proceeds of the sale, the excess to such extent as shall seem reasonable shall be recoverable from the owner as a fine on the order of the Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of urging his objections, if any, before the Magistrate.

¹The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

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