

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE
BOMBAY CODE,
IN THREE VOLUMES.

VOLUME III:

CONTAINING

THE UNREPEALED ACTS OF THE GOVERNOR OF BOMBAY
IN COUNCIL FROM 1881 TO 1895.

WITH

A CHRONOLOGICAL TABLE

AND

AN INDEX.

SECOND EDITION.

Calcutta :

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.

1896.

Price Six Rupees.

PREFACE.

THIS, the third volume of the second edition of the Bombay Code, contains the unrepealed Acts of the Governor of Bombay in Council from 1881 to 1895, with a chronological table showing as far as possible how each Act has been repealed or otherwise affected by legislation.

2. A short index is appended to the volume.

3. The volume is based on official copies of the Acts preserved in the Legislative Department. Though it cannot be described as "authoritative," its accuracy is guaranteed by the Legislative Department.

4. The following changes have been made in reprinting the Acts :—

- (a) repealed matter has been omitted, explanatory notes being inserted; or, where this was not practicable, the repeal has been mentioned in a foot-note;
- (b) amendments made by later Acts have been inserted in the text of the Act amended, with explanatory foot-notes; or, where this was not practicable, the amendment has been mentioned in a foot-note;
- (c) in the case of mere amending Acts, only the titles, or the titles and the preambles, have been printed, a note being inserted to explain that the amendments are incorporated in the principal Act as printed in the Code;
- (d) references to repealed Acts have been altered as directed by the Act which effects the repeal, explanatory foot-notes being added; or, where this

was not practicable, an explanation has been given in a foot-note ;

- (e) the number and year of enactments referred to in the text have been noted in the inner margin, except where both appear in the text ;
- (f) section-numbers occurring in the text have been uniformly printed in figures, instead of in words ;
- (g) the marginal notes have in some cases been revised ;
- (h) a table of contents has in some cases been inserted ;
- (i) words belonging to Oriental languages have been uniformly spelt ;
- (j) lengthy sections have sometimes been divided into clauses and paragraphs ;
- (k) the headings to the pages have been amplified ;
- (l) some foot-notes, in addition to those mentioned in clauses (a), (b) and (d) above, have been added for convenience of reference.

5. In reading this volume it should be borne in mind that sections 3 to 12 (both inclusive) of the Bombay General Clauses Act, 1886 (Bombay Act III of 1886), have been declared by section 13 of that Act to apply to all Acts of the Governor of Bombay in Council, whether passed before, during or after the year 1886.

7. The volume has been corrected up to the 18th March, 1896.

F. G. WIGLEY,

*Personal Assistant to the Secretary,
Legislative Department.*

CALCUTTA ;

The 19th March, 1896.

NOTE.—A Code for Assam is now in the Press. To complete the revised edition of Mr. Whitley Stokes' collections of Indian Statute Law, there will remain to be published a new edition of the Collection of Statutes relating to India.

CHRONOLOGICAL TABLE OF ALL ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL FROM 1881 TO 1895.

[With respect to the entry of repealing enactments in the fourth column the practice has been as follows :—
 (a) where an Act has been totally repealed more than once, the latest repealing enactment has alone been entered ;
 (b) where an Act has been partially repealed and afterwards totally repealed, the total repeal only has been entered ; a repeal of the unrepealed portions of an Act is treated as a total repeal ;
 (c) partial repeals covered by later partial repeals have not been entered ;
 (d) local repeals covered by later local repeals have not been entered ;
 (e) where an Act has been locally repealed and afterwards repealed by an Act whose operation is unrestricted, the later repealing Act has alone been entered.]

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1881	I	Bombay Port Trust (amending Bom. Act VI of 1879).	.....	1
"	II	<i>Jurisdiction of Presidency Magistrates in Municipal Cases.</i>	<i>Rep., Bom. Act III of 1888.</i>	
"	III	Bombay Port Trust (amending Bom. Act VI of 1879).	.....	1
"	IV	The Sindh Village Officers Act, 1881.	Amended, Bom. Act II of 1888.	1
"	V	The Tolls on Roads and Bridges Act Amendment Act, 1881.	.....	4
1882	I	<i>Cotton Frauds (repealing Bom. Act VII of 1878).</i>	<i>Rep., Act XVI of 1895.</i>	
"	II	Jails (amending Bom. Act II of 1874).	Rep. in part, Act IX of 1894.	4
"	III	The Vaccination Acts Amendment Act, 1882.	.....	4
"	IV	Police, Bombay Town (amending Act XLVIII of 1860).	Amended, Act XVI of 1895.	5
"	V	<i>Salt (amending Bom. Act VII of 1873).</i>	<i>Rep., Bom. Act II of 1890.</i>	
"	VI	<i>The Bombay Municipal Acts Amendment Act of 1882.</i>	<i>Rep., Bom. Act III of 1888.</i>	

vi *Chronological Table of all Acts of the Governor of Bombay in Council from 1881 to 1895—contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1882	VII	The Bombay Landing and Wharfage Fees Act, 1882.	Rep. in part and amended, Act XVI of 1895. Rep. as to Karáchi, Bom. Act VI of 1886, s. 43; Aden, Bom. Act V of 1888, s. 40 (4).	5
1883	I	The Bombay Highway Act, 1883.	Rep. in part, Bom. Act III of 1886 [as amended by Bom. Act I of 1891, s. 2 (a)]. Amended, Act XVI of 1895.	8
"	II	The Karachi Tramways Act, 1883.	Rep. in part, Bom. Act III of 1886.	12
"	III	Bombay Port Trust (amending Bom. Act VI of 1879).	.....	27
"	IV	<i>Confinement of Civil Prisoners.</i>	<i>Rep., Act IX of 1894.</i>	
"	V	The Bombay Public Authorities Seals Act, 1883.	Rep. in part, Act XVI of 1895.	28
"	VI	Bombay Port Trust (amending Bom. Act VI of 1879).	.....	28
1884	I	The Bombay Local Boards Act, 1884.	Rep. in part, Act XVI of 1895; Bom. Act III of 1886. Rep. in part and amended, Bom. Act IV of 1885, ss. 1 to 4. Amended, Bom. Act I of 1888.	34
"	II	The Bombay District Municipal Act Amendment Act, 1884.	Rep. in part, Bom. Act III of 1886. Rep. in part and amended, Act XVI of 1895. Amended, Bom. Act IV of 1885, s. 5; Bom. Act I of 1888. Supplemented, Bom. Act V of 1890.	69
1885	I	<i>Bombay Port Trust</i>	<i>Rep., Act XVI of 1895.</i>	
"	II	<i>City of Bombay Municipality: Exhibition Guarantee Fund.</i>	<i>Rep., Bom. Act III of 1888.</i>	

*Chronological Table of all Acts of the Governor of Bombay in Council
from 1881 to 1895--contd.*

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1885	III	<i>City of Bombay Municipality : Deputy Municipal Commissioner.</i>	<i>Rep., Bom. Act III of 1888.</i>	
"	IV	Local Boards ; District Municipalities (amending Bom. Acts I and II of 1884).	Rep. in part, Act XVI of 1895.	91
1886	I	<i>City of Bombay Municipality (amending Bom. Acts III of 1872 and IV of 1878).</i>	} <i>Rep., Bom. Act III of 1888.</i>	
"	II	<i>City of Bombay Municipality : Town-duties.</i>		
"	III	The Bombay General Clauses Act, 1886.	Rep. in part (locally), Bom. Act IV of 1890. Rep. in part and amended— Act XVI of 1895 ; Bom. Act I of 1891.	91
"	IV	Land-revenue (amending Bom. Act V of 1879).	.....	98
"	V	Hereditary Offices (amending Bom. Act III of 1874).	Rep. in part, Act XVI of 1895. Rep. in part and amended (locally), Bom. Act VI of 1887.	98
"	VI	The Karáchi Port Trust Act, 1886.	.....	104
1887	I	<i>Jails (amending Bom. Act II of 1874).</i>	<i>Rep., Act IX of 1894.</i>	
"	II	The Protection of Pilgrims Act, 1887.	.....	146
"	III	<i>The Bombay Boiler Inspection Act, 1887.</i>	<i>Rep., Bom. Act II of 1891.</i>	
"	IV	The Bombay Prevention of Gambling Act, 1887.	Rep. in part, Act XVI of 1895. Amended, Bom. Act I of 1890.	140
"	V	Public Conveyances (amending Bom. Act VI of 1863).	.....	153
"	VI	The Matárárs Act, 1887 .	Amended, Bom. Act III of 1890.	155

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1887	VII	The Toda Girás Allowances Act, 1887.	.....	165
1888	I	Local Boards; District Municipalities (amending Bom. Acts I and II of 1884).	Rep. in part, Act XVI of 1895.	167
"	II	Village-officers, Sindh (amending Bom. Act IV of 1881).	.....	167
"	III	The City of Bombay Municipal Act, 1888.	Rep. in part and amended— Act XVI of 1895; Bom. Act IV of 1888. Amended, Bom. Act I of 1894. Supplemented, Act XII of 1888; Act II of 1889; Bom. Act V of 1890.	192
"	IV	The City of Bombay Municipal Act Amendment Act, 1888.	Rep. in part, Act XVI of 1895.	394
"	V	The Aden Port Trust Act, 1888.	Rep. in part and amended, Act XVI of 1895. Amended, Bom. Act I of 1895.	399
"	VI	The Gujarát Tálúqdárs Act, 1888.	Rep. in part, Act XVI of 1895.	434
1889	I	The Bombay Village Sanitation Act, 1889.	.....	449
1890	I	Gambling (amending Bom. Act IV of 1887).	.....	463
"	II	The Bombay Salt Act, 1890.	Rep. in part, Act XVI of 1895. Amended, Bom. Act II of 1892.	467
"	III	Matáldárs (amending Bom. Act VI of 1887).	.....	488
"	IV	The Bombay District Police Act, 1890.	Rep. in part, Act XVI of 1895.	494
"	V	The Bombay Municipal Servants Act.	.....	523
1891	I	General Clauses (amending Bom. Act III of 1886).	Rep. in part, Act XVI of 1895.	527

Chronological Table of all Acts of the Governor of Bombay in Council ix
from 1881 to 1895—concl'd.

1	2	3	4	5
Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Page.
1891	II	The Bombay Boiler Inspection Act, 1891.	Rep. in part, Act XVI of 1895.	529
1892	I	The Bombay District Vaccination Act, 1892.	Rep. in part, Act XVI of 1895.	543
"	II	Salt (amending Bom. Act II of 1890).	.....	556
"	III	The Bombay Ábkári Act Amendment Act, 1892.	.....	557
1894	I	The City of Bombay Municipal Act Amendment Act, 1893.	.....	557
"	II	The Peint Laws Act, 1894	.....	557
1895	I	Aden Port Trust (amending Bom. Act V of 1888).	.....	558
"	II	The Bombay Tramways Act Amendment Act of 1895.	.....	558

THE BOMBAY CODE.

VOLUME III.

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL FROM 1881.

N. B.—SECTIONS 3 TO 12 OF THE BOMBAY GENERAL CLAUSES ACT, 1886
(PRINTED *infra*, PAGES 91 *et seq.*), APPLY TO THESE ACTS.

BOMBAY ACT No. I of 1881.

*(The assent of the Governor General of India to this Act was first published
by the Governor of Bombay on the 9th April, 1881.)*

An Act to amend the Bombay Port Trust Act, 1879.

Bom. VI of
1879.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VI of 1879, as printed on pp. 377, *et seq.* of Vol. II of this Code.]

BOMBAY ACT No. III of 1881.

*(The assent of the Governor General of India to this Act was first published
by the Governor of Bombay on the 18th August, 1881.)*

An Act to further amend the Bombay Port Trust Act, 1879.

Bom. VI of
1879.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VI of 1879, as printed on pp. 377, *et seq.* of Vol. II of this Code.]

BOMBAY ACT No. IV of 1881.

*(The assent of the Governor General of India to this Act was first published
by the Governor of Bombay on the 13th October, 1881.)*

An Act to provide for the appointment and maintenance of
Village-officers in Sindh.

WHEREAS it is expedient to make provision for the appointment and maintenance of village-officers in the Province of Sindh; It is enacted as follows :—

1. This Act may be cited as the Sindh Village-officers Act, 1881.
It extends to the whole of the Province of Sindh.

Short title.
Extent.

“ Village-officer ” defined.

2. In this Act “ village-officer ” means any person appointed under this Act whose duty it is to collect, or to supervise the collection of, the revenue of a village or to perform Police-duties, or both, [a] and includes Kotárs or Tapedárs’ peons [a].

Appointment of village-officers.

3. Subject to the general orders of Government, the Commissioner in Sindh [b] or other authority prescribed by rule under section 8 [b] may from time to time—

- (a) appoint any person to be a village-officer, and
- (b) cancel any such appointment.

Every person so appointed shall hold office under such designation and for such period, and shall exercise his functions within such local area, as shall be prescribed by the said Commissioner.

Grant of hereditary office.

4. The said Commissioner may, with the previous sanction of Government, confer the office of village-officer upon any person and his descendants hereditarily. When any office is so conferred, the succession thereto, and the right to officiate or to nominate an officiator, shall be determined under such rules as may from time to time be prescribed by Government in this behalf under section 8 of this Act.

Village-police-officers.

5. Any village-officer may, if the Commissioner in Sindh so directs, be appointed by the Magistrate of the district to be village-police-officer, and in such capacity shall exercise all the powers and perform all the duties conferred and imposed by the Bombay Village Police Act, 1867 [c], on a Police-patel, and when any such appointment is made, and so long as it continues, the provisions of the said Act and of the enactments by which it has been amended shall, with such exceptions, if any, as Government shall from time to time direct, be deemed to be in force in the local area to which such officer’s jurisdiction extends :

Bom. VIII of 1867.

Provided always that no village-officer shall exercise any of the powers mentioned in sections 15 and 16 of the said Act, unless expressly empowered in this behalf by a commission duly issued to him under the said section 15.

Levy of cess for the purpose of this Act.

6. [d] For the purpose of defraying the salaries, emoluments and contingent expenditure of village-officers appointed under this Act, and of providing the pensions, gratuities or compassionate allowances, if any, payable to such officers on retirement, and of giving, with the sanction of the Commissioner in Sindh, occasional special rewards to headmen of villages and others, who have rendered good service towards the administration of the district, [d] it

[a.] These words were added by Bom. Act II of 1898, s. 1.

[b.] These words were added by Bom. Act II of 1898, s. 2.

[c] Printed in Vol. II of this Code, p. 120.

[d.] These words were substituted for the original words by Bom. Act II of 1898, s. 3.

(Secs. 7-8.)

shall be lawful for the Governor in Council, on the introduction or revisior of a settlement, to levy a cess from all land in the Province of Sindh at a rate not exceeding one anna for every rupee of the amount at which such land is assessed, or, in the case of alienated land, at which, if it had not been alienated, such land would be assessed to the ordinary land-revenue.

The cess so leviable shall be included in, and levied as, one demand along with the land-revenue from the sum total of which it shall thereafter be deducted and applied to the purposes of this Act :

Provided always that, in the case of a village entirely alienated, the said cess shall be leviable only if a village-officer be appointed under the provisions of this Act for such village.

Explanation.—In this section “alienated” has the same meaning as in the Bombay Land-revenue Code, 1879 [*].

Bom. V
of 1879.

7. It shall not be competent to any village-officer appointed under this Act to mortgage, charge, lease or alienate any salary or other remuneration to which he may be entitled as such officer; and the Collector shall refuse payment of the salary, or of any portion thereof, to any person claiming the same in virtue of any such mortgage, charge, lease or alienation, and may withhold or resume any other remuneration assigned to the village-officer which has been so mortgaged, charged, leased or alienated.

Village-officer not to mortgage, charge, lease or alienate salary or other remuneration granted under this Act.

8. The Commissioner in Sindh may, with the previous sanction of Govern- Rules, ment, from time to time, make rules consistent with this Act--

- [^b] (a) determining the duties of the different village-officers, and the authority by whom appointments of such officers may be made and cancelled ;
- [^b] (b) fixing the salaries and other remunerations of village-officers, and regulating the payment of pensions, gratuities or compassionate allowances on retirement to such classes of them and under such conditions as may appear expedient ;
- (c) regulating the punishment, suspension and dismissal of village-officers ;

[*] Printed in Vol. II of this Code, p. 303.

[^b] These clauses were substituted for the original clauses (a) and (b) by Bom. Act II of 1888, s. 4.

Tolls on Roads and Bridges. [1881: Bom. Act V.

Jails. [1882: Bom. Act II.

Vaccination (Bombay City and Karáchi). [1882: Bom. Act III.

- (d) prescribing, in the case of hereditary village-officers, the order of succession, the authority by whom the right of succession shall from time to time be determined, the conditions under which the right of personal service will be admitted, and when and by whom a deputy may be appointed to officiate ;
- (e) determining the circumstances under which any hereditary office may be forfeited or resumed ; and
- (f) generally for carrying out the provisions of this Act.

BOMBAY ACT No. V of 1881.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th November, 1881.)

An act to amend the law relating to Tolls on Roads and Bridges in the Presidency of Bombay.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act III of 1875 as printed on pp. 215 *et seq.* of Vol. II of this Code.]

BOMBAY ACT No. II of 1882.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 29th March, 1882.)

An Act to amend Bombay Act II of 1874.

WHEREAS it is expedient to abolish the fund called “The Civil Jail Fund” and to provide for the disposal of subsistence-money remaining in hand on the death or release of prisoners in the civil jail, and for this purpose to amend Bombay Act II of 1874 ; It is enacted as follows :—

[NOTE.—The amendments made by this Act are incorporated in Bom. Act II of 1874 as printed on pp. 185 *et seq.* of Vol. II of this Code.]

BOMBAY ACT No. III of 1882.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 29th March, 1882.)

An Act to amend the Bombay and Karáchi Vaccination Acts. Bom. I of
1877 and IV

[NOTE.—The amendment made by this Act is incorporated in Bom. Acts I of 1877 and IV of 1879, respectively, as printed on pp. 247 *et seq.* and 282 *et seq.* of Vol. II of this Code.] of 1879.

1882: Bom. Act IV.] *Police (Bombay Town).*

5

1882: Bom. Act VII.] *Landing and Wharfage Fees.*

(Secs. 1-4.)

BOMBAY ACT No. IV OF 1882.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th May, 1882.)

An Act to amend Act XLVIII of 1860.

[NOTE.—The amendment made by this Act is incorporated in Act XLVIII of 1860 as printed on pp. 108 *et seq.* of Vol. I of this Code.]

BOMBAY ACT No. VII OF 1882.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 18th November, 1882.)

An Act to provide for the levy of fees for the use of Public Landing-places.

WHEREAS it is expedient to provide for the levy of fees for the use of public landing-places in certain ports in the Bombay Presidency; It is hereby enacted as follows:—

1. This Act shall be called the Bombay Landing and Wharfage Fees Act, 1882.

2. [a] It shall extend to any ports [a] in the Presidency of Bombay to which the Governor in Council may from time to time, by notification in the Bombay Government Gazette and other local official Gazette, extend the Act.

3. Bombay Act III of 1879 is hereby repealed, and all fees levied and every declaration, appointment or rule made under that Act shall be deemed to have been levied and made under this Act.

4. In this Act the term "landing-place" includes a bandar, wharf, pier, jetty, hard and any place used for the landing, shipping, wharfage, crannage or storage of goods;

and the term "Commissioner" shall include [b] the Chief Customs-authority for the Presidency of Bombay.

[a.] These words were substituted for the original words by Act XVI of 1895.

[b] Words repealed by Act XVI of 1895 are omitted.

(Secs. 5-7.)

The Governor in Council to fix limits of bandars, etc., and the fees to be levied.

5. It shall be lawful for the Governor in Council from time to time, by notification in the Bombay Government Gazette and other local official Gazette,—

- (a) to define the limits of any port to which this Act is made applicable when such limits have not been defined under the Indian Ports Act, X of 1889, 1889 [*] ;
- (b) to determine what are public landing-places to which the provisions of this Act shall apply ;
- (c) to determine the limits of any such landing-place ;
- (d) to withdraw this Act from any port in which it is for the time being in force ;
- (e) to fix the fees to be levied—
 - (1) for the landing, shipping, wharfage, crannage, storage or demurrage of goods at, and
 - (2) for permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at, and
 - (3) for permitting vessels or boats to approach or lie alongside, any such landing-place :

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessels, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

Powers and duties under this Act by whom to be exercised and performed.

6. The levy of fees under this Act shall be made, and all other powers and duties conferred and imposed by this Act or by any bye-laws made hereunder shall be exercised and performed, by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time direct in this behalf.

Powers, privileges and liabilities of officers who collect fees.

7. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law [b] for the time being in force in respect of duties of sea-customs by the Collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of anything done by them in collecting and enforcing payment of the said fees as the said Collector of Customs and his subordinates have, or are liable to, under the provisions of any such law. VIII of 1878.

[*] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

(Secs. 8-10.)

The law [b] for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees. Punishment of offenders.

8. Tables of the fees leviable under this Act shall be posted up in some conspicuous position at every landing-place at which such fees are leviable, in English and the Vernacular language of the district, province or territory in which the port is situate. Tables of fees to be posted up.

9. The Commissioner may, within the district, province or territory under his charge, and, in respect of any other port or ports to which the provisions of this Act may hereafter be extended, the Chief Customs-authority for the Presidency of Bombay may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act— Power to make bye-laws.

- (a) regulating the use of every landing-place to which this Act applies;
- (b) providing for the management of the traffic over, on or about and to and from, every such landing-place; and
- (c) generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the Bombay Government Gazette and other local official Gazette.

10. The proceeds of all fees realized under this Act in any port to which this Act applies shall be applied in such port— Fees realized under this Act how to be applied.

- (a) in payment of the expenses of the administration of this Act;
- (b) in defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of such port;
- (c) in maintaining and improving any existing landing-place and generally in the improvement of such port.

Accounts of all receipts and expenditure under this Act shall be published once in every year in the Bombay Government Gazette and other local official Gazette. Yearly accounts to be published.

11. [*Validation and Indemnity.*] *Repealed by Act XVI of 1895.*

[b] See the Sea Customs Act, 1878, a revised edition of which, as modified up to 1st July, 1891, has been published by the Legislative Department.

(Secs. 1-3.)

BOMBAY ACT No. I of 1883.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 10th April, 1883.)

An Act to provide Funds for maintaining Provincial Roads used for local purposes:

Preamble.

WHEREAS it is expedient to provide additional funds for the construction and proper maintenance and repair of public roads in or near stations which are chiefly used by the residents for purposes of local convenience, as, for example, for intercommunication, pleasure driving or riding, other than for military purposes or for purposes connected with agricultural operations or petty trade, dealing or industry, and which are not provided for out of imperial, municipal or cantonment funds; It is hereby enacted as follows:—

Short title.

1. This Act shall be cited as the Bombay Highway Act, 1883, and it shall come into force in the manner provided in the next following section.

Local extent.

2. This Act shall extend to the whole of the territories administered by the Bombay Government, but shall not come into force anywhere within the said territories until the Governor in Council may, by notification in the Bombay Government Gazette, apply the same to any local area to be specified in such notification within the said territories; and the Governor in Council may, in like manner, amend or cancel any such notification.

Imposition of tax on carriages, etc., in notified area.

3. It shall be lawful for the Governor in Council, after the publication of the notification referred to in the last preceding section, to levy a tax on all carriages, coaches, vans, carts, hackeries, horses or ponies in accordance with the rates specified in the schedule [a] from all persons owning or having charge of the same, who are resident within the local area so notified: Provided—

- (a) that the Governor in Council may reduce, alter or modify this tax as he may deem fit, but may not increase the rates specified in the said schedule;
- (b) that any person who may have owned or had charge of any vehicle or animal as aforesaid kept for use within such local area for a period exceeding fifteen and not exceeding thirty consecutive days shall be liable only to one-third of the tax for that quarter, and for any period of a quarter exceeding thirty consecutive days shall be liable for the whole tax of that quarter;
- (c) that no tax shall be leviable in respect of any vehicle or animal as aforesaid which shall have been out of use for the whole period contained in

[a] Words repealed by Bom. Act III of 1886 are omitted.

any quarter on due notice in writing being given by the owner in accordance with the rules of assessment hereinafter provided for in section 4 [a].

For the purposes of this section the word "resident" means and includes any person who dwells or takes up his abode in a local area notified under this Act for a period exceeding fifteen days.

4. It shall be lawful for the Governor in Council, from time to time, to make rules for the assessment and recovery of the tax referred to in the last preceding section, which shall be published in the Bombay Government Gazette, and such rules may be general for all areas notified under the provisions of section 2 [b], or special for any one or more such areas, according as the Governor in Council directs, and it shall be lawful for the Governor in Council at any time to amend or cancel such rules.

Rules to be framed for the levy of the tax.

5. Whenever in any municipality or cantonment, within any local area notified under this Act, a tax on vehicles and animals is levied within the limits of such municipality [c] or cantonment, under the authority of any law for the time being in force therein, the tax imposable under section 3 [a] shall not be levied within such limits; but such contribution which, under any law for the time being in force, may be made out of the funds of any such municipality or cantonment to provincial or local funds, as shall, in the opinion of the Governor in Council, be deemed a just and proper share towards meeting the expenses of maintaining provincial roads which are not provided out of such municipal or cantonment funds, but which are calculated to benefit the residents within the limits of such municipality or cantonment, may be applied in the manner prescribed for the application of the proceeds of the tax imposed under section 3 [a].

The tax not leviable in a municipality or cantonment where a tax on vehicles and animals is already levied.

6. The proceeds of the tax in each area where such tax has been lawfully imposed under the provisions of this Act shall be credited to provincial or local funds as the Governor in Council shall direct: Provided always that the proceeds of such tax levied within or contributed by any cantonment as defined by the Cantonments Act, 1889 [d], shall only be applied in conformity with section 21 [e] of that Act.

Application of proceeds of the tax.

XIII of 1889.

7. No tolls leviable under Bombay Act III of 1875 [f] shall be levied within any local area notified under this Act.

Tolls under Bombay Act III of 1875 not to be levied in local areas notified under this Act.

[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] Words repealed by Bom. Act III of 1886, as amended by Bom. Act I of 1891, s. 2 (a), are omitted.

[c] "Municipality" was substituted for "municipalities" by Act XVI of 1895.

[d] The reference to Act III of 1880 is altered in accordance with Act XIII of 1889, s. 2. For Act XIII of 1889 see the revised edition, as modified up to 1st March, 1895, published by the Legislative Department.

[e] The reference to s. 23 of Act III of 1880 is altered in accordance with Act XIII of 1889, s. 2.

[f] Printed in Vol II of this Code, p. 215.

Saving provisions.

8. Nothing in this Act shall be deemed to apply to or include any vehicles or animals as aforesaid belonging to the Government, or vehicles kept for sale by *bonâ fide* dealers and not used for any other purpose;

or shall apply to any persons who are specially exempt from municipal taxation under any rules or law for the time being in force, or to any persons whom the Governor in Council may by an order in writing exempt from the tax imposable under section 3 [*];

or shall apply to any person who earns his livelihood wholly or principally by agriculture carried on within the district within the limits of which the local area to which this Act may be applied is situated, or to any class of persons carrying on any petty trade, dealing or industry in such local area, which the Governor in Council may, from time to time, by notification in the Bombay Government Gazette, exempt from the tax imposable under section 3 [*].

SCHEDULE.

(Referred to in section 3 of this Act.)

TAX ON CARRIAGES, COACHES, VANS, CARTS, HACKERIES,
HORSES AND PONIES.

1. For every four-wheeled
vehicle on springs ... a rate not exceeding Rs. 10 per quarter.
2. For every two-wheeled
vehicle on springs ... ditto „ 6 ditto.
3. For every cart or hackery
drawn by bullocks ... ditto „ 6 ditto.
4. For every horse, or pony
of the height of 12
hands or upwards... ditto „ 5 ditto.

[*] Words repealed by Bom. Act III of 1886 are omitted.

THE KARACHI TRAMWAYS ACT, 1883.

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SCHEDULE.

(Secs. 1-3.)

BOMBAY ACT No. II OF 1883.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 10th April, 1883.)

An Act to authorize the making and to regulate the working of Street Tramways in Karáchi.

Preamble.

WHEREAS the Commissioners of Karáchi Municipal District, hereinafter called the Municipality, by an agreement dated the 21st day of April, 1882, for the considerations therein expressed, granted to Edward Davis Mathews, and his assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Karáchi upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule^[a] ;

and whereas the said grantee is desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Karáchi and the suburbs of Karáchi, and by such other routes, as may hereafter be approved ;

and whereas the objects of this Act cannot be attained without the authority of the Legislature ;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Karáchi Tramways Act, 1883 :

Commencement.

and it shall come into force from the date on which it may be published in the Sindh Official Gazette with the assent of the Governor General.

Meaning of "tramway."

2. In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

Tramways may be made in accordance with the agreement between the Municipality and the grantee.

3. Subject to the provisions of this Act, and of the said agreement, so far as the same is not inconsistent with anything in this Act, the grantee may make and maintain in Karáchi a tramway or tramways, with single or double lines, and with all necessary sidings, turnouts, connections and lines (but in the case of sidings and turnouts only in such places as the Municipality may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Municipality and sanctioned by the Commissioner in Sindh :—

1st, a tramway from a point opposite the carriage stand on the Old Post Office Square, Sadr Bázár along Preedy Road, Garden Road and Bandar Road to Keamari, and

[a] Words repealed by Bom. Act III of 1886 are omitted.

(Secs. 4-7.)

2nd, from a point opposite the City Station of the Sindh, Punjab and Delhi Railway to the Native Jetty crossing the afore-named line to Keamari at a point near the junction of the McLeod and Bandar Roads.

4. In the event of any other tramway or tramways on other routes in Karachi, or in the suburbs of Karachi, being from time to time approved by the Municipality for the said suburbs, as the case may be, and sanctioned by Government and undertaken by the grantee, notice thereof, specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipality and the grantee in respect thereof, shall thereupon be published in the Sindh Official Gazette, and upon such publication all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particularly specified in this Act, and as if the agreement, if any, in reference thereto had been included in the schedule[*].

Application of Act to suburban tramways.

5. Every tramway shall be constructed on a gauge not exceeding four feet, or on such lesser gauge as may be agreed upon between the Municipality and the grantee, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun the drawings and specification showing the proposed construction of each tramway shall be submitted to the Municipality and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Engineer to the Municipality. No vehicle used on any tramway authorized under this Act shall extend beyond the outer edge of the wheels of such carriage more than fourteen inches on each side.

Form in which tramways are to be constructed and maintained.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Municipality to be fit for such traffic.

No tramway to be opened without certificate from Engineer. Carriages how to be worked.

7. The cars and carriages of the grantee on the lines of the tramways shall be worked with such power, animal or mechanical, as the grantee may think suitable: Provided that no steam-carriages shall be used without the special consent of the Municipality, to be obtained in special general meeting of the Commissioners, and without the sanction of the Governor of Bombay in Council.

[*] Words repealed by Bom. Act III of 1886 are omitted.

(Secs. 8-12.)

Grantee may use tramway carriages with flange-wheels.

8. The grantee may use on his tramways carriages with flange-wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, he shall have the exclusive use of his tramways for carriages with flange-wheels or other wheels suitable only to run on a grooved rail.

Grantee may fix and demand fares,

9. The grantee shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of his tramways, or for the carriage of goods by his tramways: Provided that the rate of fare for each person or parcel shall, for any distance not exceeding three miles, not exceed four annas, and for any greater distance shall not exceed the same proportion.

Printed list of fares, etc., to be placed in carriages.

10. A printed list in English, Arabic, Sindhi and Gujarathi of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantee upon any of his tramways.

Such list and printed copy as aforesaid shall be published in the Sindh Official Gazette at the expense of the grantee.

Fares how to be paid.

11. The fares and charges by this Act authorized shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the grantee may, by notice to be annexed to the list of fares, from time to time appoint with the approval of the Municipality.

Powers to break up streets.

12. The grantee from time to time, for the purpose of constructing and maintaining any tramways under this Act or any part or parts thereof respectively, may open and break up the soil and pavement of the streets, roads or bridge, and therein lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which he shall from time to time deem necessary for constructing and maintaining his tramways, subject to the following regulations:—

1st.—He shall give to the Municipality notice in writing of his intention to open or break up any such street, road or bridge, specifying the time at which he will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work, except in cases of emergency arising from

(Sec. 13.)

defects of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

2nd.—He shall not open or break up or alter the level of any such street, road or bridge, except under the superintendence and to the reasonable satisfaction of the Engineer to the Municipality, for which superintendence the grantee shall pay all reasonable expenses, unless the Engineer to the Municipality neglect to give such superintendence at the time specified in the notice or discontinue the same during the work.

3rd.—He shall not, without the consent of the Engineer to the Municipality, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—He shall, with all convenient speed, and in all cases within six weeks at the most, unless the Engineer to the Municipality otherwise consents in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Engineer to the Municipality, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—He shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—He shall make good all damage done to the gas and water pipes and sewers, whether belonging to the Municipality or to private individuals, by the disturbance thereof.

7th.—If, by any such operations as aforesaid, the grantee interrupts the supply of water or gas in or through any main or main pipe, he shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

13. The grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Engineer to the Municipality shall direct, the rails of which any of his tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs it shall not be necessary to give notice thereof to the Municipality.

Grantee to keep the tramway roads in proper repair.

(Secs. 14-19.)

Grantee not to obstruct ordinary traffic.

14. In exercising the powers given to him by the last two preceding sections the grantee shall arrange his work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the Engineer to the Municipality.

Reservation of right of public to use roads.

15. Nothing in this Act, or in any bye-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange-wheels or wheels suitable to run on a grooved rail.

Right of user only.

16. Notwithstanding anything in this Act contained, the grantee shall not acquire, or to be deemed to acquire, any right other than that of user of any road along or across which he lays any tramway.

Penalty for failure of grantee to comply with provisions of Act.

17. If the grantee fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 [a], he shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against him) upon complaint of the Municipality or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing grantee in exercise of his power.

18. If any person wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable for a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

19. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :—

interferes with, removes or alters any part of a tramway of the grantee, or of the works connected therewith ;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways :

or knowingly aids or assists in the doing of such thing :

[*] Words repealed by Bom. Act III of 1886 are omitted.

(Secs. 20-23.)

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

20. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Penalty for avoiding payment of proper fare.

21. It shall be lawful for any servant of the grantee, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him, and is unknown to such servant or person, and the police-officer in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Servant of grantee may arrest persons avoiding payment of fare.

22. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantee with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantee to refuse to take any parcel that he may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Carriage of dangerous or offensive goods.

23. The Municipality in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such regulations as to the rate of speed, number of passengers, and mode of use of the tramways and motive power as the convenience and safety of the public may require, and as are not inconsistent with this Act.

Bye-laws by Municipality.

The grantee may, subject to confirmation as aforesaid, from time to time make such regulations—

Grantee may make certain regulations.

for preventing the commission of any nuisance in or upon any carriage or in or against any premises belonging to him; and

(Secs. 24-28.)

for regulating the travelling in or upon any carriage belonging to him as are not inconsistent with this Act.

And for better enforcing the observance of all or any of such regulations it shall be lawful for such Municipality and grantee respectively, subject to the confirmation thereof by the Local Government, to make bye-laws for all and any of the aforesaid purposes, and from time to time to repeal or alter such bye-laws and make new bye-laws: Provided that such bye-laws be not repugnant to the provisions of this Act or of any law for the time being in force in the city of Karachi. Notice of the making of any such bye-laws shall be published by the Municipality in the Sindh Official Gazette.

Penalty for breach of bye-laws.

24. Any person offending against any bye-law made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty-five rupees to be imposed in such bye-laws as a penalty for such offence.

Power to Municipality to license drivers, conductors, etc. Grantee to be responsible for all damages.

25. The Municipality shall have the like power of making and enforcing rules and regulations and of granting license with respect to all drivers, conductors and other persons having charge of the carriages using the tramways.

26. The grantee shall be answerable for all accidents, damages and injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his works or carriages, and shall save harmless the Municipality and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the Municipality and police to regulate traffic on roads.

27. Nothing in this Act shall limit the powers of the Municipality or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Municipality or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

The Municipality shall not be liable to pay to the grantee any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation of power over roads.

28. Nothing in this Act shall be construed to prevent the Municipality, in the exercise of the powers conferred upon them under Bombay Act VI of 1873 [a], from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same: Provided—

- (1) that they shall cause as little detriment or inconvenience to the grantee as circumstances admit;

(Secs. 29-30.)

- (2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them, on giving twenty-four hours' previous notice in writing to the grantee ;
- (3) that before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee notice of their intention to commence such work, specifying the time at which they will begin to do so ; such notice to be given eighteen hours at least before the commencement of the work ;
- (4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantee ;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantee at the expense of the Municipality.

29. The Municipality shall have the right of purchasing the tramways, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantee or securities of the Government of India, or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council, of such amount as to produce, at the rate of interest current on such securities, seven per cent. per annum on the amount of the said invested capital ; and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantee shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from him.

Municipality to have right of purchasing tramways after twenty-one years.

30. At any time the grantee may sell the undertaking to any person, persons, Corporation or Company (subject nevertheless to the provisions of the said agreement or such of them as shall be then subsisting), and, when any such sale has been made, all the rights, powers, authorities, obligations and liabilities of the grantee under the said agreement and this Act shall be

Grantee may sell his rights and powers to other persons.

transferred to, vested in and may be exercised by, and shall attach to, the person, persons, Corporation or Company, to whom the same has been sold in like manner as if such person, persons, Corporation or Company had been authorized to construct the tramways of the grantee then already constructed and thereafter to be constructed, instead of the grantee.

SCHEDULE.

ARTICLES OF AGREEMENT made this twenty-first day of April, 1882, between the Commissioners of the Karachi Municipal District incorporated under Bombay Act VI of 1873 [*] (hereinafter called "The Municipality") of the one part and Edward Davis Mathews, Civil Engineer and Contractor for Public Works of 10 Union Court Chambers, Union Court, Old Broad Street in the city of London (hereinafter called "The Grantee") of the other part. Whereas the Municipality have agreed to grant to the Grantee the right to construct, maintain and use a tramway or tramways in Karachi upon the terms and conditions hereinafter contained and on the part of the said Municipality to be performed the Grantee for himself, his heirs, executors, administrators and assigns hereby covenants with the Municipality so far as the covenants and agreements hereinafter contained are to be performed by the Grantee and his heirs, executors, administrators and assigns, and the Municipality for and in consideration of the covenants and agreements hereinafter contained and on the part of the Grantee and his heirs, executors, administrators and assigns to be performed hereby covenant with the Grantee and his heirs, executors, administrators and assigns, so far as the covenants and agreements hereinafter contained are to be performed by the Municipality in manner following, that is to say:—

1. The Municipality grant to the Grantee and his heirs, executors, administrators and assigns (all which persons are hereinafter included in the words "The Grantee") the right to construct, maintain and use a tramway or tramways with single or double lines and with all necessary sidings, turn-outs, connections and lines of whatever nature may be required to connect the said tramway or tramways with the Depôts of the Grantee on the following routes and between such other places and by such other routes as may be hereafter approved of by the Municipality, *viz.*: from a point opposite the Carriage Stand on the Old Post Office Square, Sadr Bázâr, along Preedy Road, Government Garden Road and Bandar Road to Keamari; and from a

[*] Printed in Vol. II of this Code, p. 139.

(Schedule.)

point opposite the City Station of the Sindh, Punjab and Delhi Railway to the Native Jetty, crossing the Keamari line at a point near the junction of the McLeod and Bandar Roads.

These lines are more particularly delineated on a plan annexed hereto and thereon shewn by red lines.

2. The Grantee shall moreover (subject to clause 3) have the exclusive right of laying and constructing, maintaining and using a tramway or tramways within the limits of the Municipality on the terms contained in these presents, provided always that if the Grantee shall at any time or times refuse or neglect for six months to accept any proposal by the Municipality for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1, which the Municipality may consider necessary or desirable, it shall be lawful for the Municipality to employ any other person or company for the purposes aforesaid or any of them and to make such arrangements as they may think proper independently of the Grantee, and that in all such cases as aforesaid that these additional lines which the Grantee does not take shall have running powers over the Grantee's lines, provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the Grantee and shall conform to such rules for the regulation of that traffic as may be drawn up by the Grantee and approved by the Municipality :

Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the Grantee's line.

3. The Grantee shall construct all the lines mentioned in clause 1 in such a manner as to be available for use within two and a half years from the passing of the necessary Act by the Legislature, failing which it shall be lawful for the Municipality to withdraw and cancel the concessions and rights granted by these presents to the Grantee as regards the lines remaining unconstructed. Provided always that the Grantee shall not be compelled to construct a greater length of line than five and one-half miles within the said term of two and a half years.

4. Any tramway or tramways to be constructed under this agreement shall be constructed on a gauge of four feet, and the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and, before the work of construction is begun, drawings and a specification shall be submitted to the Engineer and Secretary to the Municipality and be approved by him, and the cars and carriages intended to run on the said tramways shall be such as shall have been approved by the Engineer and Secretary to the Municipality.

5. If the Municipality shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized shall be laid the Grantee shall alter the rails so that the uppermost surface thereof shall be on a level with the surface of the road so altered. Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways and in any case so as not to stop or prevent the free use and working thereof.

6. The cars and carriages of the Grantee on the tracks of the said Tramways shall be worked with such power, animal or mechanical, as the Grantee may think suitable. Provided that the Municipality shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said power and tracks as the convenience and safety of the public using the streets may require.

7. The rails, materials, implements and erections placed and erected by the Grantee on the streets and roads under the powers hereby granted shall be and remain the property of the Grantee but he shall not remove or displace the same or any of them or any part or parts thereof (except for the purpose of renewing or repairing the same) without the consent in writing of the Municipality.

8. Except as provided in clause 2 no person other than the Grantee may use upon any tramway or tramways to be made under this agreement carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

9. The Grantee shall have the power to fix from time to time the rates of fares for carrying passengers and goods in the said cars or carriages provided that the rate for each passenger or parcel shall for any distance not exceeding three miles not exceed four annas and shall not for any greater distance exceed the same proportion.

10. The Grantee may (for the purpose of constructing and maintaining any tramways under this agreement) under such superintendence as is hereinafter specified open and break up the soil and pavement of the several public and other streets and bridges in Karachi and therein lay rails and all necessaries and from time to time repair alter or remove the same and may for the purposes aforesaid remove and use all earth and materials in such streets and bridges and do in and on such streets and bridges all other acts which he shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions:—

1st.—He shall give to the Engineer of the Municipality notice in writing of his intention to open or break up any such street or bridge

(Schedule.)

specifying the time at which he will begin to do so and the portion of the road proposed to be opened or broken up, such notice to be given at least three days before the commencement of the work.

2nd.—He shall not open or break up or alter the level of any road, street or bridge except under the inspection and to the reasonable satisfaction of the Engineer to the Municipality.

3rd.—He shall not without the consent of the Engineer to the Municipality open or break up at any one time a greater length than a half of a mile on any one line of tramway.

4th.—He shall with all convenient speed complete the work for which the said street or bridge shall be broken up and fill in the ground and make good the surface and to the satisfaction of the Engineer to the Municipality restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—He shall make good all damage done to the gas and water pipes and sewers whether belonging to the Municipality or to private individuals by the disturbance thereof.

6th.—He shall in the meantime when such street or bridge is broken up cause it to be watched and to be properly lighted at night.

11. The Grantee shall at his own expense at all times maintain and keep in good condition and repair, to the reasonable satisfaction of the Engineer to the Municipality, the rails of which any of the tramways shall for the time being consist and also so much of any street or bridge whereon any tramway belonging to him is laid as lies between the rails of the tramways and in the case of double lines the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs it shall not be necessary to give notice thereof to the Municipality.

12. In exercising the powers given to him by clauses 10 and 11 the Grantee shall arrange his work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction

of the Municipality, provided always that the Municipality shall keep all gas and water pipes and other pipes or works which may hereafter be laid down as far as practicable from the lines of tramway.

13. If the Grantee shall commit any breach of clauses 10, 11 and 12 it shall be lawful for the Municipality in their discretion where such breach shall be in the execution of any work or repairs at any time after 7 days' notice to the Grantee themselves to do and execute such work or repairs and the expenses incurred by the Municipality in so doing including the cost of superintendence shall be repaid to them by the Grantee and the certificate of the Engineer to the Municipality as to such cost shall be conclusive.

14. If any person sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the Grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 and 11 the same shall be made good by the Grantee, and in the event of any suit being instituted against the Municipality in respect of any of the matters hereinbefore mentioned the Grantee shall within 14 days from receipt of notice thereof from the Municipality settle the same, but if the Grantee chooses to defend such suits he shall be at liberty to do so on his undertaking to indemnify the Municipality against all losses, damages and expenses in respect thereof, provided always that if the Grantee fails to settle such suit or to indemnify the Municipality as is hereinbefore provided it shall be lawful for the Municipality to settle the same without any consent or concurrence on the part of the Grantee and the sum which they shall have to pay in making such settlement and with all expenses to which they may be put shall be recoverable as a debt from the Grantee.

15. If at any time after the opening of any tramway for traffic the Grantee shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Grantee) it shall be lawful for the Municipality without any previous notice to the Grantee to remove the tramway or any part thereof so discontinued. And the Grantee shall pay to the Municipality the cost of such removal and of the making good of such street or bridge through which the said tramway shall have been made and the certificate of the said Engineer to the Municipality as to such cost shall be conclusive.

16. The Grantee will if required by the Municipality before opening and breaking up the soil and pavement of any street or bridge under clause 10 of

these presents deposit in the Bank of Bombay or other approved Bank in Karachi in the name of the Municipality the sum of Rupees 5,000 or in his option Promissory Notes of the Government of India or Municipal Bonds of the nominal value of Rupees 5,000 and the same will remain so deposited until the completion by the Grantee of the lines of tramway hereby sanctioned. But all interest accruing on the said sum or the said notes shall be credited to the Grantee and subject as next hereinafter mentioned be paid to him as the same shall accrue due, provided nevertheless that the Municipality shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or bonds or out of the proceeds of sale of the said notes or bonds all moneys to which they may be entitled under these presents.

17. In consideration of the concession hereby granted the Grantee shall pay to the Municipality a sum at the rate of 500 rupees per annum per mile of running tramway whether double or single line, all necessary sidings, turn-outs, connections or loops of whatsoever kind being, however, exempt from such mileage rate and the said sum shall be payable half-yearly and shall form a first charge on the undertaking and the date on which such sum on each line of tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic. The sum so payable as aforesaid shall be in lieu of all rates, taxes, and assessments of any kind whatsoever made by or payable to the Municipality in respect of the Tramways, Horses, Carriages, Engines, Depôts, Stables, and any other property or effects, provided always that no lines or sidings over which passengers or goods are not carried for hire connecting the traffic lines with the stables, carriage sheds, or depôts or other property of the Grantee shall be included in mileage for which such sum shall be payable.

18. If the said sum or any part thereof shall not be paid on due date the Grantee shall be liable to pay interest thereon at the rate of 8 per cent, per annum from the due date until payment.

19. From and after the commencement of 15th year of this contract to the end of the twenty-first the Grantee shall not be at liberty to enter upon any fresh engagements or expenditure which would increase his capital account in connection with this contract without first notifying his intention to the Municipality and obtaining their approval thereof and sanction thereto in writing.

20. The Municipality shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the date of opening

(Schedule.)

the first section for traffic upon declaring its intention so to do by notice in writing to be given to the Grantee not less than six months before the expiration of the said 21 years and shall have a renewed right of purchase at the end of every seven years after the expiration of the said 21 years upon similar notice being given and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the Grantee or Securities of the Government of India, or Securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council of such amount as to produce at the rate of interest current on such Securities seven per cent. per annum on the amount of the said invested capital and if the consideration for such purchase shall be given in such Securities as aforesaid the Grantee shall be entitled to have in addition a first mortgage of all the property assets and profits of the tramway or tramways which shall have been purchased from him.

21. In the event of the Municipality failing to declare its intention as above provided to purchase the property of the Grantee the terms of this contract shall continue in force.

22. The provisions hereinbefore contained shall so far as applicable apply to all tramways to be constructed by the Grantee by any route or routes to be hereafter fixed by the Municipality or under Clauses 1 and 3 of these presents and to the works connected with or incidental to such tramways.

23. The date of the commencement of this contract or concession shall be the date on which notice of the confirmation hereof by the Bombay Legislature shall be given to the Grantee or his representative in Karachi.

24. Unless the Grantee shall have commenced the work of laying down the said tramways within 12 months from the said date the Municipality shall be at liberty to cease and determine this contract and to enter into arrangements with any other person or persons for the construction of tramways.

25. Nothing in this agreement shall take away or affect any power which the Municipality may have by law to open or break up or to widen, alter, divert or improve any street or road, provided always:—

1st.—That they shall cause as little inconvenience to the Grantee as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' notice in writing to the Grantee.

3rd.—That before they commence any work whereby the traffic on the tramways will be interrupted they shall, except in cases of urgency

BOMBAY ACT No. V of 1883.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 5th November, 1883.)

An Act to enable Government to prescribe the Official Seals of Sessions Judges, Magistrates and other public authorities.

WHEREAS it is expedient [a] to enable the Government to prescribe what official seals [a] public authorities[a] shall have and use; It is enacted as follows:—

Short title.

1. This Act may be called the Bombay Public Authorities Seals Act, 1883.

Repeal of Bombay Act II of 1870.

2. Bombay Act II of 1870 is hereby repealed. Every notification issued under the said Act and now in force shall be deemed to have been issued under this Act.

Government empowered to prescribe the seals of certain public authorities.

3. The Governor in Council may, from time to time, by notification in the Bombay Government Gazette, direct what official seals each of the following[a] public authorities shall have and use (namely):—

(1) Sessions Judges, Additional and Joint Sessions Judges and Assistant Sessions Judges ;

(2) Presidency Magistrates ;

(3) any other Magistrates ;

(4) any other judicial officer or public authority, whose official seal is not prescribed by law and no other authority is legally competent to prescribe.

Every such notification may from time to time be modified or rescinded by the Governor in Council by a like notification.

Date on which notifications under last section shall take effect.

4. Every notification made under the last preceding section shall come into force on such date as the Governor in Council shall therein fix in this behalf.

BOMBAY ACT No. VI of 1883.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 26th November, 1883.)

Bom. VI of 1879.

An Act to further amend the Bombay Port Trust Act, 1879.

[NOTE.—The amendment made by this Act is incorporated in Bom. Act VI of 1879 as printed on pp. 377 *et seq.* of Vol. II of this Code.]

[a] Portion repealed by Act XVI of 1895 is omitted.

THE BOMBAY LOCAL BOARDS ACT, 1884.

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SCHEDULE.

(I.—Preliminary. Secs. 1-2.)

BOMBAY ACT No. I OF 1884.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st March, 1884.)

An Act to make better provision for the Administration of Local Funds in the Presidency of Bombay.

WHEREAS it is expedient to amend the law relating to the administration of local funds by district and taluqa committees; It is enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Bombay Local Boards Act, 1884.

Local extent.

It extends to the whole of the Presidency of Bombay, except the City of Bombay and Aden.

Repealing section.

2. From the date notified by the Governor in Council under section 13 for each district the enactments mentioned in the schedule^[a] shall be repealed in such district to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them:

Provided that—

all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the committee or authority heretofore charged, in the local area over which the authority of any local board established under this Act extends, with the administration of local funds under Bombay Act VIII of 1865^[b] (which Act may be called "The Sindh Local Funds Act, 1865,") or the Bombay Local Funds Act, 1869,^[c] shall be deemed to have been incurred, entered into or engaged to be done by, with or for the local board so established;

Bom. III
of 1869.

and all sums of money due to the said committee or authority shall be deemed to be due to the said local board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against any such committee or authority may be continued or instituted, by or against the said local board;

and all rules or orders made under any enactment hereby repealed and all other rules, if any, now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

[^a] Words repealed by Bom. Act III of 1886 are omitted.

[^b] Printed in Vol. II of this Code, p. 81.

[^c] Printed in Vol. II of this Code, p. 133.

(I.—Preliminary. Sec. 3. II.—Of Local Boards. Secs. 4-6.)

3. In this Act, unless there be something repugnant in the subject or context,— Interpreta-
tion-section.

(1) the term “official Gazette” means, in Sindh, the Sindh Official Gazette, and elsewhere the Bombay Government Gazette :

(2) [*Definition of Commissioner.*] *Repealed by Bom. Act III of 1886, s. 2.*

(3) the words “salaried servant of Government” do not include a retired servant of Government in receipt of a pension :

(4) the word “táluqá” means any local area for which a táluqá local board is established, inclusive of the portion of such area, if any, for the time being within a municipal district or a military cantonment :

(5) any word or expression which is defined in the Bombay Land-revenue Code, 1879[*], and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Expressions
defined in
the Land-
revenue
Code.

II.—OF LOCAL BOARDS.

Constitution of the Boards.

4. Local funds shall be administered by local boards established for this purpose as hereinafter provided. There shall be one local board for each district and also one for each táluqá as constituted under the Bombay Land-revenue Code, 1879 [*], or for such area consisting of one or more such táluqás or portions of such táluqás as the Governor in Council shall deem fit. Establish-
ment of dis-
trict and
táluqá local
boards.

Each district local board shall have authority for the purposes of this Act over the entire district and each táluqá local board over the entire táluqá for which they are respectively established, except such portions thereof as are for the time being within a municipal district or a military cantonment. Local
extent of
the board's
authority.

5. Every district and táluqá local board shall consist of—

(a) elective members, and

(b) such persons, if any, as the Governor in Council or any officer whom he authorizes in this behalf from time to time appoints, who shall be called “nominated members” :

Consti-
tution of local
boards.

Provided that the number of elective members shall be not less than one-half of the whole board exclusive of the president, and that not more than one-half of the nominated members shall be salaried servants of Government.

6. The elective members of táluqá local boards shall be as follows :—

(a) one member for each municipal district within the táluqá for which a táluqá local board has been established containing more than five

Elective
members of
táluqá
local boards
by whom to
be elected.

[*] Printed in Vol. II of this Code, p. 303.

(II.—Of Local Boards. Secs. 7-8.)

thousand inhabitants, elected by the commissioners of such district from amongst their own number ;

- (b) one member (qualified as hereinafter provided) for each of the several groups into which for the purposes of this clause the Governor in Council shall from time to time deem fit to cause the villages in the area subject to the authority of such board to be divided, elected by persons qualified, as hereinafter provided, to vote at such elections ;
- (c) one member elected by the holders of entire alienated villages, if any, within the táluqá, from amongst their own number or, if there is but one such holder in the táluqá, such holder himself or any person whom he nominates as his representative.

7. The elective members of district local boards shall be as follows :—

- (a) one member or, if Government so direct, two or more members for each táluqá local board in the district, or one member for two or more táluqá local boards in the district, united for this purpose into a joint board, elected by the members of such board or joint board from amongst their own number ;
- (b) one member for each municipal district within the district containing not less than eighteen thousand inhabitants elected by the commissioners of such district from among their own number ;
- (c) one member elected by the holders of entire alienated villages, if any, within the district, from amongst their own number, or, if there is but one such holder in the district, such holder himself, or any person whom he nominates as his representative :

Provided that the person to be elected by any táluqá local board under clause (a) may not be a Mámlatdár having jurisdiction in the area subject to the authority of such board.

8. The Governor in Council may at any time, by notification in the Bombay Government Gazette, direct that the provisions of sections 5, 6 and 7, and the subsequent provisions of this Act which refer to those sections or any one or more of the said provisions, shall not apply to the local board of any district or táluqá to which for exceptional reasons, which shall be set forth in the said notification, he shall deem such provisions to be unsuitable.

In the said notification or any subsequent notification published as aforesaid the Governor in Council may prescribe such provision or provisions as he deems fit in substitution for the provision or provisions declared inapplicable to any local board, and the provision or provisions so prescribed shall have effect, so far as concerns such board, as if the same were inserted in this Act.

Elective members of district local boards by whom to be elected.

Constitution of local boards in exceptional parts.

(II.—Of Local Boards. Secs. 9-10.)

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section, and in the event of any notification under the first paragraph being rescinded the local board affected thereby shall, from a date to be fixed in this behalf by the Governor in Council, be constituted in accordance with sections 5, 6 and 7 and the subsequent provisions of this Act having reference thereto.

9. Every local board shall be a body corporate by the name of "The District Local Board of _____" or "The Tálúqá Local Board of _____", Incorporation of local boards. as the case may be, and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by them, and to contract and to do all other things necessary for the purposes of this Act :

Provided that no lease of immoveable property for a term exceeding three years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Qualifications and Disqualifications of Members.

10. Unless disqualified on any of the grounds set forth in the next following section, the following persons shall be entitled to have their names entered in the List No. I, to be prepared as hereinafter provided, qualifying them to be elected under section 6 (b) members of a tálúqá local board, Qualifications necessary for certain members of tálúqá local boards. namely:—

- (1) landholders, whose holdings situate within the tálúqá are assessed (or, in the case of alienated lands, would be assessed, if they were not alienated) to the land-revenue at not less than forty-eight rupees per annum or such smaller minimum as the Governor in Council shall from time to time prescribe for each tálúqá ;
- (2) persons who own immoveable property within the tálúqá, other than a holding described in clause (1) of this section, estimated by the Collector to be not less than five thousand rupees in value ;
- (3) persons, residing within the tálúqá, whose annual net earnings from any occupation are estimated by the Collector to be not less than five hundred rupees ;
- (4) pensioned Government servants, residing within the tálúqá, whose pensions are not less than rupees fifty per mensem ;

(11.—Of Local Boards. Secs. 11-13.)

- (5) honorary magistrates residing within the tálugá ;
- (6) officiating revenue or police patels of villages within the tálugá ;
- (7) such other persons, if any, residing within the tálugá, as the Governor in Council shall from time to time, by notification in the official Gazette, direct.

General dis-
qualifications.

11. No female and no person—

- (a) who is less than twenty-one years of age, or
- (b) who is a District or a Subordinate Judge or is acting in either of those capacities, or
- [*] (c) who 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, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf,

(d) who is an uncertificated bankrupt or an undischarged insolvent,
may be a member of a local board ;

and no person—

- (e) who is a subordinate officer or servant of a local board, or
- (f) who has directly or indirectly any share or interest in any work done by order of a local board, or in any contract or employment with or under a local board,

may be a member of such board ;

and any member of a local board who, during the term for which he has been elected or appointed,—

- (g) becomes disqualified for any of the above reasons, or
- (h) is absent for more than four consecutive months from the limits of the district in which the board is established,

shall cease to be a member and his office shall become vacant.

Re-eligibility
of members.

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

Terms of Office ; Casual Vacancies.

First local
boards from
what date to
take office.

13. The members of the first local boards to be established under this Act shall commence their terms of office on such date^[b] as shall be notified in this behalf for each district by the Governor in Council.

[*] This clause was substituted for the original cl. (c) by Bom. Act IV of 1885, s. 1.

[b] Dates have been notified under s. 13 for all districts.

(II.—Of Local Boards. Secs. 14-17.)

14. Except as is otherwise provided in the next following section, members of local boards shall, unless they become in the meantime disqualified, hold office for a term of three years, [°]extensible, by order of the Governor in Council, to a term not exceeding in the aggregate three years and six months, if on any occasion the Governor in Council shall think fit, for reasons which shall be notified, together with the order, in the Bombay Government Gazette, so to extend the same[°].

Term of office.

15. In the event of the death, resignation or disqualification of a member of a local board or of his becoming incapable of acting 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 there-to who shall hold office so long only as the member 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.

Elections of Members.

16. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf: Provided that when the elections are for the first boards to be established in any local area under this Act or for filling the places of members whose terms of office have expired such dates shall be—

Elections when to be held.

(a) if the elections are under section 7 (a), as early as conveniently may be after the elections and appointments to the taluqa local boards by which such elections are to be made are completed, and before the commencement of the term of office of the district local board to which such elections are to be made;

(b) in any other case, not sooner than three months and not later than one month before the commencement of the term of office of the members of the board to which such elections are to be made.

17. The Collector shall, subject to the orders of Government, from time to time determine what persons are entitled to vote and what persons are qualified to be elected under section 6 (c) and section 7 (c), respectively, and his decision shall be conclusive.

Elections under sections 6 (c) and 7 (c) how to be conducted.

When an election has to be made under section 6 (c) or section 7 (c), the Collector shall, not less than ten days before the date fixed for the election, cause a list of the persons qualified to be elected to be left at the usual

[°°] These words were added by Bom. Act I of 1888, s. 1.

(II.—Of Local Boards. Secs. 18-20.)

residence of each of the persons entitled to vote at such election, together with a notice inviting the last named persons, before the day fixed for the election, to make each a written return to him of the name of any one of the persons mentioned in the said list for whom they wish to vote.

On the day fixed for the election, or as soon as may be thereafter, the Collector shall inspect all returns duly made as aforesaid, and shall record in writing under his signature the result of the election.

What persons may be voters at elections of members of táluqá local boards under section 6 (b).

18. Unless disqualified under the next following section, the following persons shall be entitled to have their names entered in the List No. II, to be prepared as hereinafter provided, qualifying them to vote at elections of members of táluqá local boards under clause (b) of section 6, namely:—

- (1) every person possessing the qualifications described in any of the clauses (1) to (7) of section 10: Provided that such person resides within the group of villages for which such list is prepared and that, if his qualification is under clause (1) or clause (2) of that section, the holding or immoveable property in respect of which he is so qualified is without the limits of a municipal district containing more than five thousand inhabitants;
- (2) all other persons, if any, residing within the group of villages for which the list is to be prepared to whom the Governor in Council shall by notification in the official Gazette from time to time deem fit to extend the franchise:

Provided always that no alteration in, or addition to, the qualifications entitling persons as aforesaid, made at any time after the first elections have been held in any district under section 6 (b), shall take effect in such district within six months from the date on which such alteration or addition is made.

General dis-qualifications.

19. No person who is less than twenty-one years of age shall be entitled to have his name entered in the said List No. II.

Preparation of lists of persons qualified to be members of táluqá local boards and of voters.

20. The Collector shall, as soon as may be after the coming into force of this Act, prepare—

- (a) a list (which shall be called "List No. I"), for each táluqá, of the persons qualified to be members of the local board of that táluqá; and
- (b) a list (which shall be called "List No. II"), for each of the groups of villages into which for the purposes of clause (b) of section 6 the area subject to the authority of the said board has been divided, of the persons qualified to vote in such group at elections of members of the táluqá local board under the said clause.

(II.—Of Local Boards. Secs. 21-24.)

The said lists shall be prepared in the first instance from such information as shall be available in the records of the Collector and of the officers subordinate to him.

Similar new lists shall be prepared by the Collector whenever Government so direct and at least once in every three years; and such new lists shall be based upon information available as aforesaid and also upon the past decisions of the Collector under section 22.

21. The lists so prepared shall be published by affixing a copy of each of them in some conspicuous place in or near the office of the Mámílatdár, or of each Mámílatdár having jurisdiction in the táluqá to which they relate, and by affixing in the chávdi or some other public building of each town or village in the táluqá a copy of List No. I and of so much of List No. II as affects such town or village.

Publication
of the lists.

The publication aforesaid shall be made in the vernacular language of the táluqá and at least two months before the date fixed for the election of members to the first local board to be established in the táluqá, and thereafter at least two months before the date fixed for any election of persons to fill the places of members whose terms of office have expired.

22. The Collector may, on application being made to him at any time within one month after the publication of the lists aforesaid by any person claiming to be qualified to be a member, or to vote at an election of members of the táluqá local board, correct any erroneous entry in either of the said lists, or insert therein the name of any applicant who satisfies him of his right to have it so entered.

Revision of
lists.

23. No person whose name is not in the revised List No. I last published before the date of any election under clause (b) of section 6 shall be qualified to be elected a member of the táluqá local board for the táluqá to which it refers;

Lists
conclusive
evidence
of right to
be elected
or to vote.

and no person whose name is not in the revised List No. II last published before the date of any such election for any group of villages shall be qualified to vote at the election of a member for such group.

24. If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, the selection of one of such persons shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as the Collector, or the officer so empowered, shall deem fit.

Provisions
for parti-
cular cases.

If the person in whose favour the highest number of votes is recorded at any such election declines to take office, the person, if any, in whose favour the

(II.—Of Local Boards. Secs. 25-27.)

next highest number of votes has been recorded and willing to take office shall be deemed to be the member elected.

If at any election no votes are recorded, or if for any reason the election does not result in the return of any qualified person willing to take office, the Collector in the case of a táluqá local board, and the Commissioner in the case of a district local board, shall, with the approval of Government, appoint some person who would have been qualified to be elected, and the person so appointed shall be deemed to be a member of the local board as if he had been duly elected.

Determina-
tion of va-
lidity of
elections.

25. If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under the last preceding section, 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 fifteen days after the date of the declaration of the result of the election, or the date of the proceeding or order, apply to the District Judge of the district within which the election has been or should have been held.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or the order of the Collector under the last preceding section, or for setting the election aside.

For the purposes of the said inquiry the District Judge may exercise any of the powers of a Civil Court, and his decision 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.

Publication
of names
of members
in the
official
Gazette.

26. The names of all members finally elected to any local board, as well as the names of the nominated members, if any, appointed thereto shall be published, as soon as conveniently may be, in the official Gazette.

Presidents and Vice-Presidents.

Nomina-
tion of pre-
sidents;

27. Every local board shall be presided over by a president, who shall be one of the members of the local board and shall be appointed by the Government or, if the Governor in Council so directs, elected by the local board.

and of vice-
presidents.

If the president so appointed or elected is a salaried servant of Government, the board shall elect one of its members to be vice-president; unless the Governor in Council otherwise directs, no appointment of a vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

Their term
of office and

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a member of the local board over which he

(II.—Of Local Boards. Secs. 28-29.)

presides: Provided that he shall be removeable from office, as such president or vice-president, by the Government for misconduct, or neglect of, or incapacity to perform, his duty. liability to be removed.

In the event of the death, resignation or removal from office of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a member of the local board, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment or election, as the case may be, of some other member of the board thereto. Casual vacancies in their office how to be filled up.

28. The president of a local board shall—

- (a) preside at the meetings of the board ;
- (b) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders ;
- (c) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board ; and, subject to the regulations at the time being in force framed by the board under section 39, 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 board and any extract from the minutes of the board's proceedings, or other document or thing, which the Collector may from time to time call for under section 62.

Functions of presidents.

When the president of a board is a salaried servant of Government and has been appointed to be president by the Government, he shall not vote upon any question which comes before such board for decision unless there is an equality of votes of the other members of the board present for and against the proposition under consideration, in which case he shall have a casting vote. President in certain cases to have only a casting vote.

29. Vice-presidents of local boards shall—

- (a) in the absence of the president preside at the meetings of the board ; and
- (b) exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him.

Functions of vice-presidents.

(II.—Of Local Boards. Secs. 30-31.)

*Duties of Local Boards.*Obligatory
duties.

30. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely :—

- (a) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them ;
- (b) the construction and repair of hospitals, dispensaries, markets, dharm-sálas and other public buildings, and the visiting, management and maintenance of these institutions ;
- (c) the construction and repair of public tanks, wells and water-works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution ;
- (d) the provision of suitable accommodation for, the visiting and maintenance of, and the training of teachers for, primary schools, and the general development and extension of primary education ;
- (e) public vaccination and sanitary works and measures necessary for the public health ;
- (f) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards ; and
- (g) the maintenance of any property vesting in them ;

Discretionary
powers of
expenditure.

and local boards may at their discretion provide out of the said fund for the following matters, namely :—

- (h) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, and the introduction and preservation of fish ;
- (i) the establishment and maintenance of relief and local relief works in time of famine or scarcity ;
- (j) educational objects other than those set forth in clause (d) of this section ; and
- (k) any other local works or measures likely to promote the health, comfort or convenience of the public.

Relative
duties of
táluqá and
district local
boards.

31. Subject to the control of the district local board and, as regards educational matters, to the provisions of section 48, clause (b), each táluqá local board shall, within the area subject to its authority, have the control and administration of all purely local roads, works and buildings maintained

(II.—Of Local Boards. Sec. 32.)

at its cost, and also of all local services and institutions except such as the district local board thinks fit to take under its own direct control and administration.

In respect of roads, works, buildings, services and institutions in the control and administration of the district local board, each taluqa local board shall, if the district local board so desires, be the agent of the district local board and, as such agent, shall exercise such authority and perform such duties as the district local board may from time to time in writing delegate to it.

Conduct of Business.

32. The following provisions shall be observed with respect to the proceedings of a local board, namely :—

Provisions regulating local boards' proceedings. Board to meet together and arrange for transaction of business.

(a) The board shall meet together and shall from time to time make regulations, consistent with this Act, and with any rules or orders made by Government under section 69 with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :—

(1) that the president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members, call a special meeting ;

Special meetings.

(2) that no business shall be transacted at any meeting unless at least one-third of the members are present from the beginning to the end of such meeting ;

Quorum.

(3) that every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board 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 ;

Meetings to be ordinarily open to the public.

(4) that every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-president, and, if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion ;

Meeting to be presided over by the president.

(5) that, except as is otherwise provided in section 28, all questions shall be decided by a majority of votes of the members present,

Questions to be decided

(II.—Of Local Boards. Sec. 32.)

by a majority of votes.

Board may delegate their functions to committees.

Committees' meetings to be presided over by a chairman.

Committees to meet when they think proper.

Questions to be decided by a majority of votes.

Notice to be given to certain officers.

Minutes of proceedings.

the president, vice-president or chairman, having a second or casting vote in all cases of equality of votes;

- (6) that the board may delegate any of their duties or powers to committees consisting of such members as they think fit; and that any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed;
- (7) that a committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting;
- (8) that committees may meet and adjourn as they think proper, but the president of the board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;
- (9) that questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from beginning to the end thereof;
- (10) that, except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 61 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted at any meeting of a local board or of a committee, unless at least fifteen days previous to such meeting a letter has been addressed to any officer of the Government Public Works and Educational Departments, respectively, who is not a member of the board but is entitled under section 33 to be present at such meeting, informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business;
- (11) that minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 33, and of the proceedings at each meeting of the board and

(II.—Of Local Boards. Sec. 33.)

each committee's meeting, and, if any member present at the meeting so desire, of the names of the members voting, respectively, for or against any resolution in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district ;

(12) that every regulation made under this section by a táluqá local board shall be subject to the approval of the district local board to which such táluqá local board is subordinate.

Regulations of táluqá board subject to approval of district board. Vacancy not to affect board's proceedings. Acts of board, etc., not to be invalidated by informalities.

(b) During any vacancy in the board, the continuing members may act as if no vacancy had occurred.

(c) No act of the board, or of any committee, or of any person acting as a member or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, president, vice-president, chairman or member, or on the ground that they, or any of them, were disqualified for the office of member, or that formal notice of the intention to hold a meeting of a board or of a committee was not duly given, or for any other such mere informality.

33. The Executive Engineer, the Educational Inspector and the 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 district local board, shall have the right of being present at any meeting of the said board, or of any committee thereof, and, with the consent of the board or committee, 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 board or committee : Provided that the said officers shall not, unless they are members of the board, be entitled to vote upon any such question.

Certain Government officers may attend meetings of district local boards ;

Any officer of the Government Public Works Department not lower in rank than an overseer employed in a táluqá, and any officer of the Government Educational Department not lower in rank than the Deputy Educational Inspector of a táluqá, may, under the like circumstances and subject to the same proviso, take part in the discussion or consideration of any such question as aforesaid at any meeting of the táluqá local board of such táluqá or of any committee of the said board.

and certain Government officers may attend meetings of táluqá local boards.

If it shall appear to a district local board or to a táluqá local board that the Local

(11.—Of Local Boards. Secs. 34-36.)

boards may require the presence of the said officers at their meetings.

presence of any of the above officers, respectively, is desirable for the purpose aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board 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.

President may circulate written propositions.

34. Whenever it appears to the president of a local board, or to the chairman of a committee, unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members.

Previous to circulating any such proposition for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (10) of section 32, shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 33 to be present at any meeting at which such proposition might be considered, desires to record.

The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (1) or clause (8) of section 32.

Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (11) of section 32.

Mode of executing contracts.

35. The president of a local board may, on behalf of the board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: Provided that the amount or value of such contract or agreement shall not exceed five hundred rupees in the case of a district local board, or two hundred rupees in the case of a taluqa local board.

Every other contract or agreement on behalf of a local board shall be in writing and shall be signed by the president and by two other members of the board and shall be sealed with the common seal of the board.

No contract or agreement not executed as in this section provided shall be binding on a local board.

Joint Committees.

Joint committees of two or more local bodies.

36. A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment committee, or with more than one such local board, municipality or committee—

(a) in appointing out of their respective bodies a joint committee for

(II.- Of Local Boards. Sec. 37. III.—Of the Officers and Servants of Local Boards. Sec. 38.)

any purpose in which they are jointly interested and in appointing a chairman of such committee; and

(b) 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

(c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of Government shall be final.

Personal liability of Members.

37. Except as is hereinafter otherwise provided, no member of a local board shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of such board; the local fund at the disposal of each local board shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses:

Local funds ordinarily liable for a costs and expenses incurred by boards,

Provided that every member of a local board 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 member, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of the Government.

but members to be held responsible for misapplied funds.

III.—OF THE OFFICERS AND SERVANTS OF LOCAL BOARDS.

38. Every district local board may engage and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties and the duties of the taluqá local boards in the district under this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, the boards under which they are to be respectively employed, their respective duties, and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only.

Schedule of establishment to be prepared and sanctioned by district local boards.

Until a schedule is prepared and sanctioned under this section the establishment, if any, entertained in any district for the administration of local funds on the day previous to the date notified by the Governor in

(III.—Of the Officers and Servants of Local Boards. Secs. 39-40.)

Council under section 13 for each district shall be deemed to have been duly sanctioned and appointed under the foregoing provisions for such district.

Local boards to frame regulations— for fixing the amount of the security to be furnished ; for regulating leave ;

for settling absentee allowances ; for fixing acting allowances ;

for regulating length of service ; for fixing pensions, etc. ;

for contributing to provident funds ;

as to approval of regulations by Government.

Punishment and dismissal of officers and servants.

39. Every district local board may from time to time frame regulations—

- (a) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security ;
- (b) for regulating the grant of leave to the permanent officers and servants maintained by the board ;
- (c) for authorising the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;
- (d) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;
- (e) for regulating the period of service of all such officers and servants ;
- (f) for determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances ;
- (g) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants :

Provided that—

- (h) if an officer is lent to any local board by the Government, or if an officer is employed partly in the service of Government and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by the rules in this behalf from time to time in force, and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice ;
- (j) no regulation made by any district local board under this section shall have effect unless and until it has been approved by the Governor in Council.

40. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under the last preceding section and to any rule or order made by the Governor in Council under section 69, vest in the said board.

(IV.—Of the Property and Liabilities of Local Boards. Secs. 41-43. V.—
Of Revenue and Expenditure. Sec. 44.)

IV.—OF THE PROPERTY AND LIABILITIES OF LOCAL BOARDS.

Vesting of Property.

om. III of
869.
om. VIII of
865.

41. All such immoveable and other property as is held by or in trust for any committee for the purposes of the Bombay Local Funds Act, 1869 [a], or the Sindh Local Funds Act, 1865 [b], shall, upon and after the date notified by the Governor in Council under section 13 for each district, vest in the district local board or the taluqa local board established hereunder having authority over the same local area to which such committee's functions extended, but subject to all charges and liabilities affecting the same.

Transfer to local boards of property and assets of superseded committees.

It shall be competent to the Governor in Council from time to time to direct whether any such property as aforesaid shall vest in the district local board or the taluqa local board having authority as aforesaid, and any such direction of the Governor in Council shall be conclusive.

42. [c] Every road, building, or other work constructed by a local board shall vest in the board by which it has been constructed.

Vesting of future local works.

Liabilities.

43. It shall be competent to the Governor in Council from time to time to direct whether the liability for any such debt or other obligation, or any such contract, matter or thing as is described in the proviso to section 2, shall fall upon the district local board or the taluqa local board having authority in the local area in which such debt or other obligation was incurred, or such contract entered into, or such matter or thing engaged to be done, and any such direction of the Governor in Council shall be conclusive.

Distribution of existing liabilities between district and taluqa local boards.

V.—OF REVENUE AND EXPENDITURE.

Local Funds.

44. There shall be formed in each district a fund which shall be called "The Local Fund" and which shall be kept in the Government treasury.

Local funds where to be kept and of what to consist.

To it shall be credited—

(a) in Sindh, the net proceeds (after deducting the expenses of assessment and collection) of the cess on land and of the shop-tax levied under the Sindh Local Funds Act, 1865 [b];

m. VIII
1865.

[a] Printed in Vol. II of this Code, p. 133.

[b] Printed in Vol. II of this Code, p. 81.

[c] The first paragraph of s. 42, which was repealed by Bom. Act IV of 1885, s. 2, is omitted.

(III.—Of the Officers and Servants of Local Boards. Secs. 39-40.)

Council under section 13 for each district shall be deemed to have been duly sanctioned and appointed under the foregoing provisions for such district.

Local boards to frame regulations— for fixing the amount of the security to be furnished; for regulating leave;

for settling absentee allowances; for fixing acting allowances;

for regulating length of service; for fixing pensions, etc.;

for contributing to provident funds;

39. Every district local board may from time to time frame regulations—

- (a) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security;
- (b) for regulating the grant of leave to the permanent officers and servants maintained by the board;
- (c) for authorising the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;
- (d) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;
- (e) for regulating the period of service of all such officers and servants;
- (f) for determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances;
- (g) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants:

Provided that—

- (h) if an officer is lent to any local board by the Government, or if an officer is employed partly in the service of Government and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by the rules in this behalf from time to time in force, and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice;
- (j) no regulation made by any district local board under this section shall have effect unless and until it has been approved by the Governor in Council.

as to approval of regulations by Government.

Punishment and dismissal of officers and servants.

40. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under the last preceding section and to any rule or order made by the Governor in Council under section 69, vest in the said board.

(IV.—Of the Property and Liabilities of Local Boards. Secs. 41-43. V.—
Of Revenue and Expenditure. Sec. 44.)

IV.—OF THE PROPERTY AND LIABILITIES OF LOCAL BOARDS.

Vesting of Property.

41. All such immoveable and other property as is held by or in trust for any committee for the purposes of the Bombay Local Funds Act, 1869 [a], or the Sindh Local Funds Act, 1865 [b], shall, upon and after the date notified by the Governor in Council under section 13 for each district, vest in the district local board or the táluqá local board established hereunder having authority over the same local area to which such committee's functions extended, but subject to all charges and liabilities affecting the same.

Transfer to local boards of property and assets of superseded committees.

Bom. III of 1869.
Bom. VIII of 1865.

It shall be competent to the Governor in Council from time to time to direct whether any such property as aforesaid shall vest in the district local board or the táluqá local board having authority as aforesaid, and any such direction of the Governor in Council shall be conclusive.

42. [c] Every road, building, or other work constructed by a local board shall vest in the board by which it has been constructed.

Vesting of future local works.

Liabilities.

43. It shall be competent to the Governor in Council from time to time to direct whether the liability for any such debt or other obligation, or any such contract, matter or thing as is described in the proviso to section 2, shall fall upon the district local board or the táluqá local board having authority in the local area in which such debt or other obligation was incurred, or such contract entered into, or such matter or thing engaged to be done, and any such direction of the Governor in Council shall be conclusive.

Distribution of existing liabilities between district and táluqá local boards.

V.—OF REVENUE AND EXPENDITURE.

Local Funds.

44. There shall be formed in each district a fund which shall be called "The Local Fund" and which shall be kept in the Government treasury.

Local funds where to be kept and of what to consist.

To it shall be credited—

- (a) in Sindh, the net proceeds (after deducting the expenses of assessment and collection) of the cess on land and of the shop-tax levied under the Sindh Local Funds Act, 1865 [b];

Bom. VII of 1865.

[a] Printed in Vol. II of this Code, p. 133.

[b] Printed in Vol. II of this Code, p. 81.

[c] The first paragraph of s. 42, which was repealed by Bom. Act IV of 1885, s. 2, is omitted.

(F.—Of Revenue and Expenditure. Sec. 45.)

- (b) elsewhere, the net proceeds (after deducting the expenses of assessment and collection) of the cess levied under the Bombay Local Funds Act, 1869^[a], in the district; and Bomb. III
of 1869.
- wherever this Act is in force—
- (c) the net proceeds (after deducting the expenses, if any, of collection and of the maintenance of the ferries) of all public ferries established in the district under the Bombay Ferries Act, 1868^[a], and all penalties inflicted and levied under the said Act in the district; and Bomb. II
of 1868.
- (d) the net proceeds (after deducting the expenses, if any, of collection) of all tolls and leases of tolls on roads and bridges vested in the local boards under section 41^[b], or constructed by the local boards at the cost of the local fund under this Act, levied in the district under Bombay Act III of 1875^[a]; and
- (e) such portion of the net proceeds of fees, fines and penalties levied under Bombay Act VIII of 1866^[a] (*an Act to regulate and restrict the sale of poisons in the Bombay Presidency*) as the Collector, under section 10 of the said Act, from time to time directs; and
- (f) the proceeds of all fees levied in the district under the Bombay Land-revenue Code, 1879^[a], for permission to remove sand or to quarry; and Bomb. V
of 1879.
- (g) all sums placed by Government to the credit of the fund under section 1 (b) of Act XVIII of 1883^[c] or otherwise, or contributed by private persons; and
- (h) all sums received by any local board in the district in execution of this Act:

Provided that, when a public ferry, road or bridge is partly in one district and partly in another, the Governor in Council may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge, as he shall think fit.

45. The local fund of a district shall be available for expenditure for any of the purposes of this Act as follows, namely:—

(a) by or under the direction of each táluqá local board—

- (1) the whole of the sums described in clauses (e) and (f) of the last preceding section levied in the táluqá; and

^[a] Printed in Vol. II of this Code.

^[b] Portion repealed by Act XVI of 1895 is omitted.

^[c] Act XVIII of 1883 was repealed by Act I of 1891, s. 10. See now Act I of 1871, s. 31, enacted by Act I of 1891, s. 9. (A revised edition of Act I of 1871, as modified up to 1st Jan. h. 1891, has been published by the Legislative Department.)

(F.—Of Revenue and Expenditure. Sec. 46.)

- (2) the portion accruing within the area subject to the authority of such board of any sums which may be placed by Government to the credit of the fund under section 1 (b) of Act XVIII of 1883 [*]; and
- (3) all other sums placed to the credit of the fund by the Government or contributed by private persons for expenditure by such board within the area subject to its authority; and
- (4) all sums described in clause (h) of the last preceding section received by it or on its account; and
- (5) the balance of the revenue described in clause (a) or clause (b) of the last preceding section levied in the area subject to its authority, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 48 and for such share of the charges payable by the district local board under sections 46 and 49 as the said board shall deem equitable;
- (b) by or under the direction of the district local board, the remaining portion of the fund.

Expenditure by the local boards out of the local fund shall ordinarily be made within the areas respectively subject to their authority only, but may, with the sanction of Government and for the use or benefit of the said area, be made outside of that area on any of the purposes of this Act.

46. Every district local board shall, from the portion of the local fund at its disposal, defray—

- (a) the salaries and other emoluments of all officers and servants maintained under section 38, and the pensions or other retiring allowances, if any, of such officers and servants;
- (b) the expenses attending the audit of the accounts of the local boards of the district as hereinafter provided; and
- (c) such sum as shall from time to time be fixed by Government for the payment of the salaries, allowances and contributions for pension, according to the rules from time to time prescribed by Government, of any officers or servants employed in any Government office or elsewhere on the business of the local boards of the district, and of the incidental expenses, if any, incurred by Government or any of the officers of Government in the district, for any of the purposes of this Act.

General charges to be defrayed by district local boards.

[*] See foot-note [*] on last preceding page.

(V.—Of Revenue and Expenditure. Secs. 47-49.)

Assignments of certain portions to municipalities or cantonment committees.

47. Every district local board shall assign and cause to be paid to every municipality and cantonment committee within the district for which such board has been established, out of the district local fund, a sum equal to two-thirds of the amount of revenue described in clause (a) or clause (b) of section 44 levied from lands or shops within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee the whole of the said amount (which amount shall, at the request of the district local board, be ascertained and certified by the Collector).

The sum so assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 30, or for the remuneration of officers and servants whom they entertain for any of the said purposes; and a portion thereof equal to not less than one-third of the revenue described in clause (a) or clause (b) of section 44 levied from lands or shops within the municipal district or cantonment subject to such municipality or committee shall be expended by it for educational purposes only as defined in section 30, clause (d).

Expenditure for educational purposes to be made by district local boards only.

48. In every district the expenditure from the local fund for educational purposes as defined in section 30, clauses (d) and (j), shall be made by the district local board only, and for this purpose a sum equal to not less than one-third of the revenue described in clause (a) or clause (b) of section 44 (after deducting one-third of the amount thereof levied from lands or shops in any municipal district or cantonment), shall be set apart by the said board for expenditure by it on the said purposes: Provided—

- (a) that no portion of the revenue so set apart levied in the area subject to the authority of any táluqá local board shall, except with such board's consent, be expended out of the said area; and
- (b) that the charges to be necessarily defrayed by each district local board on account of primary education, the extent of the independent authority of district and táluqá local boards in respect of education and their relations generally with the Government Educational Department and to each other in educational matters shall be from time to time prescribed by the Governor in Council.

The provisions of clause (b) of this section shall apply also to municipalities and cantonment committees in respect of the sums to be expended by them under section 47 for educational purposes.

Provisions

49. The responsibility of district and táluqá local boards, respectively, for

(F.—Of Revenue and Expenditure. Sec. 50.)

expenditure in respect of matters other than education shall be determined in accordance with the following provisions, namely :—

- (a) each local board shall be responsible for the maintenance of any building or other property which vests in it and of any work which has been executed at its cost ;
- (b) district local boards shall be responsible for the construction, maintenance and repair of the main roads and other means of through communication in the district vesting in them, the maintenance of public vaccination and dispensaries and other similar local services and institutions of general benefit to the district, and for all matters in which two or more taluqás are, or may be, interested ;
- (c) taluqá local boards shall be responsible for the construction and maintenance of all other roads and works which are purely local and for all local services and institutions not maintained by the district local board ;
- (d) large works of the nature described in the last preceding clause, which are beyond the means at the disposal of a taluqá local board, may be undertaken by the district local board at its own cost, or the district local board may assist the taluqá local board in undertaking the same by a grant-in-aid conditional upon a certain portion of the cost being contributed by the taluqá local board or by private persons, or by both.

for determining by which boards expenditure should be incurred for other purposes.

If a difference of opinion arises between a district and a taluqá local board as to which board is responsible for any charge or any work, institution or service, the question shall be referred for the decision of the Commissioner, which shall be final.

✓ 50. Subject to the provisions of sections 65, 66 and 67, no payment shall be made from the Government treasury out of a local fund except upon a cheque or letter of credit signed by the president and one other member of the local board which requires such payment.

How the local fund shall be drawn against.

Payment of any sum in excess of fifty rupees shall be made by a local board by means of a cheque [*] or of a letter of credit [*] signed as aforesaid and not in any other way.

Sums not exceeding fifty rupees may be paid by the president, or by such officer as each local board appoints for this purpose, in cash, cheques for sums not in excess of three hundred rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

[*.*] These words were inserted by Bom. Act IV of 1885, s. 3.

(V.—Of Revenue and Expenditure. Secs. 51-54.)

Accounts.

Accounts to be kept in form prescribed by Government.

51. Accounts of the receipts and expenditure of every local board shall be kept in such form as the Governor in Council from time to time prescribes, and shall be balanced annually on the last day of every financial year, ending on the 31st March.

Publication of abstract of accounts annually.

52. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken and the sums expended on each work, and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the 31st March, in such form as the Governor in Council from time to time prescribes, to the Collector or to such other officer as the Collector nominates in this behalf, and shall be published in the official Gazette.

Annual Budget Estimates.

Return to be rendered to local boards of actual and estimated income of local funds.

53. To enable local boards to prepare annual budget estimates, as hereinafter provided, the Collector shall annually render to each táluqá local board in his district, not later than the 1st October, in such form as the Governor in Council from time to time directs, a return setting forth, for the táluqá for which such board is established—

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|---|---|--|
| <p>(a) the actual receipts in the last complete official year ;</p> <p>(b) a revised estimate of the receipts in the current official year ; and</p> <p>(c) a first estimate of the probable receipts in the next following official year ;</p> | } | <p>from each of the sources from which the local fund is derived ;</p> |
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and, to the district local board, a similar return for the whole district.

The district local board shall, not later than the 1st November, communicate to each táluqá local board in the district the probable amount of the revenue described in clause (a) or clause (b) of section 44 which will be at the disposal of such táluqá local board in the next following official year, explaining the manner in which, with reference to section 45, clause (a), paragraph (5), the said amount has been fixed.

Preparation of annual budget estimates of income and expenditure.

54. Every local board shall have prepared, on or before the fifteenth day of November every year, in such form as the Governor in Council from time to time prescribes, a budget estimate of the income and expenditure of the board for the next official year.

(V.—Of Revenue and Expenditure. Secs. 55-57.)

The board shall, on or as soon as may be after the said date, consider the budget estimate so prepared and approve of the same with or without modification as they shall think fit.

Consideration and approval of budget estimates by the boards. Táluqá local boards' budget estimates to be submitted for sanction to the district local board.

55. Every budget estimate, as approved by a táluqá local board, shall be forthwith submitted to the district local board to which such táluqá board is subordinate, which may—

- (a) as often as it thinks fit, send back such estimate to the táluqá local board for revision, or
- (b) sanction any budget estimate, or revised budget estimate submitted to it, either as it stands, or subject to such modification as it deems expedient.

56. Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board, and, in the case of a táluqá local board, submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate.

Revised or supplementary budget estimates may be made when necessary.

Re-appropriations of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate.

Re-appropriations to be subject to approval or sanction like budget estimates. Budget estimates and re-appropriations not to be approved or sanctioned unless an annual balance is provided for,

57. No budget estimate of a local board and no re-appropriation of a budget item shall be approved or sanctioned as aforesaid, unless—

- (a) provision is therein made for such board's having at its credit at the end of the official year a balance of not less than five thousand rupees in the case of a district local board, and of two hundred rupees in the case of a táluqá local board ;
- (b) for every work, whether of first construction or of repair, there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work which has been approved by the board and [a] in the case of a road of which the cost is to exceed, on an average, fifty rupees per mile, or of any other work of which the total cost is to exceed five hundred rupees, plans and estimates have been prepared or approved by the Government Executive Engineer of the district.

and, in the case of works, detailed estimates are attached.

[*] Words repealed by Bom. Act IV of 1885, s. 4, are omitted.

(V.—Of Revenue and Expenditure. Secs. 58-60.)

Copies of budget estimates and re-appropriation statements to be sent to the Collector. Except on a pressing emergency, no sum not provided for in a budget estimate to be expended.

A copy of every budget estimate and a statement of every re-appropriation as finally approved or sanctioned under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 10th December.

58. Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved or sanctioned as aforesaid.

If any sum is so expended on a pressing emergency, the circumstances shall be forthwith communicated in writing by the president to the Collector (through the district local board, if the sum has been expended by a taluqá local board) together with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

Provision as to budget estimates in force when this Act comes into operation.

59. Every budget estimate framed by, or binding upon, any committee or authority heretofore charged with the administration of local funds under the Bombay Local Funds Act, 1869^[a], or the Sindh Local Funds Act, 1865^[b], and in force on the date which shall be notified by the Governor in Council under section 13 for each district shall be deemed to have been duly prepared and approved or sanctioned under this Act so far as it relates to the period which intervenes between the date aforesaid and the thirty-first day of March next following that date.

Bom. III
of 1869.
Bom. VIII
of 1865.

If any such budget estimate would, but for the passing of this Act, have force and effect after the said thirty-first day of March, the local board having authority over the local area in which it would so have effect and force may set it aside as from that date: Provided that works in progress at the said date under any such budget estimate shall not be discontinued except with the sanction of the Governor in Council.

Audit of Accounts.

60. The accounts of every local board shall be examined and audited at such intervals, in such manner and by or under the superintendence of such auditor as the Governor in Council from time to time directs.

Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers, and all other documents and records in the possession, or under the control, of the local board, and the costs of audit shall be paid by the district local board at such rate as Government shall determine.

Audit to be made periodically under the orders of Government. Auditor to have power to see all accounts, etc.; costs of audit.

[^a] Printed in Vol. II of this Code, p. 133.

[^b] Printed in Vol. II of this Code, p. 81.

(VI.—Execution of Works. Sec. 61. VII.—Control. Sec. 62.)

The report of the auditor on each local board shall be published in the official Gazette and a copy thereof shall be sent to each board concerned and to the Collector. A copy of the report on every taluqa local board shall also be sent to the district local board of the district.

VI.—EXECUTION OF WORKS.

✓ 61. Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by section 57, clause (b), as the Governor in Council shall from time to time in a general or special order direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for the Government, and shall have control over all officers and servants of a local board, if any, assisting in the execution of any of the said works.

Works to be executed by the Government Executive Engineer.

All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed thinks fit: Provided that any such work shall, at the desire of the said board, be executed by the Government Executive Engineer of the district in the manner prescribed in the first paragraph of this section.

Works which may be executed by other agency.

✓ When any work is executed under this section by a Government Executive Engineer either wholly or partly, with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: Provided that no charge shall in any case be made on account of the services of the Executive Engineer.

Payment of Government establishment employed by Government Executive Engineer.

VII.—CONTROL.

62. 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 local board, or any work in progress under it or under its direction;
- (b) to call for any extract from any local board's or any committee's proceedings, any book or document in the possession of or under the control of a local board, and any return, statement, account or report which he may think fit to require such board to furnish;
- (c) to require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is

Collector's powers of inspection and supervision.

(VII.—Control. Secs. 63-65.)

about to be done or is being done by such board, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the board, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

All or any of the powers given to the Collector under this section may be delegated by him to the Assistant or Deputy Collector in charge of the *táluqá* in the case of a *táluqá* local board.

Power of Commissioner to prevent extravagance in establishments.

63. If in the opinion of the Commissioner the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall, on the requirement of the Commissioner, reduce the number or remuneration of the said persons or person :

Provided that the district local board may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

Collector's power of suspending execution of orders, etc., of local boards.

64. If, in the opinion of the Collector, the execution of any order or resolution of a local board, or the doing of anything which is about to be done or is being done, by or on behalf of a local board, is causing, or is likely to cause, injury or annoyance to the public, or to lead to a breach of the peace, 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.

When a Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the local board 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 Government for their final orders. Extraordinary powers of Collector in case of emergency.

The Commissioner shall forthwith submit to Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

65. In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is 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

(VII.—Control, Secs. 66-67.)

to the person appointed to execute or do it, shall be forthwith paid by the local board.

If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible from the balance of such fund in his hands.

The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

66. When the Governor in Council is informed, on complaint made, or otherwise, that a local board has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due enquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty.

Power of Government to provide for performance of duties in default of local board.

If that duty is not performed within the period so fixed, the Governor in Council 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 local board.

If the expense and remuneration are not so paid, the Governor in Council may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands.

67. If in the opinion of the Governor in Council a local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Governor in Council may by an order published, with the reasons for making it, in the official Gazette, declare the local board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Government to supersede local boards in case of incompetency, default, or abuse of powers.

When a local board is so superseded, the following consequences shall ensue:—

Consequences of exercise of such power.

- (a) all members of the board shall, as from the date of the order, vacate their offices as such members;
- (b) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf;
- (c) where a local board is superseded, all property vested in it shall, during the period of supersession, vest in Government.

(VII.—Control. Sec. 68. VIII.—Rules. Sec. 69. IX.—Miscellaneous. Sec. 70.)

On the expiration of the period of supersession specified in the order, the board shall be re-established by the election or appointment of new members under the provisions of this Act applicable thereto.

Powers of Government and of the Commissioners over Collectors, etc.

68. In all matters connected with this Act, the Governor in Council and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors, and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

VIII.—RULES.

Purposes for which rules and orders may be made.

69. The Governor in Council may from time to time make and from time to time vary or rescind rules or orders consistent with this Act—

- (a) prescribing the number of members for each local board and the proportion of elective and nominated members for each ;
- (b) determining the mode in which elections of members of local boards, other than elections under sections 6 (c) and 7 (c), and the places at which and the authorities, if any, under whose superintendence such elections shall be held, and the manner in which votes thereat shall be recorded and how and by whom the results of such elections shall be declared ;
- (c) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted and as to the appointment, control, punishment, and dismissal of the officers and servants of local boards ;
- (d) generally, for the guidance of local boards and Government officers in all matters connected with the administration of this Act and not therein specially provided for.

All rules and orders so made shall be published in the official Gazette.

IX.—MISCELLANEOUS.

Penalty for member, officer or servant of a local board being interested in any contract, etc., with that board.

70. If any member of a local board or any officer or servant maintained by or employed under a local board has, directly or indirectly, any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable, on conviction before a Criminal Court, to a fine which may extend to five hundred rupees :

(IX.—Miscellaneous, Secs. 71-74.)

Provided that the penalty herein prescribed and the disqualification for membership of a local board prescribed in section 11, clause (f), shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by or on behalf of, the local board, or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or
- (c) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or
- (d) being professionally engaged on behalf of the local board as a legal practitioner.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (a) and (b) to act as a member of a local board in any matter relating to a contract or agreement between the local board and such company or the manager or publisher of such newspaper.

71. Every member of a local board and every officer and servant maintained by a district local board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code [a].

Members, etc., of boards to be public servants.

72. When any land is required for the purposes of this Act, the Governor in Council may, on the request of the local board requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1894 [b]; and, on payment by the local board of the compensation awarded under that Act, the land shall vest in the local board.

Acquisition of land.

73. The powers and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 8, 63, 64, 67 and 68, shall, in Sindh, be exercised and performed by the Commissioner.

Powers and duties of Government to be discharged in Sindh by the Commissioner.

74. No action shall be commenced against any local board, or against any officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done, in pursuance

Limitation of suits, etc.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

[b] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

(IX.—Miscellaneous. Secs. 75-77. Schedule.)

of this Act, without giving to such local board, officer, servant or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of;

and in the case of any such action 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.

75. In the Bombay Local Funds Act, 1869 [a] :—

- (a) the words "Bombay Land-revenue Code, 1879," shall be substituted for the words "(Bombay) Act I of 1865," wherever they occur; and
- (b) the words "Commissioner of the division," shall be substituted in section 8 for the words "Revenue Commissioner"; and
- (c) the words "if no such rate is so recorded or if the rate so recorded is" shall be substituted in rule 3 of section 7 for the words "if this rate be."

Bom. III
of 1869.
Bom. V
of 1879.

Amendment
of Bombay
Act III of
1869.

76. In the Sindh Local Funds Act, 1865 [b], section 2, the word "of" shall be substituted for the words "heretofore customarily levied, namely."

Bom. VIII
of 1865.

Amendment
of Bombay
Act VIII
of 1865.
Amendment
of Bombay
Act III of
1875.

77. For clause (2) of section 3 of Bombay Act III of 1875 the following clause shall be substituted, namely :—

"Clause 2.—The word 'persons' in this section shall be deemed to include local boards established under the Bombay Local Boards Act, 1884."

SCHEDULE.

(See section 2.)

Enactment.	Subject.	Extent of repeal.
[b] Bombay Act VIII of 1865.	An Act to authorize taxation in the province of Sindh for objects of public local utility and improvement.	In the preamble the words "and to aid in defraying the expense of the Department of Public Works in the Province of Sindh," Sections 6, 7 and 8.

[a] Printed in Vol. II of this Code, p. 133.

[b] Printed in Vol. II of this Code, p. 81.

SCHEDULE—continued.

Enactment.	Subject.	Extent of repeal.
[*] Bombay Act III of 1869.	An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement and to constitute local committees for the due administration of such funds.	In the title the words "and to constitute local committees for the due administration of such funds." In the preamble the words "and whereas it is expedient to constitute local committees to provide for the due appropriation of such funds to the purposes aforesaid." Sections 1, 2, 3, 4, 5, 9, 10, 11, 12 and 13.
[*] Bombay Act II of 1868.	An Act to amend the law relating to public ferries in the Presidency of Bombay.	Section 16.
[*] Bombay Act III of 1875.	An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.	Section 12.

**THE BOMBAY DISTRICT MUNICIPAL ACT
AMENDMENT ACT, 1884.**

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 amendment of section 69;
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 new clause substituted for clause 1 of section 88;
 amendment of section 89;
 amendment of section 94.

SCHEDULE.

BOMBAY ACT No. II OF 1884 [*].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 1st May, 1884.)

An Act to amend the Bombay District Municipal Act [b].

WHEREAS it is expedient to amend the Bombay District Municipal Act [b] in manner hereinafter appearing; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be cited as the Bombay District Municipal Act Amend- Short title.
 ment Act, 1884, and this Act and the Bombay District Municipal Act [b], which is hereinafter referred to as “the principal Act,” may be together cited as the Bombay District Municipal Acts of 1873 and 1884.

This Act and the principal Act extend to the whole of the Presidency Local
 of Bombay, except the City of Bombay. extent.

2. This Act shall be construed as one with the principal Act. Construction.

3. The enactments mentioned in the schedule [c] are repealed to the Repealing
 extent specified in the third column thereof: section.

Provided that the said repeal shall not affect the validity or invalidity of anything already done under either of the said enactments, and shall not apply in any temporary municipal district in existence when this Act comes into force [d].

[*] Bom. Act V of 1890 is to be read with Bom. Act II of 1884—see s. 2 (2) of the former Act.

[b] Printed in Vol. II of this Code, p. 139.

[c] Words repealed by Bom. Act III of 1886 are omitted.

[d] Portion repealed by Act XVI of 1895 is omitted.

(I.—Preliminary. Sec. 4. II.—Constitution of Municipalities. Sec. 5.)

Interpreta-
tion-section.

4. In the principal Act and in this Act, unless there be something repugnant in the subject or context,—

Bom. VI of
1873.

(1) the words “Sindh Official Gazette” shall, in Sindh, be deemed to be substituted for the words “Bombay Government Gazette,” wherever they occur;

(2) the term “municipal district” means any local area which is at present a municipal district under the principal Act and any local area which may hereafter be constituted a municipal district under section 5 [a], if such municipal district has not ceased to exist under the provisions of the said section.

In the principal Act—

Certain ex-
pressions in
Bombay
Act VI of
1873 de-
fined.

(3) the phrases “the date of this Act [b] coming into force,” “the date of the passing of this Act,” [b] and the like, shall, in Sindh, be deemed to mean the first day of October, 1878.

In this Act—

(4) the words “salaried servant of Government” do not include a retired servant of Government in receipt of a pension;

(5) the term “Commissioner of the division” means, in Sindh, the Commissioner of Sindh and elsewhere the Commissioner of a division appointed under the Bombay Land-revenue Code, 1879 [c].

Bom. V of
1879.

II.—CONSTITUTION OF MUNICIPALITIES.

*Municipal Districts.*Definition
of muni-
cipal dis-
tricts.

5. Subject to the provisions of sections 8, 9 and 10 [a], the Governor in Council may, from time to time by notification in the Bombay Government Gazette, declare any local area to be a municipal district, and may, from 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.

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

[a] Words repealed by Bom. Act III of 1886 are omitted.

[b] The words “of this Act” were repealed by Bom. Act III of 1886 and re-inserted by Act XVI of 1895.

[c] Printed in Vol. II of this Code, p. 303.

(II.—*Constitution of Municipalities. Secs. 6-9.*)

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, or in any municipality which has ceased to exist under the operation of section 20 of the principal Act, or has been abolished under section 16 of that Act, shall, subject to all charges and liabilities affecting the same, vest in the Governor in Council, and the proceeds thereof, if any, shall be expended by the Governor in Council for the benefit of the local area in which such municipality had jurisdiction.

6. As soon as may be after the date when this Act comes into force, the Governor in Council shall in a notification published in the Bombay Government Gazette clearly set forth the local limits of each municipal district in existence on the said date and which has not since ceased to exist, and the said notification shall be conclusive evidence that the principal Act and this Act and all rules, bye-laws and orders applicable to such municipal district are in force within the limits so set forth.

Determina-
tion of local
limits of
municipal
districts in
existence
when this Act
comes into
force.

It shall be the duty of the municipality in every such municipal district and of every municipality newly constituted under this Act, and of every municipality whose local limits are altered as aforesaid, within six months from the date of the notification issued under the first paragraph of this section, or of the notification constituting the municipality or altering its local limits, as the case may be, to cause to be erected or set up, at its own costs, 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 said notification.

Definition
of municipal
boundaries by
boundary-
marks.

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Municipal
districts to
be temporary
or permanent.

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

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(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

What local
areas may
be declared
to be perman-
ent municipal
districts.

(b) a village or suburb, or two or more neighbouring villages and suburbs, may be declared a permanent municipal district:

(II.—*Constitution of Municipalities. Secs. 10-11.*)

Provided that unless for exceptional reasons, which shall be clearly set forth in the proclamation under section 10 and in the notification issued under section 5, no city, town, station or suburb shall be included 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; and no such municipal district shall be constituted in any area of which the population is less than two thousand.

Naming of municipal districts comprising two or more places. Permanent municipal districts.

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 Governor in Council.

10. 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 Governor in Council shall cause to be published in the Bombay Government 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 proclamation 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 a Secretary to the Government within two months from the date of the said proclamation.

No such notification as aforesaid shall be issued by the Governor in Council unless the objections, if any, so submitted are, in his opinion, insufficient or invalid.

11. In every permanent municipal district there shall be a municipality.

Except as is hereinafter otherwise provided, every such municipality newly constituted under this Act, and, on and after such date as shall be notified by the Governor in Council for each permanent municipal district in existence when this Act comes into force, the municipality in every such district, shall consist of—

- (a) elective commissioners;
- (b) such persons, if any, as the Governor in Council, or any officer whom he authorizes in this behalf, appoints, who shall be called "nominated commissioners :"

General constitution of municipalities.

(II.—Constitution of Municipalities. Secs. 12-13.)

Provided that the number of elective commissioners shall be not less than one-half of the whole number, exclusive of the president, and that not more than one-half of the nominated commissioners shall be salaried servants of Government.

12. The Governor in Council shall from time to time—

- (a) determine the total number of commissioners in each municipality ;
- (b) fix, subject to the provisions of the last preceding section, the proportion of the commissioners, if any, who shall be nominated and the number of those who may be salaried servants of Government ;
- (c) make rules, consistent with this Act, for fixing the dates and the time and manner of holding elections of the elective commissioners, prescribing the qualifications of candidates and of voters, and generally for regulating such elections :

The Governor in Council may—
determine total number of commissioners ;
fix proportion of elective and nominated commissioners ;
make rules for regulating elections.

Provided that—

- (d) subject to the disqualifications mentioned in section 16 as regards candidates, and in section 22 as regards voters, every fellow and every graduate of any university, every pleader holding a sanad from the High Court, every juror, every assessor and every Honorary Magistrate resident within a municipal district, and every person paying municipal taxes of an amount not less than such minimum as shall from time to time be fixed by Government for each municipal district, shall be qualified both as a candidate and a voter at such elections in the said district ;
- (e) no alteration in, or addition to, the qualifications of candidates or voters made at any time after the first elections have been held in any municipal district under this section shall take effect in such district within six months from the date on which such alteration or addition is made.

Proviso as to admission of certain qualifications, and

as to time when alteration in qualification shall take effect.

13. Nothing in the two last preceding sections 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 of its inhabitants, or other such exceptional reason, the Governor in Council shall, in the notification setting forth such reasons and published in the Bombay Government Gazette, at any time declare the provisions of the said sections to be unsuitable.

Constitution of municipalities in exceptional cases.

(II.—*Constitution of Municipalities. Secs. 14-16.*)

In any such municipal district the municipality shall consist either entirely of nominated commissioners or partly of nominated commissioners and partly of elective commissioners in such proportions, and appointed or elected by such persons, in such manner, and subject to such conditions, as the Governor in Council in the notification published under the first paragraph of this section, or in any subsequent notification published as aforesaid, shall think fit to prescribe.

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section; and, in the event of any notification under the first paragraph being rescinded, the municipality affected thereby shall from a date to be fixed in this behalf by the Governor in Council be constituted in accordance with the two last preceding sections.

Temporary
municipali-
ties.

14. The powers and duties conferred and imposed by this Act and by the principal Act on municipalities shall, in a temporary municipal district, be respectively exercised and discharged by a neighbouring municipality nominated in this behalf by Government, or by a municipality specially constituted for the time being and consisting of such commissioners nominated in such manner as the Governor in Council directs.

Incorporation
of municipali-
ties.

15. Every municipality in a permanent municipal district 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 its corporate name, and shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property for a term exceeding seven years and no sale or other transfer of any such property shall be valid, unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner of the division.

Provisions relating to Municipal Commissioners.

General dis-
qualifications.

16. No female, and no person—

- (a) who is less than twenty-one years of age, or
- (b) who is a District or a Subordinate Judge, or is acting in either of those capacities, or

[*] (c) who has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a

[*] This clause was substituted for the original cl. (c) by Bom. Act IV of 1885, s. 5.

(II.—*Constitution of Municipalities. Secs. 17-19.*)

term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf ;

(d) who is an uncertificated bankrupt or an undischarged insolvent, may be a municipal commissioner ;
and no person—

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

(f) who has directly or indirectly any share or interest in any work done by order of a municipality, or in any contract or employment with or under a municipality,

may be a member of such municipality ;

and any municipal commissioner who, during the term for which he has been elected or appointed,—

(g) becomes disqualified for any of the above reasons, or,

(h) not being a salaried servant of Government, is absent for more than four consecutive months from the limits of the district in which the municipality is established,

shall cease to be a commissioner, and his office shall become vacant.

17. A person who has already been elected or appointed a municipal commissioner on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Re-eligibility of municipal commissioners.

18. Except as is otherwise provided in the next following section, municipal commissioners appointed or elected under this Act shall, unless they become in the meantime disqualified, hold office for a term of three years, [a]extensible, by order of the Governor in Council, to a term not exceeding in the aggregate three years and six months, if on any occasion the Governor in Council shall think fit, for reasons which shall be notified, together with the order, in the Bombay Government Gazette, so to extend the same.[a]

Term of office.

19. In the event of the death, resignation or disqualification of a municipal commissioner, or of his becoming incapable of acting, 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 commissioner 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.

[*.] These words were added by Bom. Act I of 1888, s. 1.

(II.—*Constitution of Municipalities. Secs. 20-24.*)

Publication of names of commissioners in the Bombay Government Gazette.

20. The names of all commissioners finally elected to any municipality, as well as the names of the nominated commissioners, if any, appointed thereto, shall be published, as soon as conveniently may be, in the Bombay Government Gazette.

Municipal funds ordinarily liable for all costs and expenses incurred by municipalities ; but commissioners to be held responsible for misapplied funds.

21. Except as is hereinafter otherwise provided, no municipal commissioner 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 :

Provided that every municipal commissioner 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 commissioner, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of the Government.

Municipal Elections.

General disqualifications of voters.

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

Determination of validity of elections.

23. If the validity of any election of a municipal commissioner 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.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or for setting the election aside.

For the purposes of the said inquiry the District Judge may exercise any of the powers of a Civil Court, and his decision 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.

Presidents and Vice-Presidents.

Nomination of presidents ;

24. Every municipality shall be presided over by a president, who shall be one of the commissioners and shall be appointed by the Government or, if the Governor in Council so directs, elected by the municipality.

and of vice-presidents.

If the president so appointed or elected is a salaried servant of Government, the municipality shall elect one of the commissioners to be vice-president ; unless the Governor in Council otherwise directs, no appointment of

(II.—*Constitution of Municipalities. Sec. 25.*)

a vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a commissioner: Provided that he shall be removable from office as such president or vice-president by the Government for misconduct, or neglect of, or incapacity to perform, his duty.

Their term of office and liability to be removed.

In the event of the death, resignation or removal from office of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a commissioner, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment or election, as the case may be, of some other commissioner thereto.

Casual vacancies in their office how to be filled up.

25. The president of a municipality shall—

Functions of presidents.

- (a) preside at the meetings of the municipality;
- (b) watch over the financial and executive administration of the municipality, and perform such executive functions as he may be empowered to perform by the rules 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, 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 municipality's or of any committee's proceedings, or other document or thing which the Collector may from time to time call for under section 37.

When the president of a municipality is a salaried servant of Government and has been appointed to be president by the 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 commissioners present for and against the proposition under consideration, in which case he shall have a casting vote.

President in certain cases to have only a casting vote.

(II.—*Constitution of Municipalities. Secs. 26-27.*)

Functions of
vice-presi-
dents.

26. Vice-presidents of municipalities shall—

- (a) in the absence of the president preside at the meetings of the municipality, and
- (b) exercise such of the powers and perform such of the duties of the president as the president from time to time deposes to him[*].

Conduct of Business.

Provisions reg-
ulating
municipali-
ties' proceed-
ings.
General meet-
ings.

27. The following provisions shall be observed with respect to the proceedings of a municipality:—

- (1) Except in municipalities at hill stations, there shall be held four quarterly general meetings in each year, for the disposal of general business, on or about the tenth day of each of the months of January, April, July and October. In municipalities at hill stations there shall be held one general meeting on or about the tenth day of April and not less than one other periodical general meeting for the purpose aforesaid in each year.
- (2) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the commissioners, call a special general meeting.
- (3) Seven clear days' notice of a quarterly 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 commissioners and posted up at the municipal office or the local kachari or some other public building in the municipal district. The said notice shall include any motion or proposition which a commissioner shall have given written notice of his intention to bring forward at the meeting not less than ten days previous thereto, and, in the case of a special general meeting, any motion or proposition mentioned in the written request for such meeting.
- (4) If less than one-half of the commissioners be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such day and hour as he shall consider convenient to the commissioners, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned

A special
meeting may
be called
whenever
necessary
upon an emer-
gency.
Notice to be
given of
meetings.

One-half of
the commis-
sioners shall
form a quor-
um.

[*] *Sic. : read them.*

(II.—*Constitution of Municipalities. Sec. 27.*)

meeting and be transacted by it, whether there be a quorum present or not.

- (5) 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. Meetings must ordinarily be open to the public.
- (6) Every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-president, and, if both the president and vice-president are absent, by such one of the commissioners present as may be chosen by the meeting to be chairman for the occasion. Every meeting to be presided over by the president.
- (7) Except with the permission of the presiding authority, no business shall be transacted and no proposition discussed at any general meeting, unless it is mentioned in the notice convening such meeting and is brought forward by the presiding authority or by any commissioner who has given ten days' previous notice thereof to the president, or, in the case of a special general meeting, unless mention thereof has been made in the written request for such meeting. Business to be transacted at meetings.
- (8) Any general meeting may, with the consent of a majority of the commissioners 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.
- (9) Except as is otherwise provided in section 25, all questions shall be decided by a majority of votes of the commissioners present, the president, vice-president or chairman having a second or casting vote in all cases of equality of votes. All questions must be decided by a majority of votes.
- (10) The municipality may delegate any of their duties or powers to committees consisting of such commissioners as they think fit, and may appoint any one of the said commissioners to be the chairman of the committee; and any committee so formed shall conform to any instructions that may from time to time be given to them by the municipality, and the municipality may at any time discontinue or alter the constitution of any committee so formed. Municipality may delegate their functions to committees.
- (11) If no chairman of a committee has been appointed by the municipality, the members of such committee shall elect their chairman; Committees' meetings to be

(II.—Constitution of Municipalities. Sec. 27.)

presided over
by a chair-
man.

Committees
shall meet
when they
think proper.

Questions at
committees'
meetings
shall be de-
cided by a
majority of
votes.

Notice of
business to
be transacted
must in
certain cases
be given to
the Govern-
ment Exe-
cutive Engi-
neer or Edu-
cational In-
spector.

Minutes of
proceedings
to be kept.

Vacancy not
to affect
municipali-
ty's proceed-
ings.

and, if no chairman appointed or elected as aforesaid is present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting.

- (12) 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.
- (13) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.
- (14) 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 or of a committee, 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.
- (15) Minutes shall be kept in the vernacular language of the names of the commissioners and of the Government officers, if any, present under the provisions of section 28, and of the proceedings at each general meeting and each committee's meeting, and, if any commissioner present so desires, of the names of the commissioners voting respectively for or against any resolution, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any inhabitant of the municipal district: when practicable, the proceedings at general meetings shall be inserted in the minute-book in English as well as in the vernacular language.
- (16) During any vacancy in a municipality the continuing commissioners may act as if no vacancy had occurred.

(II.—*Constitution of Municipalities. Secs. 28-29.*)

(17) No act of a municipality, or of any committee, or of any person acting as a commissioner or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such municipality, committee, president, vice-president, chairman or commissioner, or on the ground that they, or any of them, were disqualified for the office of commissioner, or that formal notice of the intention to hold a meeting of a municipality or of a committee was not duly given, or for any other such mere informality.

Acts of a municipality, etc., not to be invalidated by informalities.

28. The Executive Engineer, the Educational Inspector and the 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 municipality within the district, shall have the right of being present at any meeting of the said municipality, or of any committee thereof, and, with the consent of the municipality or committee, 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 or committee: Provided that the said officers shall not, unless they are members of the municipality or committee, be entitled to vote upon any such question.

Certain Government officers may attend meetings of municipalities.

If it shall appear to a municipality that the presence of any of the above officers is desirable for the purpose aforesaid at any future meeting of such municipality, or any committee thereof, 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.

Municipalities may require the presence of the said officers at their meetings.

29. Whenever it appears to the president of a municipality, or to the chairman of a committee, unnecessary to convene a meeting, he may, instead of so doing, circulate a written proposition of his own, or of any other commissioner, or, in the case of a committee, of any other member of the committee, or of any executive officer of the municipality, for the observations and votes of the commissioners, or of the members of the committee, as the case may be. Previous to circulating any such proposition as aforesaid, the president or chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in clause (14) of section 27, shall obtain thereupon

Written propositions may be circulated for votes.

(II.—*Constitution of Municipalities. Secs. 30-31. III.—Rules and Bye-Laws. Sec. 32.*)

the remarks, if any, which any Government officer, not a commissioner, who would be entitled under the provisions of section 28 to be present at such meeting, desires to record.

The decision on any proposition so circulated shall be in accordance with the majority of votes of the commissioners who vote upon it, unless a special meeting is convened to consider the propositions under clause (2) or clause (12) of section 27.

Every decision arrived at by the commissioners under this section shall be recorded in the minute-book kept under clause (15) of section 27.

Mode of executing contracts.

30. The president of a municipality may, on behalf of the municipality, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: Provided that the amount or value of such contract or agreement shall not exceed five hundred rupees.

Every other contract or agreement on behalf of a municipality shall be in writing and shall be signed by the president and by two other commissioners, and shall be sealed with the common seal of the municipality.

No contract or agreement not executed as in this section provided shall be binding on a municipality.

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

31. A municipality may from time to time concur with any other municipality or with any local board or cantonment committee, or with more than one such municipality, local board or committee—

- (a) 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
- (b) 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
- (c) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of Government shall be final.

III.—RULES AND BYE-LAWS.

Municipalities

32. Every municipality shall, as soon as conveniently may be after it has

(III.—*Rules and Bye-laws. Sec. 32.*)

been constituted, make and may from time to time alter or rescind rules, consistent with this Act and with the principal Act :

Bom. VI of 1873.

- (a) regulating the conduct of its business and the delegation of any of its powers or duties to one or more committees ; for regulating the conduct of business ;
- (b) determining the staff of officers and servants to be employed by it and their respective designations, duties, salaries, fees and absentee or other allowances ; for fixing the establishment ;
- (c) determining the mode of appointing, punishing or dismissing any such officer or servant ; for determining mode of appointing, etc., municipal servants ;
- (d) regulating the grant of leave to such officers or servants and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave ; for granting leave to municipal servants ;
- (e) regulating the period of service of all such officers and servants and determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances ; for fixing pensions, etc.;
- (f) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with its approval, be established by the said officers and servants ; for contributing to provident funds ;
- (g) 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 ; for fixing the amount or the security to be furnished ;
- (h) prescribing, subject to the provisions of section 21 of the principal Act, the tolls, cesses, taxes or other imposts to be levied in the municipal district for municipal purposes, and the fees to be charged for licenses or permissions granted under section 22 of the said Act, and the times and mode of levying or recovering the same ; for prescribing the taxes, etc., to be levied for municipal purposes ;
- (i) generally for the guidance of its officers and servants in all matters relating to the municipal administration : for general guidance of municipal servants ;

Provided that—

- (j) if an officer is lent to any municipality by the Government, or if an officer is employed partly in the service of Government and partly in the service of a municipality, such municipality shall contribute to his pension and leave-allowance to such extent as may be required by the rules in this behalf from time to time in force, and shall not, except with the assent of Government, dispense with his Proviso as to officers lent by Government ; and

(III.—Rules and Bye-laws Secs. 33-34.)

further services at any time without giving the Government six months' previous notice ;

as to previous sanction of Government in certain cases.

- (k) no rule made under this section shall have effect unless and until it has been approved by the Governor in Council, or by such officer as he appoints in this behalf.

Certain municipalities may make bye-laws—

33. Every municipality may from time to time, with the previous sanction of the Governor in Council, make, alter or rescind bye-laws consistent with this Act and with the principal Act—

Bom. VI of 1873.

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

- (a) for regulating and inspecting markets and slaughter-houses and all places used by or for horses or other animals which are let out on hire or the produce of which is sold, and for the proper and cleanly conduct of business therein, and for fixing the charges to be made for the use of any of them which belong to the municipality ;

for regulation of dangerous or offensive trades ;

- (b) for licensing and inspecting places used for any of the purposes mentioned in section 69 of the principal Act and for regulating the conduct of business in any such place so as to minimize the injurious, offensive or dangerous effect thereof ;

for water-supply and conservancy ;

- (c) for regulating the water-supply, conservancy and the disposal of carcasses of dead animals ;

for registration of births, etc. ;

- (d) for the registration of births, deaths and marriages and the taking of a census within the municipal district ;

for general administrative purposes.

- (e) generally for the regulation of all matters relating to municipal administration :

Fine may be imposed for infringement of bye-laws.

and every municipality may, with the like sanction, prescribe a fine for the infringement of any such bye-laws.

Publication of drafts of proposed bye-laws.

34. Every municipality shall, before making any bye-law under the last preceding 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 bye-law, together with a notice specifying a date on or after which the draft will be taken into consideration, and shall, before making the bye-law, receive and consider any objection or suggestion which may be made in writing by any person with respect to the draft before the date so specified.

When any bye-law made by a municipality is submitted to the Governor in Council for sanction, a copy of every objection or suggestion so made, and of the notice published as aforesaid, shall be submitted for the information of the Governor in Council along with the said bye-law.

(III.—*Rules and Bye-Laws. Secs. 35-36. IV.—Control. Secs. 37-38.*)

nom. VI of
1973.

35. Any rules or bye-laws made with the approval of the Governor in Council by any municipality under section 14 of the principal Act, and now in force, shall continue in force, so far as they are consistent with this Act, until they shall be altered or rescinded under section 32 or section 33.

Continuance in force of present rules and bye-laws of municipalities.

36. The rules and bye-laws for the time being in force under sections 32, 33 and 35 shall be kept open at the municipal office for public inspection at all reasonable times, and printed copies thereof in the vernacular language of the district shall be kept on sale at a reasonable price.

Rules and bye-laws to be printed and sold.

IV.—CONTROL.

37. The Collector shall have power—

Collector's powers of inspection and supervision.

- (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 it or under its direction ;
- (b) to call for any extract from any municipality's or any committee's proceedings, 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 its 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 its reasons for not desisting from doing, or for not doing, such thing.

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 in such taluqá.

38. If, in the opinion of the Commissioner of the division, the number of persons employed by a municipality as officers or servants, or whom a municipality proposes 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 said Commissioner, reduce the number or remuneration of the said persons or person :

Power of Commissioner of division to prevent extravagance in the employment of establishment.

Provided that the municipality may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

(IV.—Control. Secs. 39-41.)

Collector's power of suspending execution of orders, etc., of municipalities.

39. 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, 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 of the division, who may confirm or modify it.

When a Collector makes any order under this section, he shall forthwith forward to the Commissioner of the division and 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 said 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 Government for their final orders.

The said Commissioner shall forthwith submit to Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner of the division could have made.

Extraordinary powers of Collector in case of emergency.

40. In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a municipality is 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.

If the expense and remuneration are not so paid, the Collector may make an order directing the person who has custody of the balance of the municipal fund to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands, and the said person shall be bound to obey such order.

The Collector shall forthwith report to the Commissioner of the division every case in which he uses the powers given to him by this section.

Power of Government to suspend or prohibit levy of objectionable taxes.

41. If it shall at any time appear to the Governor in Council, on complaint made or otherwise, that any toll, cess, tax, fee or other impost leviable by a municipality is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interests of the general public, he may require the said municipality, within such period as he shall fix in this behalf, to take measures for removing any objection which appears to him to exist to the said toll, cess, tax, fee or other impost, and, if, within the period so fixed, such

(IV.—Control. Secs. 42-43.)

requirement shall not be carried into effect to the satisfaction of the Governor in Council, he may, by notification in the Bombay Government Gazette, suspend the levy of such toll, cess, tax, fee or other impost, or of such part thereof, until such time as the objection thereto shall be removed.

The Governor in Council may, at any time, by a like notification, rescind any such suspension.

42. When the Governor in Council is informed, on complaint made, or otherwise, that a municipality has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due inquiry that the municipality has been guilty of the alleged default, may fix a period for the performance of that duty.

Power of Government to provide for performance of duties in default of municipality.

If that duty is not performed within the period so fixed, the Governor in Council 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.

If the expense and remuneration are not so paid, the Governor in Council may make an order directing the person who has custody of the balance of the municipal fund to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands, and the said person shall be bound to obey such order.

43. If, in the opinion of the Governor in Council, a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Governor in Council may, by an order published, with the reasons for making it, in the Bombay Government Gazette, declare the municipality to be incompetent, or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Government to supersede municipality in case of incompetency, default or abuse of powers.

When a municipality is so superseded, the following consequences shall ensue:—

Consequences of exercise of such power.

- (a) all commissioners of the municipality shall, as from the date of the order, vacate their offices as such commissioners;
- (b) all powers and duties of the municipality may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf;
- (c) all property vested in the municipality shall, during the period of supersession, vest in Government.

On the expiration of the period of supersession specified in the order, the

(IV.—Control. Sec. 44. V.—Miscellaneous. Secs. 45-47.)

municipality shall be re-established by the election or appointment of new commissioners under the provisions of this Act applicable thereto.

Powers of Government and of the Commissioners of divisions over Collectors, etc.

44. In all matters connected with this Act, the Governor in Council, the Commissioners of divisions and the Collectors shall have and exercise the same authority and control over the Commissioners of divisions, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

V.—MISCELLANEOUS.

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

45. If any commissioner, officer or servant of a municipality has, directly or indirectly, any share or interest in any work done by order of a municipality or in any contract with or under that municipality, he shall be liable, on conviction before a Criminal Court, to a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed and the disqualification for a municipal commissionership prescribed in section 16, clause (f), shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by or on behalf of, the municipality, or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or
- (c) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or
- (d) being professionally engaged on behalf of the municipality as a legal practitioner.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (a) and (b) to act as a commissioner in any matter relating to a contract or agreement between the municipality and such company or the manager or publisher of such newspaper.

Municipal commissioners, etc., to be public servants.

46. Every commissioner and every officer and servant of a municipality, and every farmer or agent for the recovery of any toll, cess, tax, fee or other impost on behalf of a municipality, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code [*].

XLV of 1860.

Powers and duties of Government to be discharged in Sindh by the Commissioner.

47. The powers and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 13, 38, 39, 43 and 44, shall, in Sindh be exercised and performed by the Commissioner.

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(F.—Miscellaneous. Secs. 48-49.)

48. No action 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, or of the principal Act, without giving to such municipality, officer, servant or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of;

Limitation
of suits, etc.

and in the case of any such action 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.

49. The following amendments shall be made in the principal Act, namely :—

Amendment
of Bombay
Act VI of
1873 ;

(a) in section 3 the following definition of the word "street" shall be substituted for the existing one, namely :—
[Printed in Vol. II of this Code, p. 140.]

amendment
of section 3 ;

(b) in section 17, clause (c), before the word "street" insert the word "public", and in clause (f) for the words "and spaces" the words "not being portions of provincial high roads or trunk roads specially reserved by Government" shall be substituted ;

amendment of
section 17 ;

(c) to section 21 the following clause shall be added, namely :—
[Printed in Vol. II of this Code, p. 142.]

new clause
added to
section 21 ;

(d) in section 23 for the words and figures "local funds district constituted under Bombay Act III of 1869" the words "area subject to the authority of a local board or of a cantonment committee, or out of any public funds" shall be substituted ;

amendment of
section 23 ;

(e) for section 24 the following section shall be substituted, namely :—
[Printed in Vol. II of this Code, p. 143.]

new section
substituted
for section
24 ;

(f) in clause 2 of section 26, and also in clause 2 of section 57, the words "of the said municipality" shall be substituted for the words and figures "contemplated in section 14 of this Act" ;

amendment
of sections 26
and 57 ;

(g) for the first portion of section 30, clause 1, down to and inclusive of the words "setting back," the following words shall be substituted, namely :—

amendment of
section 30 ;

[Printed in Vol. II of this Code, p. 146.]

(h) in section 69, for the words "as a soap-house, oil-boiling house, dyeing-house, tannery" the words "for salting and curing fish, soap-

amendment
of section 69 ;

(Schedule.)

making, oil-boiling, dyeing, tanning, or the manufacture of leather or leather goods, or as a" shall be substituted;

amendment
of section 84;

(i) in section 84, for the word "taxes" the words "cesses or other taxes, and such penalties in addition to the said arrears, not exceeding in any case one-fourth of the amount of the arrear, as shall be adjudged by the said Magistrate, and all arrears of" shall be substituted;

new clause
substituted
for clause 1
of section 88;

(j) for clause 1 of section 88 the following clause shall be substituted, namely:—

[Printed in Vol. II of this Code, p. 165.]

amendment
of section 89;

(k) in section 89 the words "of the municipality" shall be substituted for the words and figures "required by section 14 of this Act;"

amendment
of section 94.

(l) in section 94 the word "public" shall be inserted before the word "inspection".

SCHEDULE.

(See section 3.)

Enactments.	Subject.	Extent of repeal.
[*] Bombay Act VI of 1873.	For the better management of municipal affairs in mufassal towns and cities.	In section 3 the words and figures "by Regulation XVI of 1827, or" and the definitions of "place" and "bázár". Sections 4 to 16, both inclusive. In section 17, clause (f), the two last words. Section 19, clause 1, and section 20. In section 22 the words and figures "The rates of such fees shall be specified in the rules contemplated in section 14 of this Act." Sections 27, 70, 72 and 86. In section 87, clause 2, the words "Collectors and other". Sections 91, 92 and 93. In section 94 the word "similarly". Sections 95, 96, 97, 98 and 99.
Bombay Act I of 1879.	To facilitate the introduction of the Bombay District Municipal Act into Sindh.	The whole.

[*] Printed in Vol. II of this Code, p. 139.

1885: Bom. Act IV.] *Local Boards: District Municipalities.* 91

1886: Bom. Act III.] *General Clauses. (Secs. 1-3.)*

BOMBAY ACT No. IV OF 1885.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th October, 1885.)

Bom. I. and
II of 1884.

An Act to amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884.

[NOTE.—The amendments made by this Act are incorporated in Bom. Acts I and II of 1884, respectively, as printed on pp. 34 *et seq.* and 69 *et seq. supra.*]

BOMBAY ACT No. III OF 1886.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 25th September, 1886.)

An Act to amend the Bombay General Clauses Act, 1866^[a], and to shorten the language of the enactments of the Governor of Bombay in Council.

Bom. X of
1866.

WHEREAS it is expedient to amend the Bombay General Clauses Act, 1866^[a], and to make other provisions for shortening the language of the enactments of the Governor of Bombay in Council, and for explaining their meaning; It is enacted as follows:—

1. This Act may be cited as the Bombay General Clauses Act, 1886.

Short title.

2. [b]The words quoted in the fourth column of Schedule B from the enactments made by the Governor of Bombay in Council respectively mentioned in the previous columns of the said schedule are repealed, and, where such intention is expressed in the said schedule, the words contained in the fifth column thereof shall be deemed to be substituted respectively for the words so repealed.

Enactments repealed and amended.

3. In this Act and in all Regulations and Acts made by the Governor of Bombay in Council, unless there be something repugnant in the subject or context,—

General definitions.

(1) words importing the masculine gender include females;

Gender.

(2) words in the singular include the plural, and *vice versa*;

Number.

(3) "person" includes a company or association or body of individuals, whether incorporated or not;

(4) "year" and "month" mean, respectively, a year and a month reckoned according to the British calendar;

(5) "British India" means the territories for the time being vested in

[a] Bom. Act X of 1866 was repealed by s. 2 of this Act.

[b] Portion repealed by Act XVI of 1895 is omitted.

(Sec. 3.)

Her Majesty by the Statute 21 and 22 Victoria, Chapter 106 [a] (*an Act for the better Government of India*) [b] ;

(6) "Presidency of Bombay" means the territories within British India for the time being under the administration of the Governor of Bombay in Council ;

(7) "City of Bombay" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the Bombay High Court of Judicature ;

(8) "Her Majesty" includes Her heirs and successors to the Crown ;

(9) "Government of India" means the Governor General of India in Council, or, during the absence of the Governor General of India from his Council, the President in Council, or the Governor General of India alone, in respect of the powers which may be lawfully exercised by them or him respectively ;

(10) "Government" means the Governor of Bombay in Council ;

(11) "Commissioner" means, in Sindh, the Commissioner in Sindh, and elsewhere the Commissioner of a division appointed under the Bombay Land-revenue Code, 1879 [c], or any other law for the time being in force in this behalf ;

Bom. V of
1879.

(12) "Collector" means, in the City of Bombay, the Collector of Bombay, and elsewhere, the chief local officer in charge of the revenue administration of a district ;

(13) "Magistrate" means any person exercising magisterial powers under the Code of Criminal Procedure [d] ;

X of 1882.

(14) "imprisonment" means imprisonment of either description as defined in the Indian Penal Code [e] ;

XLV of 1860.

(15) "to abet" means to abet within the meaning of that term as defined in the Indian Penal Code [e] ;

(16) "immoveable property" includes land, benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth ;

(17) "moveable property" means property of every description, except immoveable property ;

[a] Printed in the Collection of Statutes relating to India, Vol. II, Ed. 1881, p. 651.

[b] Words repealed by Act XVI of 1895 are omitted.

[c] Printed in Vol. II of this Code, p. 303.

[d] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

[e] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(Secs. 4-9.)

(18) "vessel" means anything made for the conveyance by water of human beings or of property ;

(19) in every case in which a person is by law allowed to affirm or to declare instead of swearing, "oath" includes an affirmation, and "affidavit" includes a declaration, and to "swear" includes to affirm or declare ;

(20) "writing" and "written" include printing, lithography, photography, engraving, and every other mode in which words or figures can be expressed on paper or on any substance ;

(21) "Chapter", "part", "section", and "schedule" mean, respectively, a chapter, part or section of, and a schedule annexed to, the enactment in which the word occurs ;

(22) "from" and "to", when used with reference to a series of days or other periods of time, respectively, exclude and include the first and the last of the days or other periods in such series.

4. 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 executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior. Official chiefs and subordinates.

5. For the purpose of indicating the relation of a law to the successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations. Successors.

6. 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, it shall be sufficient to mention the official title of the officer at present executing such functions or that of the officer by whom the functions are commonly executed. Substitution of functionaries.

7. No provision of any Regulation or Act which has been repealed shall be deemed to be revived by any enactment of the Governor of Bombay in Council, unless such intention is expressly stated in the enactment. Revival of repealed enactments.

8. The repeal of any Regulation or Act by any enactment of the Governor of Bombay in Council shall not, unless a contrary intention is expressed, be deemed to affect anything done or any offence committed or any fine or penalty incurred or any proceeding commenced before the repealing enactment came or comes into force. Matters done under an enactment before its repeal to be unaffected by the repeal.

9. Whenever in any enactment of the Governor of Bombay in Council or in any rule passed under any such enactment it is directed that any order, notification or other matter shall be notified or published, such notification or Publication of orders and notifications in the Bombay Government

(Secs. 9-13.)

Gazette to be deemed to be due publication.

publication shall, unless the enactment otherwise provides, be deemed to be duly made if it is published in the Bombay Government Gazette.

Commencement of Acts in which no time for their coming into force is expressly mentioned.

10. Whenever in any Act of the Governor of Bombay in Council no time is mentioned at which the same shall come into force, such Act shall be deemed to have come into force or shall come into force, as the case may be, upon the first publication by the Governor of Bombay of the assent of the Governor General of India thereto.

In every such Act the date of the said publication shall be printed either above or below the title of the Act and shall form part of such Act.

Determination of the time which Acts or provisions of Acts extended or applied by Government to certain places, etc., are to come into force.

11. Whenever, by any enactment of the Governor of Bombay in Council, Government is empowered to extend or apply an Act or any provision of an Act to any place in, or to any portion of, the presidency of Bombay, the Government may, in any order extending or applying such Act or provision, or in a subsequent order, notify the time at which the same shall come into force in the place or portion of the presidency to which it is so extended or applied;

and, unless it is otherwise provided in the Act, Government may, by notification in the Bombay Government Gazette, from time to time postpone the time at which the Act or provision shall come into force in such place or portion of the presidency, or cancel the order for extending or applying the same to such place or portion of the presidency :

Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of the presidency to which such order relates.

Provisions of the Indian Penal Code applicable to fines.

12. The provisions of sections 63 and 68 to 70, both inclusive, of the Indian Penal Code [a] shall be deemed to apply to every fine imposed under any enactment of the Governor of Bombay in Council, unless a contrary intention is expressed in the enactment or appears from the subject or context. XLV of 1860.

Sections 3 to 12 to apply to all enactments of the Governor of Bombay in Council in force.

13. Sections 3 to 12, both inclusive, apply to all enactments of the Governor of Bombay in Council now in force or which shall hereafter at any time be in force.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

SCHEDULE A.

[Acts of the Governor of Bombay in Council repealed.] Repealed by Act XVI of 1895.

SCHEDULE B[*].

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>				
[^b] XII of 1827	19	1	"Magistrate" . . .	"District Magistrate".
	"	6	"the Magistrate" (the first time the words occur).	"the District Magistrate".
	"	"	"the Magistrate" (the second time the words occur).	"any Magistrate."
	"	"	"ordinary" . . .	"simple".
	"	"	"without labour"	

[*] Sch. B having been repealed, so far as it relates to the following enactments, by the Acts noted against each, the reference to those enactments have been omitted.

Enactments omitted.	Repealing Acts.
Bom. Reg. XXII of 1827, ss. 19 and 21 . . .	Bom. Act I of 1891 s. 1 (b).
Bom. Acts I, V and VI of 1862 } I, III, V and VI of 1863 } . . .	Act XVI of 1895.
III of 1866 . . .	Bom. Act I of 1891, s. 1 (b).
VII, VIII, XII and XIII of 1868 . . .	Act XVI of 1895.
III of 1867 . . .	Bom. Act I of 1891, s. 1 (b).
VI of 1867 } II of 1869 } . . .	Act XVI of 1895.
III of 1869 } II of 1871 } I of 1872 } . . .	
III of 1872 } V of 1873 } . . .	Bom. Act I of 1891, s. 1 (b).
VI of 1873 . . .	Act XVI of 1895.
VII of 1873 . . .	Bom. Act I of 1891, s. 1 (b).
I, II and III of 1874 . . .	
III of 1875 . . .	
II and III of 1876 . . .	
I of 1877 } IV, V, VI and VII of 1879 } . . .	Act XVI of 1895.
I of 1880 . . .	
I and II of 1883 . . .	
I and II of 1884 . . .	

[^b] So much of Sch. B as relates to Bom. Reg. XII of 1827, s. 19, cls. 1, 6, 7 and 8, is repealed by Bom. Act IV of 1890 wherever that Act extends.

(Schedule B.)

SCHEDULE B—continued.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Regulations.</i> [^a]XII of 1827 —contd.	19	7	"Magistrate" (the first time the word occurs).	"District Magistrate".
	"	"	"Magistrate" (the second time the word occurs).	"Magistrate before whom proceedings against such individual are being held".
	"	8	"The Magistrate shall also".	"Any Magistrate may".
	20	...	"Magistrate"	"District Magistrate".
	27	2	"Magistrate" (each time the word occurs).	"District Magistrate".
	"	"	"ordinary"	"simple".
	"	"	"without hard labour".	
[^b]XXII of 1827	37	1	"Magistrate"	"District or Sub-divisional Magistrate".
	40	...	"Magistrate"	"District Magistrate".
	41	1	"local"	"District".
	42	1	"local"	"District".
	"	2, 3, 4	"Magistrate" (each time the word occurs).	"District Magistrate".
XXV of 1827 .	4	2	"Magistrate" (both times the word occurs).	"District Magistrate".
	7	...	"Magistrate"	"District Magistrate".
<i>Acts.</i> IV of 1862 .	1	...	"the Magistrate" (the second time the words occur).	"a Magistrate of the first class".
	"	...	"calendar".	
	6	...	"Magistrate"	"District Magistrate".
	"	...	"this Act"	"section 4".
	"	...	"of Police".	
	"	...	"of either kind".	
II of 1863 .	7	...	"calendar".	
	10	...	"Magistrate"	"District Magistrate".
	"	...	"of Police".	
	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).	

[^a] See foot-note [^b] on last preceding page.[^b] See foot-note [^a] on last preceding page.

SCHEDULE B—continued.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
Acts—contd. II of 1863— contd.	4, 5 and 11.	...	"calendar" (each time the word occurs).	
	5 and 11.	...	"collectorate or" (each time the words occur).	
VII of 1863 .	11	4	"collectorate"	"district".
	"	6	"collectorate" (each time the word occurs).	"district".
	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).	
	"	3, 4, 6 and 7	"collectorate" (each time the word occurs).	"district".
	"	8	"calendar".	
	"	9	"Revenue".	
	"	9	"of the division".	
	"	12	... 2	"or Sub-Collector".
[^a] VII of 1867	20	2	"annexed".	
	6	...	"full".	
	"	...	"Magistrate"	"Magistrate of the first class".
	7	...	"all or any of the powers of a Magistrate."	"magisterial powers".
	8, 29 and 34.	...	"of this Act" (each time the words occur).	
	25, 26 and 29.	...	"of either kind" (each time the words occur).	
	34	...	"full-power Magistrate". .	"Magistrate of the first class".
	39	...	"calendar" (each time the word occurs).	
VIII of 1867 .	44	...	"of Police" [^b] (where the words first occur)[^b].	
	[^c] 1	...	"Commissioner of Police". "Act, 1867"	"Acts, 1867 and 1890"[^c].
	3, 4, 5, 15 and 18.	...	"of Police" (wherever in the said sections those words follow the word "Commissioner").	

[^a] So much of Sch. B as relates to any section of Bom. Act VII of 1867 except s. 34 is repealed by Bom Act IV of 1890 wherever that Act extends.

[^b] These words were inserted by Act XVI of 1895.

[^c] These entries were inserted by Bom. Act I of 1891, s. 2 (a) (i).

General Clauses (Schedule B). [1886 : Bom. Act III.
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Hereditary Offices (Sec. 1.) [1886 : Bom. Act V.

SCHEDULE B—concluded.

ENACTMENT.			Words repealed.	Words, if any, substituted for the words repealed.
No. and year.	Section.	Clause.		
<i>Acts—concl'd.</i>				
VIII of 1867— <i>cont'd.</i>	5 and 9	...	“Police” (in each place in which the word precedes the word “Commissioner”).	
	18	...	“of this Act”.	
V of 1878	3	3	“means, in Sindh, the Commissioner in Sindh, and else where 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”.
	3	4	“means a Collector of land-revenue or.”	“includes”.
	45 and 50	...	“of this Act” (each time the words occur).	

BOMBAY ACT No. IV OF 1886.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 10th November, 1886.)

An Act to amend the Bombay Land-revenue Code, 1879.

Bom. V of 1879.

WHEREAS, for the purpose of assuring to holders of unalienated land the full advantage of all improvements in their holdings effected by them or at their cost, it is expedient to define more clearly the conditions affecting the revision of land-revenue assessments, and with this object to amend the Bombay Land-revenue Code, 1879; It is enacted as follows:—

Bom. V of 1879.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act V of 1879 as printed on pp. 303 *et seq.* of Vol. II of this Code.]

BOMBAY ACT No V OF 1886^[a].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th January, 1887.)

An Act to amend Bombay Act III of 1874.

WHEREAS it is expedient to amend the Bombay Hereditary Offices Act, 1874, in manner hereinafter appearing; It is enacted as follows:—

Bom. III of 1874.

1. For section 5 of the said Act the following section shall be substituted (namely):—

[Printed in Vol. II of this Code, p. 194.]

Amendment of section 5.

[^a] As to the local repeal and amendment of Bom. Act V of 1886, see Bom. Act VI of 1887, s. 3, *infra*.

(Secs. 2-13.)

- ny female member of a wátán family other than the widow of the owner, and every person claiming through a female, shall be in the order of succession to any wátán, or part thereof, or therein, devolving by inheritance after the date when this Act comes to every male member of the family qualified to inherit such part thereof, or interest therein. Female members to be postponed.
- Interest of a widow in any wátán or part thereof shall be for the life or until her marriage only. Widow's interest.
- section 10 of the said Act the words "or may pass" shall be after the word "or have so passed". Amendment of section 10.
- Repeal of portion of section 11.] Repealed by Act XVI of 1895.*
- For section 11 of the said Act the following section shall be inserted, New section added after section 11.
- Printed in Vol. II of this Code, p. 197.]
- section 30 of the said Act the word "officiators" shall be substituted for the word "sharers". Amendment of section 30.
- section 35 of the said Act the words "notice or" shall be inserted after the word "which". Amendment of section 35.
- For section 38 of the said Act the following section shall be substituted for section 38. Amendment of section 38.
- Printed in Vol. II of this Code, p. 203.]
- For section 45 of the said Act the following section shall be substituted for section 45. Amendment of section 45.
- Printed in Vol. II of this Code, p. 204.]
- For section 46 of the said Act the following shall be substituted for section 46. New section substituted for section 46.
- (namely) :—
[Printed in Vol. II of this Code, p. 205.]
11. In section 50 of the said Act, the word "general" shall be substituted for the word "known". Amendment of section 50.
12. For section 53 of the said Act the following section shall be substituted (namely) :—
[Printed in Vol. II of this Code, p. 206.] New section substituted for section 53.
13. For section 60 of the same Act the following section shall be substituted (namely) :—
[Printed in Vol. II of this Code, p. 207.] New section substituted for section 60.

New section substituted for section 70.

14. For section 70 of the said Act the following section shall be substituted (namely):—

[Printed in Vol. II of this Code, p. 210.]

Amendment of section 84.

15. (1) In section 84 of the said Act the following words shall be inserted after the word "purpose," viz.—

[Printed in Vol. II of this Code, p. 213.]

(2) And the following paragraph shall be added to the said section, viz.—

[Printed in Vol. II of this Code, p. 213.]

Addition of a new schedule.

16. The following schedule shall be added to the said Act (namely):—

[Printed in Vol. II of this Code, p. 214.]

THE KARACHI PORT TRUST ACT, 1886.

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BOMBAY ACT No. VI OF 1886.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 8th February, 1887.)

An Act to vest the Port of Karachi in a Trust.

Preamble.

Whereas it is expedient to vest the port of Karachi in a trust and to provide for the management of the affairs of the said port by trustees; It is enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Karachi Port Trust Act, 1886.

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

(1) "port" means the port of Karachi as defined for the purposes of this Act;

(2) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year;

(3) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year;

(4) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

Sec. 3. II.—Of the Board of Trustees. Secs. 4-7.)

(5) "master, when used in relation to any vessel, means any person having for the time being the charge or control of such vessel ;

(6) the word "goods" includes wares and merchandise of every description ;

(7) "owner," when used in relation to goods, includes any consignee, shipper or agent for the sale or custody of such goods ; and, when used in relation to any vessel, includes any part-owner, charterer, consignee or mortgagee in possession thereof.

3. Government may, with the approval of the Governor General in Council, by notification in the Bombay Government Gazette—

Power to define and alter limits of port.

(a) define the limits of the port for the purpose of this Act, and

(b) from time to time alter such limits.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port, whether within or without high-water mark, and, subject to any rights of private property therein, any portion of the shore within fifty yards of high-water mark.

II.—OF THE BOARD OF TRUSTEES.

Constitution of Board.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a board to be called "The Trustees of the Port of Karachi;" and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Act to be carried out by trustees.

5. The Board shall consist of nine members, of whom not less than two shall be natives of India residing in Karachi.

Number of trustees.

6. Government shall from time to time appoint a person to be chairman of the Board and may, if they think fit, from time to time appoint a person to be vice-chairman of the Board. Any person so appointed may be a public officer or not.

Appointment of chairman and vice-chairman.

The chairman and, if any be appointed, the vice-chairman of the Board shall be trustees.

7. Of the rest of the trustees, one shall be the Manager, for the time being, of the North-Western Railway, or such officer of the said Railway

Nomination of other trustees.

(11.—Of the Board of Trustees. Secs. 8-11.)

as the said Manager shall from time to time appoint to act for him in this behalf, two shall be elected by the members for the time being of the Karachi Chamber of Commerce, and two shall be elected by the municipal commissioners of Karachi from among their own number.

The remaining trustees shall be appointed by Government.

Any trustee elected or appointed under this section may be a public officer or not.

Conduct of elections.

8. The election of trustees by the Karachi Chamber of Commerce and by the municipal commissioners shall be conducted in such manner as shall from time to time be determined at a meeting of the members of the said Chamber or of the said commissioners, as the case may be, convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber and the President of the Municipality of Karachi shall, respectively, make a return to the Commissioner of the name of every person so elected.

Nomination by Government in default of election.

In the event of default being made by the Chamber or by the municipal commissioners in electing any trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government to appoint a person, and the person so appointed shall be deemed to be a trustee as if he had been duly elected by the Chamber, or municipal commissioners, as the case may be.

Publication of names of trustees in the official Gazettes.

9. The name of every person appointed by Government to be chairman or vice-chairman of the Board, and the names of all trustees duly elected or appointed to the Board, shall be published in the Bombay Government Gazette and in the Sindh Official Gazette.

Term of office of first trustees when to commence.

10. The term of office of the first trustees shall commence on such date as shall be notified in this behalf by Government.

Trustees to retire from office by rotation.

11. One of the first trustees elected by the Chamber and one of the first trustees, other than the chairman, appointed by Government shall, unless they become in the meantime disqualified, hold office up to and inclusive of the thirty-first day of March next succeeding the date on which their term of office shall commence, the selection of the said trustees being made by lot at such time and in such manner as the chairman of the Board shall determine.

The rest of the first trustees, other than the chairman, shall, unless they become in the meantime disqualified, hold office until and inclusive of the thirty-first day of March next following the thirty-first day of March aforesaid.

In every other case every trustee, other than the chairman, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

(II.—Of the Board of Trustees. Secs. 12-15.)

The chairman shall hold office for a renewable period of five years, unless he becomes in the meantime disqualified for being a trustee, or is removed by Government.

12. The first election of trustees by the Chamber and by the municipal commissioners shall be held on some day not later than a month previous to the date which shall be notified by Government under section 10, and the first appointment of trustees by Government shall be made on some day during the said month.

Time for holding elections and making appointments.

Elections of trustees by the chamber and by the municipal commissioners to succeed trustees whose term of office expires shall be held on some day not earlier than the fifteenth and not later than the last day of the month of February next preceding the first day of April from which the term of office of the new trustees is to commence; and appointments of such trustees by Government shall be made on some day in the month of March next preceding the said first day of April.

13. In the event of the death, resignation or disqualification of a trustee or of his becoming incapable of acting 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 trustee in whose place he is elected or appointed would have been entitled to hold it if the vacancy had not occurred.

Filling up of casual vacancies.

If a trustee departs from Karachi with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Karachi for such period, a person shall be elected or appointed as aforesaid to act for such trustee during his absence, or until he shall cease to be a trustee; and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Acting trustees.

14. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 15, be again eligible at any time for election or appointment.

Re-eligibility of trustees.

Disqualifications of Trustees.

15. No person shall be qualified to be a trustee—

- (a) who, under any law for the time being in force, is an uncertificated bankrupt or an undischarged insolvent, or
- (b) who holds any office or place of profit under the Board, or
- (c) who has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract or employment with, by or on behalf of the Board; or
- (d) who has been sentenced by a Criminal Court to imprisonment or to whipping for an offence punishable with imprisonment for a term

Disqualifications for office of trustee.

(II.—Of the Board of Trustees. Secs. 16-17.)

exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order, which Government is hereby empowered to make, if it shall think fit, in this behalf ;

and any trustee who—

- (e) becomes disqualified for any of the aforesaid reasons, or
 (f) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board,

shall cease to be a trustee, and his office shall thereupon become vacant :

Provided always that no trustee shall vacate his office by reason only of his—

- (g) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board, or
 (h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or
 (i) being interested in any loan of money to the Board.

Remuneration of Trustees.

16. The chairman and the vice-chairman shall respectively receive such remuneration, if any, as Government shall from time to time determine.

Every trustee, other than the chairman and vice-chairman, shall be entitled to a fee of such amount not exceeding thirty rupees as shall from time to time be prescribed by Government for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that, if more than one such meeting is held in any one week, no more than one fee shall be paid to any trustee for his attendance at all or any such meetings during that one week.

Proceedings of Board.

17. The following provisions shall be observed with respect to the proceedings of the Board (namely) :—

(1) During any vacancy in the Board the continuing trustees may act as if no vacancy had occurred.

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally

Trustee who becomes disqualified to cease to be trustee.

Proviso.

Remuneration of chairman and vice-chairman to be fixed by Government.
 Fees payable to other trustees.

Provisions concerning the Board's proceedings. Vacancy not to affect Board's proceedings. Board to meet together and arrange for transaction of business.

(II.—Of the Board of Trustees. Sec. 17.)

with respect to the transaction of business, as they think fit, subject to the following conditions (namely) :—

- (a) that two ordinary meetings at least shall be held in every month ; Two ordinary meetings in each month.
 - (b) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting ; Special meetings.
 - (c) that no business shall be transacted at any meeting unless at least four trustees are present from the beginning to the end of such meeting ; Quorum.
 - (d) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-chairman or, in his absence, by such one of the trustees present as may be chosen by the meeting ; Meeting to be presided over by the chairman.
 - (e) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes ; Questions to be decided by a majority of votes.
 - (f) that, if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president ; Votes to be recorded if a poll is demanded.
 - (g) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours. Minutes of proceedings.
- (3) The Board may delegate any of their powers to committees consisting of such trustees as they think fit ; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed. Board may delegate powers to committees.
- (4) A committee may elect a chairman of their meetings, and, if no such chairman is elected, or, if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting. Committees' meetings to be presided over by a chairman.
- (5) Committees may meet and adjourn as they think proper, but the chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee. Meetings of committees.

(II.—Of the Board of Trustees. Secs. 18-20.)

Questions how to be decided at committees meetings.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

Acts of Board, etc., not to be invalidated by informalities.

(7) No act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, committee or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

Mode of executing contracts.

18. The chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the Board.

No contract or agreement not executed as aforesaid shall be binding on the Board:

Provided that the signatures of the chairman and two other trustees may be engraved, lithographed or impressed by any mechanical process on coupons attached to debentures which the Board is at any time authorized to issue under the Local Authorities Loan Act, 1879[*], or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees. XI of 1879.

Board may compound for claims against them.

19. The Board may compound or compromise for or in respect of any claim or demand made against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman and Vice-Chairman.

Duties of chairman, and

20. The chairman shall—

- (1) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;
- (2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and in matters concerning the accounts and records of the

(III.—Of the Officers and Servants of the Board. Sec 21.)

Board; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

- (3) furnish to Government a copy of the minutes of any of the Board's proceedings and any returns or other information which Government may from time to time call for.

The vice-chairman shall exercise such of the powers and perform such of the duties of the chairman as the chairman from time to time deposes to him. of vice-chairman.

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant. Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.

Until a schedule is prepared and sanctioned under this section, the staff of officers and servants maintained, on the day previous to the date notified by the Governor in Council under section 10, under the authority of Government, by the Karachi Harbour Board and the officers and servants, if any, maintained on the said day by Government at the cost of the provincial revenues for employment in the Karachi harbour shall be deemed to be the staff sanctioned by the Board under the foregoing provisions;

and all officers and servants holding any office on the said day under the said Karachi Harbour Board and the officers and servants aforesaid, if any, so maintained by Government on the said day shall be deemed to have been appointed under this Act, and shall continue to hold the same offices, respectively, and to receive the same remuneration under the Board, until it is otherwise directed under this Act:

Provided—

- (1) that artisans, porters and labourers and mukaddams of porters and labourers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section or of section 22, clauses (1) to (4), both inclusive, or of section 23;

- (2) that, if an officer is lent to the Board by Government, the Board shall make such contributions, if any, on account of his pension and

Provisos.

(III.—Of the Officers and Servants of the Board. Secs. 22-23.)

leave-allowances as may be required by the rules in this behalf from time to time in force and shall not, except with the consent of Government, dispense with his further services at any time without giving the Government six months' previous notice ;

- (3) that every officer and servant, if any, maintained by Government on the day aforesaid at the cost of the provincial revenues for employment in the Karachi harbour shall, if he is entitled as a Government servant to pension and leave-allowances, be deemed to be lent to the Board on and from the date notified by the Governor in Council under section 10,

Board to
frame regula-
tions—
for regulating
leave;

22. The Board shall from time to time frame regulations—

for settling
absentee
allowances ;
for fixing
acting allow-
ances ;
for regulating
length of
service
for fixing
pensions,
etc. ;

- (1) for regulating the grant of leave to the officers and servants of the Board ;
- (2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave ;
- (3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;
- (4) for regulating the period of service of all such officers and servants ;
- (5) for determining whether any of the said officers and servants, and, if so, which of them, shall on retirement receive pensions, gratuities or compassionate allowances, and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are killed in the execution of their duty, and, if so, to which of them, and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same ;
- (6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may be established by the Board for the benefit of their officers and servants or which, with their approval, may be established by their officers and servants themselves :

for authoriz-
ing contri-
butions to
provident
fund.

Provided that no regulation framed by the Board under clause (5) shall have validity unless or until the same has been sanctioned by Government.

Powers of Appointment, etc.

Appoint-
ments, etc.,
by whom to
be made.

23. Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 21, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reduc-

(III.—Of the Officers and Servants of the Board. Sec. 24. IV.—Of the Property and Liabilities of the Board. Secs. 25-26.)

ing or granting leave to the officers and servants of the Board shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case by the Board.

An appointment so made by the Board shall not be held to be a contract or agreement within the meaning of section 18.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the Board.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Commissioner.

Sanction of Commissioner when necessary.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

General Powers as to Property.

25. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property whether within or without the limits of the port or city of Karachi; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Powers of Board as to property.

Provided that no sale of immoveable property and no lease of any such property for a term exceeding twenty-one years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

26. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board, as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 [a].

Procedure to be observed when the Board are unable to acquire, by agreement, an immoveable property.

f 1894.

[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

(IV.—Of the Property and Liabilities of the Board. Secs. 27-28.)

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

Transfer of Government property to the Board. 27. The property specified in Schedule A shall, upon and after the date notified by Government under section 10, vest in the Board:

Provided that—

- (1) if any question arises between the Government and the Board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect to such boundaries, when approved by the Governor General in Council, shall be conclusive;
- (2) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government, with the approval of the Governor General in Council, without claim to compensation on the part of the Board, except for buildings or other permanent structures erected thereon;
- (3) the railway now under construction between the Bandar station and the Keamári station may be constructed by Government along the foreshore or on reclaimed land, and any other work which the Governor General in Council may consider necessary in the public interests may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the Board except for building or other permanent structures which it shall be necessary to clear away for the purposes of such railway or work.

Transfer to the Board of the Karachi Harbour Board's liabilities and claims. 28. The loans specified in Schedule B, which have been contracted by the Karachi Harbour Board and have not yet been discharged, and all other debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Karachi Harbour Board, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

and all sums of money due to the said Karachi Harbour Board shall be deemed to be due to the Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said Karachi Harbour Board, may be continued or instituted by or against the Board.

(V.—Of the Powers and Duties of the Board. Sec. 29.)

V.—OF THE POWERS AND DUTIES OF THE BOARD.

Works.

29. The works to be constructed and carried out by the Board may include Works to be constructed.
the following :—

- (1) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways and approaches ;
- (2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving and storing goods landed, or to be shipped, or otherwise ;
- (3) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port ;
- (4) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels ;
- (5) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board ;
- (6) the construction, procuring and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid ;
- (7) procuring and employing steam-vessels for towing vessels into, out of or within the port ;
- (8) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary or desirable for carrying out the purposes of this Act :

Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them ; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

But no new work to be commenced without a plan and estimate if its cost shall exceed Rs. 1,000 ; nor without the sanction of Government to such plan and estimate if the cost shall exceed Rs. 50,000.

(F—Of the Powers and Duties of the Board. Secs. 30-33.)

Free landing-places to be provided.

30. The Board shall provide such number of public landing-places as shall, in the opinion of the Commissioner, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Removal of bathing and landing places.

31. The Board may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: Provided that the Board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Commissioner may direct.

Landing and Shipping of Goods.

Appliances for shipping, etc., for seagoing vessels.

32. The Board shall, so far as the funds at their disposal will allow, provide and maintain wharves, quays, stages, jetties, piers, warehouses, sheds and appliances for the expeditious and convenient shipment and landing of goods in and from seagoing vessels within the port and for the storing of such goods, and shall by their servants land and ship all goods from and in any such vessel coming to any such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is, under any enactment for the time being in force, not entitled to have her cargo shipped or discharged:

Provided that—

- (1) the Board shall not be bound to land, ship or move any single article or package exceeding ten tons or twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package;
- (2) the Board may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Board; but every such permission shall be subject to the condition that the means to be employed and the appliances to be used by the said masters or owners for landing or shipping goods shall be subject to the approval of the Board, whose duty it shall be to satisfy themselves that the said means and appliances are at all times such and in such condition as not to endanger the lives or safety of the persons employed.

Seagoing vessels compelled to use wharves, etc.

33. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in seagoing vessels, the Board may, with the previous sanction of the Commissioner, by a notification published in three consecutive numbers of the Sindh Official Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in seagoing vessels.

From and after such publication, the Board may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of

(F.—Of the Powers and Duties of the Board. Secs. 34-36.)

landing and shipping goods, or for landing or for shipping the same, as the case may be, any seagoing vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to do so. In making such order the Board shall have regard, as far as possible, to the convenience of such vessel, and of the shippers, in respect of the use of any particular wharf, quay, stage, jetty or pier.

34. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of the Commissioner, by an order published in three consecutive numbers of the Sindh Official Gazette, direct that no goods shall be landed or shipped from or in any seagoing vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that it shall be competent to the Board at any time to exempt any specified vessel from the operation of any order made under this section.

If accommodation sufficient, all seagoing vessels compelled to use wharves, etc.

35. The Board may, in cases of emergency, or for any reason which appears to them sufficient, by notice in writing, order the master or owner of any vessel not to bring such vessel alongside of, or to remove such vessel from, any wharf, quay, stage, jetty or pier belonging to the Board, and, if such notice is not obeyed, the Board may charge in respect of such vessel such sum as they think fit, not exceeding one hundred rupees for each day of twenty-four hours, or portion of such day, during which such vessel remains at such wharf, quay, stage, jetty or pier:

Power to order vessels not to come alongside of, or to be removed from, wharves, etc.

Provided that, in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of thirty-six hours from the service of the Board's notice on the master or owner of the vessel.

36. Notwithstanding anything contained in sections 33 and 34, the Commissioner may, by notification in the Sindh Official Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments and on such conditions as he may think fit, and otherwise grant exemption from the provisions of such sections.

Power to Commissioner to exempt from obligation to use wharves, etc.; and

The Commissioner may also, by like notification, cancel or modify any such notification.

The Commissioner may also at any time require that any vessel belonging to or in the service of Her Majesty or the Government of India shall be permitted to come alongside of any wharf, quay, stage, jetty or pier belonging to

to require preference to be given to Govern-

(V.—Of the Powers and Duties of the Board. Secs. 37-40.)

ment ves- : the Board in preference to all other vessels at the time in port: and it shall be
sels. incumbent on the Board to give effect to any such requisition.

Discharge of : 37. Whenever any goods are landed by the Board from any vessel, the
liability on Board shall, if so required, give to the master of such vessel a receipt in the
goods landed. form or to the effect set forth in Schedule C, and may in any such receipt in-
clude all goods landed from such vessel during one day.

No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Customs-wharves, etc.

Accommoda- : 38. When Government appoint, under the provisions of any Act for the
tion to be pro- levy of sea-customs duties, any wharf, quay, stage, jetty, pier, warehouse or
vided for cus- shed provided under this Act for the use of seagoing vessels to be a wharf for
toms-officers the landing or shipping, or a warehouse for the storing of goods within the
in wharves, meaning of such Act, the Board shall set apart, maintain and secure on or in
etc., appoint- such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof
ed under Sea- or place therein, or adjoining thereto, for the use of the officers of customs as
Customs Act. the Commissioner approves or appoints in that behalf.

Dues at : 39. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse
customs- or shed or portion thereof has, under the provisions of the last section, been
wharves, etc. set apart for the use of the officers of customs, all dues, rates, tolls, charges
and rents payable under this Act in respect thereof, or for the use thereof, or
for the stowage of goods therein, shall be paid and be payable to the Board or
to such persons as they may appoint to receive the same.

Erection of Wharves, etc., by private persons.

Private : 40. Save as hereinafter provided, no person except the Board shall make,
wharves, erect or fix below high-water-mark within the port any wharf, dock, quay,
etc., pro- stage, jetty, pier, erection or mooring.
hibited.

Any matter or thing so made, erected or fixed may be removed by the Board, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine, which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Board in removing such matter or thing.

(F.—Of the Powers and Duties of the Board. Secs. 41-43.)

41. The Board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water-mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Power to permit erection of private wharves, etc., within the port subject to conditions. Wharves, etc., beyond port limits.

42. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is, after the date on which this Act comes into force, without the written consent of Government, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Board may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

Rates.

43. The Board shall frame and may from time to time alter—

- (a) a scale of tolls, dues, rates and charges for the landing and shipment of goods at the wharves, quays, stages, jetties and piers, and for the use of such wharves, quays, stages, jetties and piers, and for the storing and keeping of any goods stored in any premises belonging to the Board, and for the removal of goods and for the use of any mooring ;
- (b) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers, in case the Board permit the goods to be landed or shipped by others than their own servants; and
- (c) a scale of charges for any services to be performed by the Board or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Board.

Scale of tolls and charges to be framed.

Such scales or altered scales shall be submitted through the Commissioner to Government, and, after approval or modification by Government, shall be published in the Bombay Government Gazette and the Sindh Official Gazette, and shall thereupon have the force of law: Provided that no such scale or altered scale shall be approved or modified by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the Sindh Official Gazette and in such other manner as Government from time to time prescribe.

(V.—Of the Powers and Duties of the Board. Secs. 44-47.)

From the time when any scale^[a] framed under this section comes into force the Bombay Landing and Wharfage Fees Act, 1882 ^{Bom. VII of 1882.} ^[b], shall be repealed so far as regards the port of Karáchi.

Tolls and charges may be remitted in special cases. Tolls on troops.

44. The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of any toll, due, rate or charge leviable under the last preceding section.

45. The tolls, dues, rates and charges prescribed under section 43 shall not be leviable in respect of any vessel employed by Government solely for the transport of troops nor in respect of the baggage or other effects of any troops landing or embarking at the port.

In lieu thereof, a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Karáchi, at the rate of one rupee per head.

Board's lien for tolls and charges.

46. For the amount of all tolls, dues, rates and charges leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Board or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien for freight.

47. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier, gives to the Board notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Officer of Customs, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

[a] See Notification No. 75, dated 30th October, 1888, in Bombay Government Gazette, 1888, Pt. I, p. 858, and later notifications

[b] Printed *supra*, p. 5.

(V.—Of the Powers and Duties of the Board. Secs. 48-50.)

48. Upon the production to any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

Discharge of ship-owner's lien for freight.

49. Whenever goods which have been landed have, without any default on the part of the Board, been left for five clear days on or in any wharf or shed belonging to the Board, the Board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Chief Officer of Customs, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

Goods may be removed to warehouse.

Whenever any goods are so removed, the Board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and shall also publish in the Sindh Official Gazette and in two local newspapers notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Board and shall be subject to the power of sale hereinafter given.

50. If the tolls, dues, rates and charges payable to the Board under this Act in respect of any goods which have been landed are not paid, or if the lien for freight, primage or general average, where such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Recovery of tolls and charges by sale of goods.

(V.—Of the Powers and Duties of the Board. Secs. 51-52.)

Before making such sale at least ten days' notice of the same shall be given by publication thereof in the Sindh Official Gazette and in two local newspapers.

If the address of the consignee of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the consignee of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Board in that behalf, to render early or immediate sale necessary or advisable, the Board may, within such period, being not less than twenty-four hours after the landing of the goods, as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the consignee of the goods or his agent as the urgency of the case admits of.

Application
of sale-pro-
ceeds.

51. The proceeds of every such sale shall be applied as follows:—

- (a) in payment of the expenses of the sale;
- (b) in payment, according to their respective priorities, of the liens and claims excepted in section 46 from the priority of the lien of the Board;
- (c) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

The surplus, if any, shall be paid to the importer or owner of the goods, or to his agent, on his applying for the same: Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

Power to
distrain
vessels for
the non-pay-
ment of
rates, etc.

52. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties shall be payable under this Act, or any bye-laws made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest of their own authority such vessel, and the tackle, apparel or furniture belonging thereto,

(V.—Of the Powers and Duties of the Board. Secs. 53-55.)

or any part thereof, and detain the same until the amount so due shall be paid.

And, in case any part of the said rates or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distressed or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, charges or penalties and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

53. If the Board shall give to the officer of Government, whose duty it is to grant the port-clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any bye-laws or orders made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Port-clearance not to be granted till rates, etc., paid.

54. The surplus, if any, of the moneys credited under section 36 of the Indian Ports Act, 1889 [a], to the account of the Port Fund of Karachi after defraying therefrom all expenses legally chargeable to the said account shall be paid to the Board.

Surplus of port-dues to be paid to board.

Control of Pilots.

55. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1889 [b], to pilot vessels.

Trustees to be vested with the right and privilege of maintaining pilots.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

- (a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and
- (b) for regulating the behaviour and conduct of pilots; and shall enforce the observance of such bye-laws and regulations. by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appoint-

[a] The reference to s. 47 of Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

[b] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2.

of 1889.

of 1889.

(V.—Of the Powers and Duties of the Board. Secs. 56-57.)

ment, or otherwise as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 57.

Bye-laws.

56. The Board may from time to time make bye-laws, consistent with this Act and with the Indian Ports Act, 1889 [*]—

- (a) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;
- (b) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same;
- (c) for regulating the reception and removal of goods within and from the premises of the Board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged;
- (d) for settling the mode of payment of tolls, charges, dues and rates levied under this Act;
- (e) for providing water for ships and for licensing and regulating water-boats within the port;
- (f) for the removal of wrecks from the port and keeping clean the port, the foreshore and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;
- (g) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

The Board may also from time to time alter or revoke any bye-laws so made by them.

57. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the Bombay Government Gazette and in the Sindh Official Gazette; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the Sindh Official Gazette, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Commissioner.

[*] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

Trustees
empowered
to make
bye-laws.

X of 1889.

Approval and
publication of
bye-laws.

(F.—Of the Powers and Duties of the Board. Secs. 58-59. FI.—Of Revenue and Expenditure. Sec. 60.)

It shall be lawful for Government at any time, by notification in the Bombay Government Gazette, and in the Sindh Official Gazette, to cancel any bye-law or regulation made and published under the provisions of this and of the two last preceding sections. Cancelment by Government.

58. The Board may, in the bye-laws made under section 56, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement. Penalties for infringement of bye-laws.

59. The Board shall cause the said bye-laws, and every scale of tolls, dues, rates and charges leviable by the Board, to be printed in the English, Gujarathi and Sindhi languages, and to be kept hung up in some conspicuous place at each of the several wharves, quays, stages, jetties, piers, warehouses and sheds belonging to the Board. Bye-laws and scales of rates and charges to be exhibited.

VI.—OF REVENUE AND EXPENDITURE.

Management of Funds.

60. All moneys raised by or paid to the Board under this Act shall be kept in the bank which is at the time appointed to conduct the business of Her Majesty's Treasury at Karachi. Moneys where to be kept.

No disbursement of such moneys or any part thereof shall be made, except upon a cheque signed by the chairman or vice-chairman and one other trustee. How the funds are to be drawn against.

Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees if it relate to any other department, shall be made by the board by means of a cheque signed as aforesaid and not in any other way.

Payments of sums not exceeding five hundred rupees each may be made on behalf of the Board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the Board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favour of such officer to cover such payments.

(VI.—Of Revenue and Expenditure. Secs. 61-63.)

Moneys on what purposes to be expended.

61. The moneys belonging to the Board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely):—

- (1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the officers and servants appointed under this Act or lent to the Board by Government, and the contributions, if any, payable to Government on account of the pension and leave-allowances of any officer lent to the Board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;
- (2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;
- (3) such sum as Government may from time to time require for the establishment and maintenance of police for the protection of the port and of the approaches thereto;
- (4) the interest and instalments of capital due in respect of any loan that may have been raised by the Board or for which it is liable;
- (5) any charges for which the Board may be liable under section 79 or section 80;
- (6) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;
- (7) any other charge which may be specially sanctioned by Government on the application of the Board, or for which the Board may be legally liable.

Annual Estimates.

Chairman to submit annual estimate of income and expenditure to Board.

62. The chairman shall, at a special meeting to be held in the month of January in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing, in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

Board to revise and sanction the estimate.

63. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered or subject to such alterations as they shall think fit.

(VI.—Of Revenue and Expenditure. Secs. 64-68.)

64. The estimate, as sanctioned by the Board, shall be submitted, through the Commissioner, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall resubmit the estimate so amended, through the Commissioner, to the Government.

Estimate to be submitted to Government.

65. Together with the said estimate, the Board shall submit, through the Commissioner, to the Government, a list of the works which the Board propose to execute during the year to which the estimate relates, showing the order in which the said works are to be executed and the date within which each of them will probably be completed or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

List of works to accompany estimate.

66. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

Supplementary estimates may be made when necessary.

67. Save in cases of pressing emergency, no sum exceeding three thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

No expenditure above Rs. 3,000 to be incurred, unless sanctioned in an estimate.

If any sum exceeding three thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Commissioner, to Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Audit of Accounts.

68. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

Accounts to be audited and examined.

For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at

Auditors to have power to call for books, etc.

(VI.—Of Revenue and Expenditure. Sec. 69. VII.—Penalties. Sec. 70.)

any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Their remuneration to be fixed by Government. Their report to be published.

The auditors shall be paid by the Board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have been completed, the auditors shall forward a report upon the accounts for such half-year to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the Bombay Government Gazette and in the Sindh Official Gazette.

Disposal of Balances.

Balances may be invested by the board in public securities.

69. The Board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities or credit the same to the general funds of the Board.

Amounts which may be so invested to be limited by Government.

But the money so invested by the Board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government.

In the section "public securities" means securities of the Government of India, Karachi Municipal debentures, and debentures or other securities issued by the Karachi Harbour Board or by the Board.

VII.—PENALTIES.

Penalty for being interested in contracts with board.

70. Any person who, being a trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of, the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code [a]:

XLV of 1860

Provided that nothing in this section shall apply to any person by reason only of his—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted; or
- (c) being interested in any loan of money to the Board.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(VII.—Penalties. Secs. 71-75.)

71. Any person employed under this Act, not being a public servant with-
XLV of 1860. in the meaning of section 21 of the Indian Penal Code^[*], who shall Penalty for obtaining illegal gratification. accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code^[*] in the case of the like offence committed by a public servant.

72. Whoever infringes any order issued under section 33 or 34 or any condition prescribed under section 36 or 41 shall be punished with fine which Penalty for infringement of sections 33, 34, 36 or 41. may extend to one hundred rupees; and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order or condition is infringed.

73. Any person who shall refuse or neglect to appear before any audi-
 tor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required Penalty for refusing or neglecting to appear before an auditor of accounts, etc. so to do by any auditor of accounts under section 68, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

74. If it be found, when goods are imported at, or exported from, any wharf, quay, stage, jetty or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the Board, intentionally understated in any document presented to any officer of the Board for the purpose of enabling him to determine the tolls, dues, rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper tolls, dues, rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board; and the said sum shall, on the application of the Board, be recoverable under the warrant of a Magistrate as if it were a fine inflicted by such Magistrate.

75. Any person who removes, or attempts to remove, or abets, within Penalty for

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(VII.—Penalties. Secs. 76-78.)

evading rates,
etc. the meaning of the Indian Penal Code [*], the removal of any goods, vessel, animal or vehicle with the intention of evading payment of the tolls, dues, rates or charges lawfully payable in respect thereof to the Board shall be punished with fine which may extend to fifty rupees. XLV of 1860.

Compensation
for damage to
property of
Board. 76. In case any damage or mischief is done to any wharf, dock, quay, jetty, stage, pier or work constructed or acquired by the Board under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Board, any Magistrate of the first class having jurisdiction at Karachi may, on the application of the Board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Board out of the proceeds of the distress:

Provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service or to the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

Cognizance
of offence
against Act. 77. Except, as is otherwise provided in sections 74 and 76, all offences against this Act or against any bye-law made under section 56 shall be cognizable by a Magistrate.

All fines and damages recovered from any offender or by any distress under section 76 shall be paid to the Board.

Prosecutions. 78. Prosecution under this Act may be instituted by the Board or by any person authorized by them in this behalf, and not otherwise.

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

VIII.—CONTROL.

79. Government may at any time order a survey and examination of any work of the Board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the Board.

80. If the Board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of Government, Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Board.

81. If it shall at any time appear to Government that sufficient provision is not being made by the Board to meet their liabilities, Government may require the Board, by an order in writing, to increase, subject to its sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the tolls, dues, rates and charges or any of them for the time being in force under the said section.

If, within fifteen days after receipt of such order, the Board do not comply with the same, Government may, by notification in the Bombay Government Gazette and in the Sindh Official Gazette, increase the said tolls, dues, rates, charges, or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned and Published under section 43.

82. If at any time the Government is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Board, the Government may, by notification in the Bombay Government Gazette and in the Sindh Official Gazette, give notice that, unless within six months the Board take measures to the satisfaction of Government for properly accomplishing such purposes, the powers by this Act conferred on the Board will, at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, Government may, if no such measures to its satisfaction have been taken by the Board, with the approval of the Governor General in Council, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Board shall thereupon vest in Government.

(IX.—Miscellaneous. Secs. 83-88.)

IX.—MISCELLANEOUS.

Saving of
previous port
regulations.

83. All acts done and proceedings taken by the Karachi Harbour Board before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers and landing-places within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules and regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Recovery of
dues as fines
under Code of
Criminal Pro-
cedure.

84. All fees and sums due on account of property for the time being vested in the Board, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered, in addition to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the Code of Criminal Procedure, 1882 [a], for the recovery of fines.

Trustees not
personally
liable.

85. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for and chargeable with all contracts made in manner provided in this Act.

X of 1882.

Trustees
liable for
breach of
trust.

86. Every trustee shall be liable for any misapplication of money entrusted to the Board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation
of suits, etc.

87. No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof; nor after six months from the accrual of the cause of such suit;

and, in the cause of a suit for damages, if tender of sufficient amends shall have been made before the suit 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.

Board not
responsible
for certain
act of their
officers and
servants.

88. The Board shall not be responsible for any misfeasance, malfeasance or nonfeasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government under the Indian Ports Act, 1889 [b], conservators of the port, for any misfeasance, malfeasance or nonfeasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under

X of 1889.

[a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

[b] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2, (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

(Schedule A.)

the authority or direction of or in subordination to any such officer, assistant or deputy ;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board which may be used by such vessel :

Provided that nothing in this section shall protect the Board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody.

SCHEDULE A.

(See section 27.)

PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, workshops, piers, breakwaters groynes, embankments, bridge, light-house, signal-stations, jetty, quay, gravings-dock and railway lines, together with all the fittings and other appurtenances thereof (namely) :—

Consecutive number or plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
I	Land at Manora occupied by Harbour Works' office, workshop, etc., together with the following buildings standing thereon (namely):—	Port Engineer, Karachi.	On the north by plot No. III and the British India Steam Navigation Company's coal-shed and quarantine buildings. On the south by Persian Gulf telegraph ground and buildings. On the east by harbour. On the west by back-water and mangrove swamp.	24	4,547
	Bungalows, with out-houses (supervisor's).	Do. ...	Kutchha pucka.		

(Schedule A.)

SCHEDULE A—continued.

Consecutive number or plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
I—contd.	Harbour Works' office and peons' quarters.	Port Engineer, Karachi.	Kutcha pucka.		
	Bungalow, with out-houses (superintendent of machinery's).	Do. ...	Pucka.		
	Do. do. (clerks' and artificers').	Do. ...	Kutcha pucka.		
	Do. do. (supervisor and clerks').	Do. ...	Do.		
	Do. do. (accountants').	...	Do.		
	Do. do. (cashier and draftsmen's).	Port Engineer, Karachi.	Do.		
	Do. do. (overseers').	Do. ...	Do.		
	Workshop, chimney, smiths, and carpenters' sheds and engine-house.	Do. ...	Includes workshop, engine, machinery and fittings, two pucka and remainder kutcha.		
	Store-room and office.	Do. ...	Pucka.		
	Four lines for khalasis and maistry and boat-house.	Do. ...	Kutcha pucka.		
	Four store-godowns	Do. ...	3 kutcha and 1 pucka.		
	Chauki for Harbour Works Police	Do. ...	Pucka.		
	Quarters for engine-men.	Do. ...	Kutcha pucka.		
	Firewood compound	Do. ...	Pucka.		
	Line for Harbour Works Police.	Do. ...	Do.		
	Bungalow, with out-houses (dredge engineer's).	...	Kutcha pucka.		
	Do. do. (store-keeper's).	Port Engineer, Karachi.	Do.		
Do. do. (time-keeper's).	Do. ...	Do.			
Do. do. (supervisor's).	Do. ...	Pucka.			
Tidal-instrument house	Do. ...	Wood-work.			

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area	
				Acres.	Square yards.
II	Land occupied by Harbour Works' work-people's lines, together with the following buildings standing thereon, (namely) :—	Port Engineer, Karachi.	On the north by plot No. I. On the south by native dealers' and contractors' lines. On the east by open space and Persian Gulf telegraph premises. On the west by No. 2 Battery.	7	806
	Five lines for workmen.	Do. ...	Kutchra.		
	Five lines for carpenters and labourers.	Do. ...	Kutchra pucka.		
	Line for sweepers .	Do. ...	Dq.		
III	Land occupied by Harbour Works' (Khalasi lines).	Do. ...	On the north by British India Steam Navigation Company's coal-shed. On the south by plot No. I. On the east by harbour. On the west by backwater and mangrove swamp.	...	3,033
IV	Land occupied by Harbour Works' quarry and reclaimed ground along shore between deep water point and the shore end of the breakwater, together with the following buildings standing thereon (namely) :—	Do. ...	On the north by harbour and Port Department's ground. On the south by Manora breakwater. On the east by harbour. On the west by plots Nos. V, VI and VII.	17	4,033
	Office and store-room of No. 1 Division with charging room.	Do. ...	Pucka.		
	Line for workmen ...	Do. ...	Kutchra pucka.		
	Do. Pointsmen...	Do. .	Do.		

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
IV—contd.	Bungalow, with out-houses (dredge store and time-keeper's). Powder Magazine ...	Port Engineer, Karachi. Do. ...	Kutchi pucka. Pucka.		
V	Former site for Harbour Works, temporary jail, and new quarry.	Do. ...	On the north by plot No. 6. On the south by Mr. D. McIver's plot. On the east by plots Nos. IV and VII, and St. Paul's church. On the west by the sea.	1	1,590
VI	Plot of ground, with Harbour Works' wells.	Do. ...	On the north by Captain Bishop's bungalow (formerly Lieutenant A. W. Stiffe's). On the south by plot No. V. On the east by plot No. IV. On the west by open space and the sea.	...	1,069
VII	Plot of ground with Harbour Works' bungalow, together with the following buildings standing thereon (namely):— Harbour Works' bungalow and out-houses (Port Engineer's).	Do. ... Do. ...	On the north by St. Paul's church. On the south by open space and Hindu temple. On the east by plot No. IV. On the west by plot No. V. .....	...	3,499
VIII	Land occupied by Port Department, together with the following buildings standing thereon (namely):—	Port Officer	On the north by the Persian Gulf telegraph premises. On the south by plot No. IV and open space. On the east by harbour. On the west by cemetery.	19	856

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
VIII—contd.	Bungalow, with out-houses (dredge foreman's).	Port Engineer, Karachi.	Kutchka pucka.		
	Coal-shed (formerly boat-shed).	Port Officer	Kutchka.		
	Godown at Manora.	Do. ...	Pucka.		
	Do. do.	Do. ...	Do.		
	Boat-shed (formerly coal-shed).	Do. ...	Do.		
	Four lines for lascars and sweepers.	Do. ...	Do.		
	Water-reservoirs, with service tanks for Port Department.	Do. ...	Do.		
	Firewood compound, Port Department.	Do. ...	Do.		
	European school with latrines.	Do. ...	Do.		
	School mistress' quarters and out-houses.	Do. ...	Do.		
Reading-room ...	Do. ...	Kutchka pucka.			
IX	Land occupied by fort light-house, signal station, etc., together with the following buildings standing thereon (namely):—	Do. ...	On the north by plots Nos. X and XI. On the south by Manora breakwater. On the east by harbour. On the west by the sea.	3	2,967
	Light-house and light lascars' quarters and bastion godown.	Do. ...	Pucka.		
	Fort and Port Officer's quarters and out-houses.	Do. ...	Kutchka pucka.		
	Peons' quarters at fort.	Do. ...	Do.		
X	Land occupied by out-houses near fort.	Do. ...	On the north by plot No. IV. On the south by plot No. IX. On the east by plot No. IV. On the west by plot No. XI.	...	4,501

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots,	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XI	Land occupied by bungalow and out-houses together with the following buildings standing thereon, (namely):— Bungalow with out-houses and part of Master Attendant's quarters.	Port Officer. Do. ...	On the north by open space and plot No. IV. On the south by plot No. IX. On the east by plot No. X. On the west by plot No. X and open space and the sea. Kutchra.	...	4,046
XII	Land to the west of Napier Mole at its southern end, together with the following building standing thereon (namely):— Workmen's quarters, late new channel office.	Port Engineer, Karachi. Do. ...	On the north by new channel. On the south by plot No. XIV. On the east by China Creek backwaters. On the west by plot No. XIII. Pucka.	2	941
XIII	Land to the west of Napier Mole between Plot No. XII and the Commissariat premises, together with the following building standing thereon (namely):— Office on ground occupied by Messrs. J. Cosser & Co.	Do. ... Do. ...	On the north by new channel. On the south by plot No. XIV. On the east by plot No. XII. On the west by Commissariat yard. Kutchra pucka.	4	1,408
XIV	Land to the east of Napier Mole and former railway embankment.	Do. ...	On the north by plots Nos. XII and XIII. On the south by Andrew Road. On the east by China Creek backwaters. On the west by Custom's pier.	25	2,773

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yard.
XV	Land to the east of Keamari Groyne.	Port Engineer, Karachi.	On the north by North-Western Railway's Keamari station ground. On the south by sea. On the east by China Creek. On the west by Keamari Groyne and harbour.	61	3,028
XXI	Merewether Pier shore plots A, B, C, D, together with the following buildings standing thereon (namely):—	Port Officer.	On the north by plot No. XVII. On the south by railway sheds and pier. On the east by railway ground. On the west by Merewether Pier and harbour.	2	1,940
	Engine and boiler-house, chimney and accumulator tower.	Do. ...	Pucka.		
	Office for Pier Master Goods-shed ...	Do. ... Do. ...	Do. Do.		
XVII	Land from Merewether Pier to Customs-pier, together with the following building standing thereon (namely):—	Do. ...	On the north by Commissariat yard. On the south by plot No. XVI. On the east by plots Nos. XVIII and XIV. On the west by harbour.	1	3,710
	Wooden office near Customs-pier.	Do. ...	Wood-work.		
XXVIII	Land for Merewether Pier establishment on which the following buildings stand (namely):—	Do. ...	On the north by plot No. XIV. On the south by Andrew Road. On the east by open space. On the west by plot No. XVII.	1	3,130
	Pier Master's quarters and out-houses.	.....	Pucka.		
	Quarters for Native establishment under Port Officer and Port Engineer.	.....	Do.		

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XIX	Land to the east of Hindú temple at north end of Napier Mole bridge with the following building standing thereon (namely):—	Port Engineer, Karachi.	On the north by open space covered at high-water. On the south by new channel. On the east by open space. On the west by Native jetty.	...	2,967
	Peons' quarters near Hindú temple.	Do. ...	Pucka.		
XX	Land for Harbour Works new quarry at Hands Hill, with the following buildings standing thereon (namely):—	Do. ...	On the north by open space and hills. On the south by open space and old quarry. On the east by open space. On the west by do.	46	3,249
	Peons' quarter at Hands Hill.	Do. ...	Pucka.		
XXI	Land between China Creek embankment and the sea.	Do. ...	On the north by China Creek embankment. On the south by the sea. On the east by bare sand hills. On the west by sandy ridges.	90	769
XXII	Anemometer-house, Manora, with chaukidár's house adjoining.	Do. ...	On ridge of west bank, Manora—Anemometer-house, pucks; chaukidár's, kutcha.	...	111
XXIII	Powder Magazine on Manora Point.	Port Officer.	On the north by open space, On the south by No. I Battery. On the east by fort. On the west by the sea.	...	99
			Pucka.		
XXIV	Powder Magazine near quarantine buildings.	Do. ...	On the north and south by sand crest running to Bhit Village. On the east by harbour. On the west by Fullah Creek. Pucka.	...	100

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XXV	Bungalow with out-houses at Keamari.	Port Engineer, Karachi.	On the north by North-Western Railway's station-ground. On the south by Keamari Groyne. On the east by open space. On the west by North-Western Railway's sheds. Kutocha pukka.	...	2,456
XXVI	Manora Backwater	Do. ...	Extends from Manora Point on the west side of the entrance in S. by E $\frac{1}{4}$ east direction for a length of 1,503 feet.		
XXVII	Keamari Groyne ...	Do. ...	Runs in a slight curve about S.S.E. from west end of Keamari for a length of 7,548 feet.		
XXVIII	East pier ...	Do. ...	An extension of the Groyne, total length 1,500 feet.		
XXIX	Napier Mole-bridge...	Do. ...	An iron bridge on screw piles with a masonry abutment at either end. Length 1,200 feet in 30 spans of 40 feet each.		
XXX	Native jetty and quay, together with the following buildings standing thereon (namely)— Chauki and store-room at Native jetty. Godown and Native jetty, Harbour Board office at Native jetty. Peons' quarter at jetty. Goods shed do. ... Do. do. ... Do. do. ... Do. do. ...	Port Officer, Port Engineer, Karachi. Port Officer. Do. ... Do. ... Do. ... Do. ...	Extends westward from north end of Napier Mole bridge. The south wall is 1,400 feet in length. Pukka. Do. Do. Do. Do. Do. Do.	5	

(Schedule A.)

SCHEDULE A—continued.

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XXXI	China Creek stoppage embankment.	Port Engineer, Karachi.	An embankment 2,780 feet long.		
XXXII	Stone shipping-pier at Manora.	Do. ...	Situated at the northern limit of the plot of ground occupied by the office and workshops.		
XXXIII	Workshops' pier at Manora.	Do. ...	A wooden pier with fixed spur legs to lift twenty tons.		
XXXIV	Pilot pier, Manora .	Port Officer.	Wooden pier.		
XXXV	Coal-pier at Manora .	Do.			
XXXVI	Water pier do. ...	Do.			
XXXVII	Pier at deep water point, Manora.	Port Engineer.	Called Humby Pier.		
XXXVIII	Merewether Pier at Keamari.	Port Officer	An iron screw-pile pier T-headed and with hydraulic cranes.		
XXXIX	Customs-pier at Keamari.	Do. ...	Wooden pier.		
XL	Commissariat pier, do.	Do. ...			
XLI	Railway-lines at Manora and Keamari.	Port Engineer, Karachi.			
XLII	Graving-dock at Manora.	Do. ...			
XLIII	Layari Hard embankment and embankment in front of north wall of jetty.	Port Officer.			

(Schedule A.)

SCHEDULE A—continued.

II.—The following vessels and boats, together with all the fittings, gear and other appurtenances thereof (*viz.*):—

Consecutive number.	Name and description.	Heretofore in charge of—
1	Steam tug "Manora," 441 tons, 250 horse-power, paddle wheel.	Port Officer, Karachi.
2	"Nurbudda," cutter, 70 tons	Do.
3	Warp boat No. 1	Do.
4	Do. No. 2	Do.
5	"Keddimari," anchor boat	Do.
6	"Rose," steam barge	Do.
7	"Flirt," steam launch	Do.
8	Bazar boat	Do.
9	Cargo boat	Do.
10	Boat, cutter	Do.
11	Do.	Do.
12	Life-boat (White's)	Do.
13	Do.	Do.
14	"Jumbo," steam anchor hoy	Do.
15	Gig, 32 feet	Do.
16	Boat, 23 feet	Do.
17	Do.	Do.
18	Do.	Do.
19	Gig, small	Do.
20	Jolly-boat	Do.
21	"Billy," a crane barge	Port Engineer, Karachi.
22	Boat, country, for surveying, 28 feet long	Do.
23	Do., do., 30½ "	Do.
24	Boat, anchor, 23¾ feet	Do.
25	Do., 24¾ feet	Do.
26	Do., 23 feet 9 inches	Do.
27	Do., 30 feet 6 inches	Do.
28	Life-boat, 27 feet	Do.
29	Do., 20 feet 9 inches	Do.
30	Boat, canoe, 23 feet 4 inches	Do.
31	Boat, cutter, 25 feet 3 inches	Do.
32	Jolly-boat, 18¾ feet	Do.
33	Do., 22 feet 5 inches	Do.
34	Do., 16 feet 8 inches	Do.
35	Boat, gig, 25 feet 5 inches	Do.
36	Do., 20¾ feet	Do.
37	Boat for diver's use, 30¼ feet	Do.

(Schedule A. Schedule B.)

SCHEDULE A—continued.

Consecutive number.	Name and description.	Heretofore in charge of—
38	"Nearchus," steam dredger, 160 feet long, 65 horse-power nominal.	Port Engineer, Karachi.
39	"Albuquerque," steam dredger, 160 feet long, 117 horse-power nominal.	Do.
40	"Dubba," steam dredger, 100 feet long, 25 horse-power nominal.	Do.
41	"Gizree," steam dredger, 100 feet long, 25 horse-power nominal.	Do.
42	"Sindi," steam hopper barge, 130 feet long, 50 horse-power nominal, to carry 400 tons.	Do.
43	"Baluchi," steam hopper barge, 130 feet long, 50 horse-power nominal, to carry 400 tons.	Do.
44	Sailing hopper barge, 90 feet, to carry 200 tons.	Do.
45	Hopper barge, under construction, 90 feet, to carry 200 tons.	Do.
46	Do., do. do., 90 feet, to carry 200 tons.	Do.
47	"Midge," steam launch, 28 feet long, No. 451, built by Mr. John Samuel White, Cowes.	Do.

III.—All other lands, buildings, harbour-works, railway-lines, machinery, plant, tools, furniture, vessels and boats, and other property whatsoever not hereinbefore particularly described, heretofore in the charge of the Port Officer of Karachi, the Port Engineer of Karachi, or of the Karachi Harbour Board.

SCHEDULE B.

(See section 28.)

(1) Loans raised by the Karachi Harbour Board from the public with the sanction of the Governor General in Council and not yet discharged.

Year in which taken up.	Amount taken up.	Rate of interest payable annually.
	₹	
Loan of 1880-81 . . .	2,29,000	5 per cent.
„ 1882-83 . . .	71,000	„
„ 1883-84 . . .	2,88,500	„

1886: Bom. Act VI.] *Karachi Port Trust. (Schedule B. Schedule C.)* 145
 1887: Bom. Act II.] *Protection of Pilgrims (Bombay and Karachi).*

SCHEDULE B—*continued.*

(2) *Loans promised by the Governor General of India in Council to the Karachi Harbour Board and which are in course of being taken up.*

Amounts of Loans.	Rate of interest payable annually.
(1) ₹7,11,500 (being ten lakhs, minus the amount of the loan of 1883-84 raised by the Board from the public).	4½ per cent.
(2) ₹15,50,000	,,

SCHEDULE C.

(See section 37.)

RECEIPT FOR GOODS BY THE PORT TRUST, KARACHI.

Landed, during the day of from the
 by the Port Trust, Karachi, the noted in the margin ; contents and
 state of the contents unknown.

NOTE.—If there be any apparent injury, this is to be stated.

For the Board,
 A. B.

The *Karachi* ; }
day of

THE PROTECTION OF PILGRIMS ACT, 1887.

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BOMBAY ACT No. II of 1887.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 4th June, 1887.)

**An Act to provide for the protection of pilgrims at the ports of
Bombay and Karáchi.**

Preamble. WHEREAS it is expedient to provide for the protection of pilgrims at the ports of Bombay and Karáchi; It is enacted as follows:—

Short title. 1. This Act may be cited as the Protection of Pilgrims Act, 1887.

Extent. It extends only to the cities and ports of Bombay and Karáchi.

Definitions. 2. In this Act,—

(1) "pilgrim" means a Muhammadan who is about to proceed from the port of Bombay or Karáchi on a pilgrimage to the Hedjaz, whether he is going direct to Jeddah or *via* any other port:

(2) "pilgrim-broker" means a person who buys and re-sells, or sells on commission, or takes any reward for the purchase or sale of passage tickets for pilgrims:

(Secs. 3-6.)

(3) "agent" includes a person who has chartered a vessel for the conveyance of pilgrims :

(4) "the Commissioner" means, in Bombay, the Commissioner of Police or his deputy: and in Karachi such officer as the Governor in Council may appoint.

3. Any person who, without a license from the Commissioner, acts as a pilgrim-broker shall be liable for each such offence to a fine which may extend to five hundred rupees.

Penalty for acting as pilgrim-broker without license.

4. Subject to the orders of the Governor in Council, the Commissioner may grant to such persons as he thinks fit licenses to act as pilgrim-brokers.

Persons may be licensed to act as pilgrim-brokers.

The said licenses shall be granted on such conditions and subject to such restrictions and limitations for the honest and good behaviour of the licensees as Government may from time to time prescribe.

5. Every license so granted shall specify—

Licenses what to specify.

(a) the name and business address of the licensee ;

(b) the period for which it is to be in force ;

(c) the conditions on which and the restrictions and limitations subject to which it is granted ;

and shall be granted on payment of such fee, if any, as Government may from time to time direct.

6. Any licensed pilgrim-broker who shall—

(a) commit a breach of any of the terms or conditions of his license ;

Penalty for misbehaviour of licensed pilgrim-broker.

(b) purchase for or sell to any pilgrim a passage-ticket by any vessel to which the provisions of the Native Passenger Ships Act, 1887 [*], apply, at any time before notice has been given by the master, owner or agent of such vessel, under section 7 of the said Act, of the date on which it is proposed that such vessel shall sail, and unless, in the case of any vessel, the proposed date of sailing is printed on the passage-ticket,

(c) charge a pilgrim more than the cost price of any passage-ticket, provisions or other articles purchased for him, or receive from him any fee or commission on account of such ticket,

(d) receive from the master, owner or agent of a vessel any fee or commission, in respect of the sale of any ticket, exceeding five per centum of the price of such ticket,

X of 1887.

[*] The reference to Act VIII of 1876 is altered in accordance with Act X of 1887, s. 4, printed in General Acts, 1885-88, Ed. 1889, p. 143. But see now the Pilgrim Ships Act, 1895, sections 3, 4 and 8.

- (e) purchase for any pilgrim a passage-ticket, on which there is not printed the price charged by the master, owner or agent of the vessel for each class of accommodation,
- (f) by fraud or by false representation as to the size of, or accommodation on board, such vessel, or otherwise, or by any false pretence whatever, induce any person to purchase a passage-ticket,
- shall be liable for each such offence to a fine which may extend to five hundred rupees.

Power to suspend and cancel licenses.

7. The Commissioner may suspend the license of any pilgrim-broker pending enquiry into any accusation against him of misconduct for which, if proved, he would be liable to a penalty under the last preceding section, and may cancel any license granted by him if the licensee is convicted of any offence under the said section or of any criminal offence.

Appointment of Protectors of Pilgrims. Their duties.

8. Government may from time to time appoint persons, being Muhammadans, to be Protectors of Pilgrims for the ports of Bombay and Karáchi.

The persons so appointed shall, for the purposes of this Act, be subordinate to the Commissioner in Bombay and Karáchi respectively, and shall, with the co-operation of the police, aid the Commissioner in giving effect to the provisions of this Act. They shall also advise and generally assist pilgrims during their stay in Bombay or Karáchi whilst proceeding to or returning from the Hedjaz, and exercise supervision over the proceedings of licensed pilgrim-brokers.

Power to enter vessels conveying pilgrims.

9. The Protectors of Pilgrims, or any persons authorized by the Commissioner in this behalf, shall be at liberty at all times to enter and inspect any vessel advertised or offering to convey pilgrims from the port of Bombay or Karáchi.

Penalty for not facilitating inspection.

10. The master or any officer of any such vessel who does not afford every facility for such inspection shall be liable to a fine which may extend to five hundred rupees.

Information to be supplied by master, owner or agent of vessel conveying pilgrims.

11. The master, owner or agent of every vessel advertised or offering to convey pilgrims shall be bound to supply the Protector of Pilgrims, on demand, with full particulars as to the class, tonnage and age of the vessel, the number of tickets of each class to be issued, the price of each ticket, the accommodation to be provided, the latest date of sailing, the ports, if any, to be touched at, and the probable date of arriving at Jeddah.

Penalty for refusal or omission to give such information.

12. Any such master, owner or agent who refuses, or without lawful excuse omits, to give such information, on demand, or furnishes false information, shall be liable to a fine which may extend to five hundred rupees.

1887: Bom. Act II.] *Protection of Pilgrims (Bombay and Karachi).* 149
(Secs. 13-16.)

1887: Bom. Act IV.] *Gambling (Sec. 1.)*

13. Any master, owner or agent of any vessel carrying pilgrims, who shall issue any passage-ticket in excess of the number allowed by the certificate granted under section 10 of the Native Passenger Ships Act, 1887[*], shall for every passage-ticket so issued be liable to a fine not exceeding four times the cost price of such ticket.

Penalty for issue of tickets in excess.

14. All passage-tickets shall be numbered consecutively according to the order of issue; and any master, owner or agent who shall issue two or more tickets bearing the same number shall be liable to a fine not exceeding one thousand rupees.

Passage-tickets how to be numbered. Penalty for issue of tickets bearing same number.

15. The provisions of sections 46, 47 and 49 of the Native Passenger Ships Act, 1887[*], shall apply to all offences punishable, and to all penalties leviable, under this Act.

X of 1887. Provisions of Native Passenger Ships Act, 1887, to apply to offences and penalties.

16. The penalties to which masters and owners of vessels are made liable by this Act shall be enforced only by information laid at the instance of the Commissioner.

Penalties to be enforced only at the instance of the Commissioner.

BOMBAY ACT No. IV OF 1887.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 5th January, 1888.)

An Act to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay; It is enacted as follows:—

1. This Act may be cited as the Bombay Prevention of Gambling Act, 1887.

Short title.

It extends to the City of Bombay, to the Island of Salsette, to all railway station-houses without the said city and island, and to all places not more than three miles distant from any part of such station-houses, respectively, and all or any of its provisions may be extended from time to time by the Governor in Council, by an order published in the Bombay Government Gazette, to any local area in the presidency of Bombay.

Extent.

The Governor in Council may from time to time, by an order published as aforesaid, cancel or vary any order made by him under this section.

[*] The references to Act VIII of 1876 are altered in accordance with Act X of 1887, s. 4, printed in General Acts, 1885-88, Ed. 1889, p. 143. But see now the Pilgrim Ships Act, 1895, ss. 3, 4, 11, 51, 52 and 54.

2. [Repeal of enactments.] Repealed by Act XVI of 1895.

"Gaming" to include wagering.

"Instruments of gaming" defined.

"Common gaming-house" defined.

Keeping common gaming-house.

Gaming in common gaming-houses.

Power to authorize entry of gaming-house by Police-officers.

3. [a] In this Act the word "gaming," whenever it occurs, shall include wagering.

[a] In this Act the expression "instruments of gaming" includes any article used as a subject or means of gaming.

In this Act "common gaming-house" means a house, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room or place, whether by a charge for use of the instruments of gaming or of the house, room or place, or otherwise howsoever.

4. Whoever—

(a) being the owner or occupier or having the use of any house, room or place, opens, keeps or uses the same for the purpose of a common gaming-house,

(b) being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(c) has the care or management of, or in any manner assists in conducting the business of any such house, room or place opened, occupied, kept or used for the purpose aforesaid,

(d) advances or furnishes money for the purpose of gaming with persons frequenting any such house, room or place,

shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months,

5. Whoever is found in any common gaming-house, playing or gaming with cards, dice, counters or other instruments of gaming, or is found there present for the purpose of gaming, whether by playing for any money, wager, stake or otherwise, shall be punished with fine which may extend to two hundred rupees, or with imprisonment which may extend to one month.

Any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be made to appear, to have been there for the purpose of gaming.

6. It shall be lawful for the Commissioner of Police in the city of Bombay, and elsewhere for any Magistrate of the first class or any District Superintendent of Police or for any Assistant Superintendent empowered by Government in this behalf, upon any complaint made before him on oath, that

[*] These definitions were inserted by Bom. Act I of 1890.

(Secs. 7-8.)

there is reason to suspect any house, room or place to be used as a common gaming-house, and upon satisfying himself after such enquiry as he may think necessary that there are good grounds for such suspicion, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any inspector, or other superior officer of Police of not less rank than a chief constable,—

- (a) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force if necessary, any such house, room or place, and
- (b) to take into custody and bring before a Magistrate all persons whom he finds therein, whether they are then actually gaming or not, and
- (c) to seize all instruments of gaming, and all moneys and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and and seizure of gaming instruments.
- (d) to search all parts of the house, room or place, which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he shall so find therein or take into custody, and to seize and take possession of all instruments of gaming found upon such search.

7. When any cards, dice, gaming-table, counters, cloth, board or other instruments of gaming used in playing any game, not being a game of mere skill, are found in any house, room or place entered under warrant issued under the provisions of the last preceding section or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer or by any person acting under the authority of either of them. Proof of keeping, or of gaming in, common gaming-house.

8. On conviction of any person for opening, keeping or using a common gaming-house, or playing or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein, or on the persons of those who were found therein, to be forthwith destroyed, On conviction for keeping, or gaming in, common gaming-house, instruments of gaming may be destroyed.

and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof,

with all moneys seized therein, to be forfeited ; or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

Proof of playing for money not required for conviction.

9. It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found playing at any game was playing for any money, wager or stake.

Indemnification of persons concerned who are examined as witnesses.

10. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Payment of portion of fine to informer.

11. The Magistrate trying any case under the provisions of sections 4 and 5 may direct any portion, not exceeding one-fourth, of any fine which may be levied under either of the said sections, or any part of the proceeds of articles or moneys seized and ordered to be forfeited under section 8, to be paid to an informer.

Power to arrest without warrant for gaming, and setting birds and animals to fight in public streets.

12. A Police-officer may apprehend without warrant—

- (a) any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill, in any public street, place or thoroughfare ;
- (b) any person setting any birds or animals to fight in any public street, place or thoroughfare ;
- (c) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, be punished with fine which may extend to fifty rupees, or with imprisonment which may extend to one month.

Seizure and destruction of instruments found.

And such Police-officer may seize all birds and animals and instruments of gaming found in such public street, place or thoroughfare or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited.

Saving of games of mere skill.

13. Nothing in this Act shall be held to apply to any game of mere skill wherever played.

1887: Bom. Act IV.]
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SCHEDULE.

[ENACTMENTS REPEALED.]

Repealed by Act XVI of 1895.

BOMBAY ACT No. V of 1887.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 12th January, 1888.)

An Act to amend Bombay Act No. VI of 1863.

WHEREAS it is expedient to amend Bombay Act No. VI of 1863 (*an Act for the regulation of Public Conveyances in the Town, Suburbs and Harbour of Bombay*) for the purpose, principally, of enabling Government to extend its provisions as well to vehicles which do not, as to those which do, ply for hire in any town or place, other than the city of Bombay; It is enacted as follows:—

[NOTE.—The amendment made by this Act is incorporated in Bombay Act VI of 1863, as printed on page 52 *et seq.* of Vol. II of this Code.]

THE MATÁDÁRS ACT, 1887.

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BOMBAY ACT No. VI OF 1887.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 30th January, 1888.)

An Act to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.

om. III of 74.

WHEREAS some portions of the Bombay Hereditary Offices Act [a] are found to be unsuited to matádárs, and it is, therefore, expedient to amend the said Act and to enact special provisions for the regulation of the service of matádárs; It is enacted as follows:—

Preamble.

1. This Act may be cited as the Matádárs Act, 1887.

Short title.

It extends to the districts of Ahmedabad, Kaira, Broach and Surat; but the Governor in Council may, from time to time, by notification in the Bombay Government Gazette, extend its provisions to any village in the Páñch Máhals District.

Extent.

It shall come into force at once: Provided that every appointment to any patel's office to which this Act applies, made under the provisions of the Bombay Hereditary Offices Act [a], or of Act No. XI of 1843 [b] (*an Act for regulating the service of hereditary officers under the Presidency of Bombay*) and still in force, shall hold good—

Commence-ment.

om. III of 74.

[a] Printed in Vol. II of this Code, p. 192.

[b] Act XI of 1843 was repealed by Bom. Act III of 1874.

(Secs. 2-3.)

- (a) until the time when, if this Act had not been passed, such appointment would become vacant, or until the expiry of two years from the coming of this Act into force, whichever first occurs, or,
- (b) in the case of an appointment which has been made to have effect pending further orders, until such time as the Collector directs ; and a fresh appointment under this Act in lieu of any such appointment as aforesaid shall only be made to have effect from the time when the latter appointment ceases to hold good.

Definitions.

2. In this Act, unless there be something repugnant in the subject or context,—

(1) “matádár family” means a family to which the office of village patel, or some share in the discharge of the duties or in the exercise of the powers ordinarily appertaining to that office, belongs hereditarily :

(2) “matá” means the aggregate of the rights, privileges and responsibilities vesting in a matádár family as such :

(3) “member of a matádár family” does not include a female, or a person claiming through a female, whilst such female or person is, under section 2 of Act No. V of 1886 [^a] (*an Act to amend Bombay Act III of 1874* [^b]), postponed in the order of succession to the matá, or part thereof or interest therein, to a male member of the family ;

(4) “matádár” means a member of a matádár family whose name is entered in the register kept under section 5, and includes a representative matádár ;

(5) “representative matádár” means a member of a matádár family whose name is entered as a representative matádár in the said register ;

(6) “senior heir” means the heir who first acquired the right of inheritance, whether by birth, marriage or otherwise ;

(7) any word or expression which is defined in the Bombay Land-revenue Code, 1879 [^c], and is not hereinbefore defined, shall have the meaning given to it by that Code. Bom. V of 1879.

Expressions defined in the Bombay Land-revenue Code.

Modifications of Bombay Act III of 1874.

3. In applying the Bombay Hereditary Offices Act [^b] as amended by Bombay Act No. V of 1886 [^a] (*an Act to amend Bombay Act III of 1874* [^b]), and section 2 of the last-mentioned Act, to matádárs, the term Bom. III of 1874.

[^a] Printed *supra*, p. 98.

[^b] Printed in Vol. II of this Code, p. 192.

[^c] Printed in Vol. II of this Code, p. 303.

(Secs. 4-5.)

“wátán” shall be deemed to mean all and each of the matás of a village, and a member of a matádár family shall be deemed to be a wátándár, and the said Act, as so amended, shall be read subject to the following modifications (namely):—

- (1) sections 24 to 31, both inclusive, 36 to 59, both inclusive, 61, 62, 67, 69, 71, and clause (2) of section 73, and so much of section 73 as relates to orders passed under Part VI or Part VII or section 58 of the said Act, and in section 4 the definitions of “wátándár” and “representative wátándár,” shall be deemed to be repealed;
- (2) in sections 33 and 34, the words “coming into force of this Act” shall be taken to mean the coming into force of this present Act, and the word “matádár” shall be substituted for the words “registered representative wátándár” and “wátándár,” wherever they, respectively occur;
- (3) for the first four words of section 60, the words “when any person elected to officiate or a representative matádár” shall be deemed to be substituted.

4. Subject to the provisions of the last preceding section, this Act shall be read as one with the Bombay Hereditary Offices Act[*].

Construction.

Of the Register.

5. In the register of lands and allowances in consideration of which liability to perform service still exists, kept under section 65 of the Bombay Hereditary Offices Act[*], the Collector shall specify for every village in which there are matádárs:—

Matádárs' service register what to contain.

- (a) the number of distinct matádár families in the village separately recognized in the Collector's records;
- (b) the name of the representative matádár of each matádár family to which a right to hold the office of patel appertains;
- (c) the name of every other person directed by the Collector to be entered in the register under section 7 or 9;
- (d) where there are more representative matádárs than one, the order of rotation in which, failing the appointment of an officiator by election, the right to the patel's office is to vest in the said representative matádárs;
- (e) the number of persons required to office as patels contemporaneously;
- (f) a description of the service lands held by each matádár family, showing the area, survey numbers and the assessment thereof, together

Bom. III of 1874.

Bom. III of 1874.

(Secs. 6-7.)

with the quit-rent, if any, payable, and the net amount of revenue alienated by Government;

- (g) the amount and nature of the cash or other allowances, if any, held by each matádár family;
- (h) the wátán property or profits assigned under section 23 of the Bombay Hereditary Offices Act [a] for the emoluments of officiators;
- (i) such other particulars as Government from time to time direct.

Bom. III of
1874.

The said register shall be amended from time to time whenever any change is made in any of the particulars therein specified in accordance with the provisions of this Act or of the Bombay Hereditary Offices Act [a].

6. In every village in which there are two or more distinct matádár families separately recognized in the Collector's records, a right to hold the office of patel shall ordinarily be deemed to appertain to each of the said families:

Right to
patel's office
to apper-
tain ordin-
arily to
every matá-
dár family;

but
exclusive
right may
be declared
by Govern-
ment to
appertain
to one matá-
dár family.

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office in any village, and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village appertains [b] to one or more than one of such families to the exclusion of the remainder of such families, and shall vest in such order as he may thereby determine, and every such declaration shall be conclusive evidence of the rights thereby affirmed [b].

Determina-
tion of
matádárs.

7. In the register prepared under section 5 the Collector shall enter the name of every member of a matádár family contained in any list of matádárs made under the orders of Government subsequent to the year 1866: Provided that—

- (a) if, for any village, no such list exists, or if, in respect of any matádár family, no person's name has been entered in any such list, or if, at the time when this Act comes into force, there is any dispute pending as to the completeness or correctness of any such entry, the Collector shall hold a summary inquiry, and shall enter in the register the name of each member of a matádár family who shall appear to him to have been recognized in the records previous to the year 1867 as a matádár of the family for which such list or entry is wanting, or to which such dispute relates;

[a] Printed in Vol. II of this Code, p. 192.

[b.5] These words were substituted for the original words by Bom. Act III of 1890, s. 1.

(Secs. 8-12.)

(b) if any person whose name should be entered in the register in accordance with any of the foregoing provisions is dead, the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section 2 of Bombay Act No. V of 1886 [a] (*an Act to amend Bombay Act III of 1874* [b]), be entered in the register instead of his.

8. (1) The name of one matádár shall be entered in the said register as the representative matádár of each matádár family to which a right to hold the office of patel appertains.

Determination of representative matádárs.

(2) For every such matádár family of which there is only one matádár, the said matádár shall be the representative matádár.

(3) If there are two or more matádárs of any such matádár family, the Collector shall, as soon as may be after the passing of this Act, enter in the said register as representative matádár of the matádár family such one of the said matádárs as shall appear to him to be the head of the matádár family.

9. On the death of a representative or other matádár, the fact shall be reported by the village-officers to the Collector, and the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section 2 of Bombay Act No. V of 1886 [a] (*an Act to amend Bombay Act III of 1874* [b]) be registered in his stead.

Name of heir to be registered when a matádár dies.

10. If at any time any person shall by production of a certificate of heirship, or of a decree or order of a competent Court, satisfy the Collector that he is entitled to have his name registered under section 7 (b) or section 9 in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the register to be amended accordingly.

Amendment of the register.

Of Service.

11. Every matádár shall be bound, when so required by the Collector, to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village-lands and revenues, and such other village-records as it may be customary for matádárs to sign.

Duties and privileges of matádárs, as such.

12. If within the limits of any village in which there are matádárs a

Area to which

[a] Printed *supra* p. 68.

[b] Printed in Vol. II of this Code, p. 192.

matádárs' functions extend may in certain cases be reduced.

Number of officiators requisite for patel's office to be fixed by the Collector. Right to office to vest in representative of families whose rights declared. In every other case right of office to be enjoyed by matádár families in rotation. Determination of order of rotation.

On failure of majority of matádárs to agree, Collector to determine order by lot. Proviso.

When officiator may be elected by matádárs.

Failing election of officiator by matádárs,

new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

13. The Collector may fix at his discretion, from time to time, the number of officiators requisite for the due discharge of the duties of every patel's office.

[a] 14. In every village in which the Governor in Council makes a declaration under section 6, the right to the office of patel shall vest to the exclusion of all other matádárs in the representative of each of the families whose rights are thereby declared, in such order as may therein be determined.

15. In every other village the right to the patel's office shall vest in each of the matádár families entitled thereto in rotation.

16. For the purpose of determining the order in which the said right shall vest in the said families, the Collector shall, as soon as may be after this Act comes into force, by written notice, require the matádárs of the village to assemble in his presence.

If a majority of the matádárs present in accordance with the said notice do not agree to some order of rotation, the order shall be forthwith determined by the Collector by lot, in the presence of the assembled matádárs, in such manner as he shall think fit:

Provided that if, in the course of any proceeding held under the Bombay Hereditary Offices Act [b], an order of rotation for service of the representative wátándárs of the same families has been already settled by lot or by agreement of the parties, the order so settled shall hold good for the purpose of the last preceding section.

Bom. III c
1874.

17. On or in anticipation of the occurrence of a vacancy in the office of patel in any village to which section 15 applies, the matádárs of the village may elect some member of the matádár family whose turn it is to enjoy the right of office to fill the vacancy.

If a majority of the said matádárs fail, within such reasonable period as shall be prescribed by the Collector in this behalf, to nominate some member

[a] This section was substituted for the original s. 14 by Bom. Act III of 1890, s. 2.

[b] Printed in Vol. II of this Code, p. 192.

(Secs. 18-21.)

of the matáddár family aforesaid for the vacancy, or if the person nominated is disqualified for office, the right of office shall vest in the representative matáddár of the said family.

right of office to vest in representative matáddár.

18. Elections under the last preceding section shall be held in accordance with such rules as the Governor in Council, by notification in the Bombay Government Gazette, from time to time, prescribes in this behalf.

Rules for elections to be prescribed by Government.

19. Every representative matáddár in whom the right of office vests under section 14 or 17 shall ordinarily be required by the Collector, if he is not disqualified for office, to officiate in person; but the Collector may, if he thinks fit, dispense with his personal service.

Representative matáddár must ordinarily officiate in person.

If, in any village to which section 15 applies, the representative matáddár of the family whose turn it is to enjoy the right of office declines, when so required by the Collector, to officiate in person, the turn to enjoy the said right shall pass to the matáddár family next in the settled order of rotation.

On refusal by one representative matáddár to officiate in person, turn to enjoy right of office to pass.

A representative matáddár who declines, whilst officiating, to forsake some other employment which, in the opinion of the Collector, is incompatible with the due discharge of the duties of the patel's office, or fails when so required by the Collector to reside in the village for which he is appointed, shall be deemed to decline to officiate in person.

Other employment when prohibited to representative matáddárs. Failure to reside in village.

20. A deputy may be appointed at any time—

- (a) by a representative matáddár who is, or who whilst officiating in person becomes, disqualified for office; and
- (b) with the Collector's permission, by a representative matáddár who does not wish to officiate or to continue to officiate in person, although not disqualified for office; and
- (c) by a sole representative matáddár, who proposes to officiate or is already officiating in person, when one or more other officiators are necessary.

When deputy may be appointed by representative matáddár.

A deputy appointed by a representative matáddár may at any time be removed from office by the Collector at the request of the representative matáddár, if in the opinion of the Collector there are good reasons for such request.

Removal of deputy.

21. When an appointment of a deputy has to be made by a representative matáddár, the Collector shall, by written notice, require him to nominate a fit person to be his deputy within twenty days from the date of service of the said notice.

Procedure when appointment of deputy has to be made by representative matáddár.

Should the representative matádár fail, within the said period, to nominate any person, or if the person he nominates is not a member of a matádár family of the same village, or is disqualified for office, the Collector may, in his discretion, extend the period of nomination for a further term of ten days.

If within the prescribed period of twenty days, or, when the Collector extends the period, within the extended term, no person is nominated by the representative matádár, or the person nominated by him is not a member of a matádár family of the same village, or is disqualified for office, the turn to enjoy the right of office shall, in a village to which section 15 applies, pass to the matádár family next in the settled order of rotation.

Appointment of deputy when to be made by Collector.

22. If a sole representative matádár declines, when so required by the Collector, to officiate in person, or fails to appoint a fit person to be his deputy in accordance with the provisions of the last preceding section, the Collector shall appoint a deputy.

Such deputy ordinarily to be member of matádár family; but with sanction of Government may be any other person.

A deputy so appointed by the Collector shall ordinarily be a member of the matádár family of the village for which he is appointed, but, with the previous sanction of Government, may be any other person.

Guardian may act on behalf of matádár legally incompetent.

23. If a matádár is under eighteen years of age, or if disabled by lunacy or imbecility of mind, the guardian or other legal curator of his person may act in his behalf in any of the matters provided for in sections 16, 17, 20 and 21.

Term of office of sole representative matádár, and

24. The term of office of a sole representative matádár shall be for life, if the representative matádár shall not in the meantime become disqualified for office.

of an elected officiator.

The term of office of a person elected under section 17 shall be for five years, or for such longer period as a majority of the matádárs shall, at the time of election, desire, if the person elected shall not in the meantime die or become disqualified for office.

The desire of the matádárs as to the duration of the term of office of any person elected by them under section 17 shall be ascertained in accordance with the rules prescribed under section 18 for determining nominations.

Term of office of representative matádár entitled to office on failure of election.

25. The term of office of a representative matádár in whom the right of office vests on failure of an election under section 17 shall be—

(a) five years, when the number of representative matádárs exceeds nine;

- (b) seven years, when the number of representative matádárs exceeds four but does not exceed nine ;
- (c) ten years, when the number of representative matádárs does not exceed four.

26. A deputy appointed by a representative matádár, or by the Collector in his stead, shall be appointed for the term, or for the residue of the term, of office of the representative matádár by or for whom he is so appointed ; and, if a deputy dies or resigns or becomes disqualified for office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 21 and 22 :

Deputies to be appointed for period of their principals' term of office.

Provided that—

- (a) if a representative matádár who has appointed a deputy because he himself was disqualified for office, or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector ;
- (b) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate, and the successor of the representative matádár shall, subject to the provisions of section 19, officiate in person for the residue of the said term, or a deputy shall be appointed by him or by the Collector in his stead for the said period, according to the provisions of sections 20, 21 and 22.

27. Notwithstanding anything hereinbefore contained to the contrary, no representative matádár in any village to which section 15 applies shall be permitted to commence to officiate in person, and no new deputy shall be appointed by or for a representative matádár in any such village during the the last year of the term of office of such representative matádár.

No change of officiator to be permitted during last year of representative matádár's term of office.

If occasion arises during any such year for any change of an officiator in any such village, there shall be deemed to be a vacancy in the office.

If occasion arises for any such change, office to be deemed vacant.

28. During any interval between the occurrence of a vacancy in a patel's office and its being filled up in accordance with the foregoing provisions, and during the time that any officiator is suspended, the Collector may appoint such person as he thinks fit, whether a member of a matádár family of the village or not, to officiate temporarily.

Appointment of temporary officiators by Collector.

29. If an officiator is temporarily absent from his village, or is temporarily

Officiators to

retain substitutes during their absence or illness.

prevented by illness from discharging the duties of his office, he may depute some other fit person, whether a member of a matádár family of the village or not, to perform the said duties, but shall be responsible for the acts and omissions of the person so deputed as if they were his own acts and omissions.

Of the Disqualifications for the Patel's Office.

What persons to be deemed disqualified for office.

30. The following persons shall be deemed to be disqualified for the patel's office (namely) :—

- (a) females ;
- (b) persons under eighteen years of age ;
- (c) any person who has not passed such educational test, if any, as Government think fit, from time to time, to prescribe in this behalf ;
- (d) any person who has attained sixty years of age, except when such person's appointment or further continuance in office is specially permitted by the Collector ;
- (e) any person who, in the opinion of the Collector, is disabled by lunacy or imbecility of mind, or by deafness, blindness or other permanent infirmity of body ;
- (f) any person who, at the time when he would otherwise be entitled to officiate, is adjudged by the Collector, after a summary inquiry, to be of general bad character ;
- (g) any person who 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 subsequently been reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf ;
- (h) any person removed from office under section 31, except when such person's re-employment is expressly sanctioned by Government.

Any officiator who during his term of office becomes disqualified for any of the above reasons shall cease to officiate.

Of Penalties.

Punishment of matádárs and officiators by fine, and

31. Any matádár who shall neglect or refuse to comply with any order made by the Collector under section 11, and any matádár or officiator who shall be careless or negligent in the discharge of his duties, may be punished by the Collector, for each such offence, by fine which may extend to one-fourth part of the annual emoluments of such matádár or officiator.

If an officiator shall be accused of any misconduct which shall seem to the Collector to require a severer punishment than that aforesaid, the Collector may suspend him from office during investigation into such accusation, and, after holding a summary inquiry, may, if he consider the officiator guilty of misconduct meriting such punishment, suspend him from office for a further period not exceeding six months, or, if fraud or wilful framing of incorrect records or other grave misconduct or offence is proved against him, may, with the previous sanction of Government, remove him from office.

of officers by suspension or removal from office.

When a representative matáddár has been so removed from office, he shall, if Government so direct, be deprived for the rest of his life of any right which he would otherwise have of voting at an election of an officiator, or of appointing a deputy to officiate; and, if any representative matáddár so deprived is a sole representative matáddár, a deputy shall be appointed by the Collector, subject to the provisions of paragraph two of section 22, to officiate in his stead during his lifetime.

Disabilities of representative matáddár removed from office.

If any representative matáddár or deputy is removed from office under this section, the Governor in Council may direct the forfeiture of the life interest in the matá of the representative matáddár so removed from office, or of the representative matáddár by whom the deputy so removed from office was appointed, as the case may be.

Forfeiture of life interest of representative matáddár in case of removal from office.

32. Nothing in the last preceding section shall affect the liability of an officiator to a criminal prosecution for any offence which he may be accused of having committed; and the Collector may suspend any officiator subjected to any such prosecution pending the inquiry and trial, and at its close may take the proceedings and the finding of the Criminal Court into his consideration for the purpose of dealing with the case under the last preceding section.

Liability of officiator to criminal prosecution and suspension pending inquiry and trial.

BOMBAY ACT No. VII OF 1887.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th April, 1888.)

An Act to declare and amend the Law relating to Toda Girás Allowances.

WHEREAS it is expedient to declare and amend the law relating to toda girás allowances; It is enacted as follows:—

1. This Act may be called the Toda Girás Allowances Act, 1887.

Short title.

(Secs. 2-6.)

“Toda girás allowance” defined.

2. In this Act, “toda girás allowance” means a cash payment made periodically to any person on the part of Government, or by or on the part of a holder of alienated land, under the name of *girás, wol, tora girás* or *toda girás*.

Toda girás allowances to be held hereditarily in male descent.

3. Every toda girás allowance is continuable hereditarily to the lineal male heirs in male descent of the first recipient thereof under British rule :

Provided that, on failure of such heirs, the allowance, or some portion thereof, shall, whenever the Governor in Council has already so directed, or shall hereafter so direct, be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule.

Mortgage, etc., of toda girás allowance.

4. No mortgage, charge or alienation of a toda girás allowance, or of any part thereof, or of any interest therein, by any recipient of the same, shall be valid as to any time beyond such recipient's natural life.

Exemption of toda girás allowances from attachment and sale in execution of decrees.

5. No toda girás allowance shall be liable to attachment or sale in execution of a decree :

Provided that any money due or likely to become due to a judgment-debtor on account of a toda girás allowance may be attached in execution of the decree against him, but such attachment shall not affect any money which becomes due on account of such allowance after such judgment-debtor's death.

Saving of toda girás allowances already alienated.

6. (1) Nothing in this Act applies to a toda girás allowance which has already been alienated—

- (a) if the instrument purporting or operating to effect such alienation has before the date on which this Act comes into force been registered under any law for the time being in force relating to the registration of documents ; or
- (b) if the said instrument, not being compulsorily registrable, and not having been registered under any such law as aforesaid, has been executed before the date on which this Act comes into force, and is presented for inspection, together with a copy thereof for record, at any time within six months after the said date, to the Collector of the district in which such allowance is payable ; or
- (c) if, when such alienation has not been effected by an instrument, proof thereof is produced within the period and to the Collector aforesaid.

1887: Bom. Act VII.] *Toda Girás Allowances.*

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1888: Bom. Act I.] *Local Boards; District Municipalities.*

1888: Bom. Act II.] *Village-Officers (Sindh).*

(2) When any instrument is presented to a Collector under clause (b), he shall, before returning the same, endorse thereon, under his signature and official seal, the date of such presentation. When proof of an alienation is produced before a Collector under clause (c), he shall give to the alienee a certificate, under his signature and official seal, that the toda girás allowance so alienated is not subject to the provisions of this Act.

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BOMBAY ACT No. I OF 1888.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 13th April, 1888.)

Bom. I and II
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An Act to further amend the Bombay Local Boards Act, 1884, and the Bombay District Municipal Act Amendment Act, 1884.

[NOTE.—The amendment made by s. 1 of this Act is incorporated in Bom. Acts I and II, respectively, of 1884, as printed on pp. 34 *et seq.* and pp. 69 *et seq. supra.* S. 2 of the Act is repealed by Act XVI of 1895.]

BOMBAY ACT No. II OF 1888.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 29th June, 1888.)

Bom. IV of
1881.

An Act to amend the Sindh Village-officers Act, 1881.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act IV of 1881 as printed on pp. 1 *et seq. supra.*]

THE CITY OF BOMBAY MUNICIPAL ACT, 1888.

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- 308. Prohibition of projections upon streets, etc.
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- 310. Projections over streets may be permitted in certain cases.
- 311. Ground-floor doors, etc., not to open outwards on streets.
- 312. Prohibition of structures or fixtures which cause obstruction in streets.
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- 314. Commissioner may, without notice, remove anything erected in contravention of section 312, after it comes into force or deposited, etc., in contravention of section 313.
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- 321. Precautions to be taken for the public safety whilst municipal works are in progress in any street.
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340. Additional information and the attendance of the person who gave the notice may be required.
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- 365. Commissioner to provide for cleansing of streets and removal of refuse.
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- 367. Provision and appointment of receptacles, depôts and places for refuse, etc.
- 368. Duty of occupiers to collect and deposit dust, etc.
- 369. Provision may be made by Commissioner for collection, etc., of excrementitious and polluted matter.
- 370. Collection and removal of excrementitious and polluted matter when to be provided for by occupiers.
- 371. Halalkhors' duties in certain cases may not be discharged by private individuals without the Commissioner's permission.
- 372. Prohibition of—
 - failure to remove refuse, etc., when bound to do so ;
 - removal of refuse, etc., contrary to orders or without proper precautions ;
 - failure to clear away any refuse, etc., which drops during removal ;
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- 387. Regulation of use of public bathing-places, etc.
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- 390. Factory, etc., not to be newly established without permission of the Commissioner.
- 391. Furnaces used in trade or manufacture to consume their own smoke.
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- 398. What to be deemed municipal markets and slaughter-houses.
- 399. Provision of new municipal markets and slaughter-houses.
- 400. Municipal markets and slaughter-houses may be closed.
- 401. Prohibition of sale in a municipal market without license of Commissioner.
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- 403. Private markets not to be kept open without a license.
- 404. Prohibition of sale in unauthorised private markets.
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- 406. Regulations to be framed for markets and slaughter-houses.
- 407. Levy of stallages, rents and fees in municipal markets and slaughter-houses.
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- 410. Prohibition of sale of animals, etc., except in a market.

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- 411. Butchers and persons who sell the flesh of animals to be licensed.
- 412. Prohibition of import of cattle, etc., into the city.

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- 413. Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act is suspected.
- 414. Commissioner to provide for inspection of articles exposed for sale for human food.
- 415. Unwholesome articles, etc., to be seized.
- 416. Disposal of perishable articles seized under section 415.
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- 421. Information to be given of existence of dangerous disease.
- 422. Any place may at any time be inspected for purpose of preventing spread of dangerous disease.
- 423. Prohibition of use for drinking of water likely to cause dangerous disease.
- 424. Commissioner may order removal of patients to hospital.
- 425. Disinfection of buildings, etc.
- 426. Destruction of huts and sheds when necessary.
- 427. Place for disinfection may be provided ;
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- 428. Person suffering from dangerous disease not to enter a public conveyance without notifying the same.
- 429. Provision of carriages for conveyance of patients.
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- 450. Medical practitioner who attended a deceased person to certify the cause of his death.
- 451. Preparation of register-books of deaths and of mortality returns, etc.
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480. Public notices how to be made known.

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 482. Consent, etc., of Commissioner may be proved by written document under his signature.

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483. Notices, etc., by whom to be served or presented.
 484. Service how to be effected on owners of premises and other persons.
 485. Service on "owner or occupier" of premises how to be effected.
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 487. Signature on notices, etc., may be stamped.

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488. Commissioner, etc., may enter any premises for purposes of inspection, survey or execution of necessary work.

Enforcement of Orders to execute Works, etc.

489. Works, etc., which any person is required to execute may in certain cases be executed by the commissioner at such person's cost.
 490. Recovery of expenses of removals by the Commissioner under sections 314, 315, 354 and 380.

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491. Expenses recoverable under this Act to be payable on demand; and, if not paid on demand, may be recovered as an arrear of property-tax.
 492. If the defaulter is the owner of premises in respect of which expenses are payable, the occupier to be also liable for payment thereof.
 493. Commissioner may agree to receive payment of expenses in instalments.
 494. What expenses may be declared to be improvement expenses.
 495. Improvement expenses by whom payable.
 496. Proportion of improvement expenses may be deducted from rent.
 497. Redemption of charge for improvement expenses.
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 499. In default of owner, the occupier of any premises may execute required work and recover expenses from the owner.
 500. Limitation of liability of agent or trustee of owner.

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501. Compensation for damages may be paid by the Commissioner.
 502. Compensation to be paid by offenders against this Act for any damage caused by them.

Recovery of Expenses or Compensation in Case of Dispute.

503. In cases falling under section 491, disputes to be determined by the Chief Judge of the Small Cause Court.

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- 504. Amount of expenses or compensation to be determined, in all cases of dispute, by the Chief Judge of the Small Cause Court.
- 505. Expenses or compensation awarded by Chief Judge of the Small Cause Court to be recovered, if necessary, as if they were due under a decree of the Court.
- 506. Persons liable for expenses or compensation may be sued for recovery thereof.

Proceedings before the Chief Judge of the Small Cause Court.

- 507. Remedy of owner of building or land against occupier who prevents his complying with any provision of this Act.
- 508. Power to summon witnesses and compel production of documents.
- 509. Fees in proceedings before the Chief Judge of the Small Cause Court.
- 510. Exemption of poor persons from fees.
- 511. Repayment of half fees on settlement before hearing.
- 512. Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules.

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- 513. Cognizance of offences.
- 514. Limitation of time within which complaints of offences punishable under this Act shall be entertained.
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- 516. Offenders against this Act may in certain cases be arrested by Police-officers.

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- 517. Provisions respecting institution, etc., of civil and criminal actions and obtaining legal advice.

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- 521. Councillors, etc., to be deemed to be public servants.

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 524. Measurement of distances.
 525. Informalities and errors in assessments, etc., not to be deemed to invalidate such assessments, etc.
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BOMBAY ACT No. III OF 1888^[*].

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 14th September, 1888.)

An Act to consolidate and amend the law relating to the Municipal Government of the City of Bombay.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to

[*] Bom. Act III of 1888 has, so far as regards the jurisdiction, decisions, orders and other proceedings of Appellate Benches of Municipal Authorities, Presidency and other Magistrates, Courts of Small Causes and Judges of such Courts, been declared to be as valid as if it had been passed by the Governor General of India in Council—see Act XII of 1888, s. 1, printed in Vol. I of this Code, p. 263.

Bom. Act V of 1890 (Municipal Servants) is to be read with Bom. Act III of 1888—see Bom. Act V of 1890, s. 2 (2), *infra*.

the municipal government of the City of Bombay; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the City of Bombay Municipal Act, 1888. Short title,
 Except as is herein otherwise expressly provided, it extends only to the Extent,
 City of Bombay.

2. The enactments mentioned in Schedule A are repealed to the extent Repeal of
 specified in the third column of the said schedule : enactments.

Provided that—

- (a) all rules and bye-laws made, all notifications published, all orders issued and all licenses and permissions granted under any of the said enactments and still in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, published, issued and granted hereunder ; and
- (b) all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the municipal corporation before this Act comes into force shall be deemed to have been incurred, entered into or engaged to be done by, with or for the municipal corporation constituted under this Act ; and
- (c) all rates, taxes and sums of money due to the corporation when this Act comes into force shall be deemed to be due to the corporation under this Act ; and
- (d) all suits or other legal proceedings, civil or criminal, instituted or which might but for the passing of this Act have been instituted by or against the corporation or the Commissioner may be continued or instituted subject to the provisions of section 13 of Schedule R as if this Act had not been passed ; and
- (e) all references made in any Act of the Governor of Bombay in Council to any of the said enactments shall be read as if made to this Act or to the corresponding portion thereof.

3. In this Act, unless there be something repugnant in the subject or Definition
 context,— of terms.

(a) " the city " means the City of Bombay :

(b) " the corporation " means the Municipal Corporation of the City of Bombay :

(c) " councillor " means a member of the corporation duly elected or appointed under this Act :

(d) "the Commissioner" means the Municipal Commissioner for the City of Bombay appointed under section 54, and includes an acting Commissioner appointed under sub-section (3) of section 59 :

(e) "Deputy Commissioner" means a Deputy Municipal Commissioner appointed under section 55, and includes an acting Deputy Commissioner appointed under sub-section (3) of section 59 :

(f) "the Police Commissioner" means the Commissioner of Police of Bombay :

(g) "Justice" means a Justice of the Peace for the town of Bombay appointed under the provisions of the Justices of the Peace Act, 1869, [^a] or of any other law [^b] for the time being in force in this behalf :

II of 1869
X of 1882.

(h) "fellow" means a fellow of the University of Bombay :

(j) "justices' election" and "fellows' election" mean, respectively, an election of a councillor by justices or by fellows :

(k) "licensed plumber" and "licensed surveyor" mean, respectively, a person licensed by the Commissioner for the purposes of this Act as a plumber or surveyor, under section 355 :

(l) "Small Cause Court" means the Court of Small Causes of Bombay :

(m) "owner," when used in reference to any premises, means the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes—

(i) an agent or trustee who receives such rent on account of the owner ;
and

(ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes ; and

(iii) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of, the said premises ;

(n) a person is deemed "to reside" in any dwelling which he sometimes uses, or some portion of which he sometimes uses though, perhaps, not uninterruptedly, as a sleeping apartment :

and a person is not deemed to cease "to reside" in any such dwelling merely because he is absent from it, or has elsewhere another dwelling in which

[^a] Act II of 1869 was repealed by Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1898, published by the Legislative Department.)

[^b] See now s. 23 of Act X of 1882.

he resides, if there is the liberty of returning to it at any time and no abandonment of the intention of returning thereto :

(o) the term "public securities" means securities of the Government of India and any securities guaranteed by Government, securities of the Bombay Port Trust, securities issued under this Act and any Bombay municipal debentures or other securities heretofore issued :

(p) "tax" includes any impost leviable under this Act :

(q) "vehicle" includes a carriage, cart, van, dray, truck, handcart and wheeled conveyance of any description capable of being used on the streets of the city :

(r) "land" includes land which is built upon or covered with water :

(s) "building" includes a house, out-house, stable, shed, hut and every other such structure, whether of masonry, bricks, wood, mud, metal or any other material whatever :

(t) "waterwork" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main-pipe, culvert, engine and any machinery, land, building or thing for supplying or used for supplying water :

(u) "drain" includes a sewer, pipe, ditch, channel and any other device for carrying off sullage, excrementitious matter and polluted water or rain-water or subsoil water :

(v) "house-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cesspool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom :

(w) "street" includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of passage or access or have passed and had access uninterruptedly for a period of twenty years ; and, when there is a footway as well as a carriageway in any street, the said term includes both :

(x) "public street" means any street heretofore levelled, paved, metalled, channelled, sewerred or repaired by the corporation, and any street which becomes a public street under any of the provisions of this Act :

(y) "private street" means a street which is not a public street :

(z) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight

(Chap. II.—The Municipal Constitution. Secs. 4-6.)

smelling or hearing, or which is or may be dangerous to life or injurious to health or property :

(aa) "dangerous disease" means cholera and any endemic, epidemic or infectious disease by which the life of man is endangered :

(bb) "official year" means the year commencing on the first day of April :

(cc) "public holiday" means a day or other period of time on or during which, by an order of Government published in the Bombay Government Gazette, Government offices in the city are closed :

(dd) "sub-section" and "clause" denote, respectively, a sub-section or clause of the section in which the word occurs.

CHAPTER II.

THE MUNICIPAL CONSTITUTION.

Municipal Authorities.

Municipal
authorities
charged with
execution of
this Act.

4. The municipal authorities charged with carrying out the provisions of this Act are—

- (A) a corporation ;
- (B) a standing committee ;
- (C) a municipal commissioner.

(A) THE MUNICIPAL CORPORATION.

Constitu-
tion of cor-
poration.

5. (1) [a] The corporation shall consist of seventy-two councillors, as follows (namely) :—

- thirty-six elected at ward elections ;
- sixteen elected by justices ;
- two elected by fellows ;
- two elected by the Bombay Chamber of Commerce ;
- sixteen appointed by Government.

(2) The corporation shall, by the name of "The Municipal Corporation of the City of Bombay," be a body corporate and have perpetual succession and a common seal and by such name may sue and be sued.

Terms of Office of Councillors ; Casual Vacancies, etc.

Day on
which
councillors
are to come
into office.

6. [b] (2) Councillors selected or appointed to succeed retiring councillors

[a] Portion repealed by Act XVI of 1895 is omitted.

[b] Sub-section (1), repealed by Act XVI of 1895, is omitted.

(Chap. II.—The Municipal Constitution. Secs. 7-11.)

shall come into office on the day for the retirement of the councillors whom they are to succeed.

7. All members of the corporation constituted as aforesaid shall retire from office at noon on the first day of April three years after they take office, which day is in this Act referred to as the day for retirement. Day for retirement of councillors.

8. Any person who ceases to be a councillor shall, unless disqualified, be re-eligible. Re-eligibility of persons ceasing to be councillors.

9. In the event of non-acceptance of office by a person elected or appointed to be a councillor, or of the death, resignation or disqualification of a councillor, or of his becoming incapable of acting previous to the day for retirement, there shall be deemed to be a casual vacancy in the office, and such 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 been entitled to hold it if the vacancy had not occurred. Casual vacancies how to be filled up.

10. The names of all persons elected or appointed to be councillors shall be published by the Commissioner in the Bombay Government Gazette. Publication of names of councillors in the Bombay Government Gazette.

Qualifications and Disqualifications of Voters and Councillors.

11. (1) A person shall not be entitled to vote at a ward election unless he is enrolled in the municipal election roll as a voter of the ward for which such election is held. Qualification of voters at ward elections.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a voter of any ward, unless such person—

- (a) resides or is the owner of some building or land in that ward; and
- (b) has attained the age of twenty-one years; and unless such person, either—
- (c) has been assessed to the qualifying tax for the half-year from the first day of April to the thirtieth day of September last preceding the preparation of the roll, at the rate of not less than thirty rupees per annum; or
- (d) is a graduate of some university in British India or in the United Kingdom.

(3) In clause (c) "the qualifying tax" means either the general tax or the tax on vehicles and animals, other than vehicles and animals plying for hire or kept for the purpose of being let for hire, levied according to the provisions hereinafter contained, or the aggregate of both the said taxes.

(Chap. II.—The Municipal Constitution. Secs. 12-16.)

Qualifica-
tion of
voters at
justices'
elections.

12. (1) A person shall not be entitled to vote at a justices' election unless he is at the time of such election a justice and is enrolled as a justice in the municipal election roll.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a justice unless he resides in the city.

Qualifica-
tion of
voters at
fellows'
elections.

13. (1) A person shall not be entitled to vote at a fellows' election unless he is at the time of such election a fellow and is enrolled as a fellow in the municipal election roll.

(2) A person shall not be entitled to be enrolled in the municipal election roll as a fellow unless he resides in the city.

Qualifica-
tion for
election as
a councillor
at a ward
election.

14. (1) A person shall not be qualified to be elected at a ward-election to be a councillor unless he is enrolled in the municipal election roll as a voter of some ward, or unless he is at the time of the election a justice or a fellow and is enrolled as a justice or as a fellow in the municipal election roll :

(2) Provided that—

(a) if a joint stock company is enrolled in the said roll as a voter of a ward, such enrolment shall not be deemed to qualify any person to be elected to be a councillor ;

(b) if the name of any other company or of a firm is enrolled in the said roll, any one person duly authorized by power-of-attorney to represent such company or firm shall be deemed to be qualified to be elected a councillor at a ward-election.

Qualifica-
tion for
election as
a council-
lor at an
election by
justices, or
by fellows,
or by the
Chamber of
Commerce.
Disqualifi-
cations for
being a
councillor.

15. A person shall not be qualified to be elected to be a councillor at a justices' election or a fellows' election, or an election by the Bombay Chamber of Commerce, unless he is at the time of the election a justice, or a fellow, or a member of the said Chamber, as the case may be, and unless, in the case of a justice or a fellow, he is enrolled as such in the municipal election roll.

16. (1) A person shall be disqualified for being elected or appointed and for being a councillor if such person—

(a) is of the female sex ; or

(b) has been sentenced by any 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, and if and so long as such person's disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby

(Chap. II.—The Municipal Constitution. Secs. 17-18.)

empowered to make, if he shall think fit, in this behalf ; or if and while such person—

- (c) is an uncertificated bankrupt or an undischarged insolvent ; or
- (d) is the Commissioner or a Deputy Commissioner or a municipal officer or servant, or a licensed surveyor or plumber ; or
- (e) is the Chief Judge of the Small Cause Court or is acting in that capacity ; or
- (f) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of, the corporation.

(2) But a person shall not be so disqualified or be deemed to have any share or interest in such a contract or employment by reason only of his having any share or interest in—

- (g) any lease, sale or purchase of land or any agreement for the same ;
or
- (h) any agreement for the loan of money or any security for the payment of money only ; or
- (i) any newspaper in which any advertisement relating to the affairs of the corporation is inserted ; or
- (k) any joint stock company which shall contract with or be employed by the Commissioner on behalf of the corporation ; or
- (l) the occasional sale to the Commissioner on behalf of the corporation, to a value not exceeding in any one official year two thousand rupees, of any article in which he regularly trades.

(3) Nor shall the Police Commissioner be deemed to be so disqualified by reason of his office merely.

17. Any councillor who—

- (a) becomes disqualified for being a councillor for any reason mentioned in the last preceding section, or
- (b) absents himself during three successive months from the meetings of the corporation, except from temporary illness or other cause to be approved by the corporation,

shall cease to be a councillor, and his office shall thereupon be vacant.

A person becoming disqualified to cease to be a councillor.

18. Whenever it is alleged that any councillor has become disqualified for office for any reason aforesaid, and such councillor does not admit the allegation, or whenever any councillor is himself in doubt whether or not he has become disqualified for office, such councillor or any other councillor may, and the Commissioner, at the request of the corporation, shall, apply to the Chief

Questions as to disqualifications to be determined by Chief Judge of the Small Cause Court.

(Chap. II.—The Municipal Constitution. Sec. 19.)

Judge of the Small Cause Court ; and the said Chief Judge, after making such inquiry as he deems necessary, shall determine whether or not such councillor has become disqualified for being a councillor, and his decision shall be conclusive.

Municipal Election Roll.

Preparation and revision of list of persons qualified to vote.

19. (1) [a] On or before each first day of October, [a] the Commissioner shall prepare a list of persons appearing to be entitled to be enrolled in the municipal election roll as voters of wards, justices and fellows respectively.

(2) The arrangement of the list shall be alphabetical and it shall be in three parts, namely, for voters of wards, justices and fellows, respectively, and may be otherwise sub-divided as the Commissioner shall from time to time deem convenient.

(3) The list of voters of wards shall be made in separate lists, called ward lists, one for each ward into which the city is divided as hereinafter provided, containing the names of persons entitled to be enrolled as voters of that ward. The ward lists and the list of justices and the list of fellows shall be collectively deemed to constitute one list.

(4) In preparing the ward lists the Commissioner shall enter therein the names of the persons who have been assessed to the qualifying tax, whether such persons be individuals, companies, firms, undivided families or other associations or bodies of individuals, and shall also enter the names of persons who have been assessed as the trustees of any building or land.

(5) If individual members of any company, firm, undivided family or other association or body so entered, or if trustees whose names are so entered, have been assessed on their own separate account to the qualifying tax, the Commissioner shall enter their names in the list separately.

(6) The Commissioner shall publish the list, prepared as aforesaid, by causing a printed copy thereof to be fixed for public inspection in a conspicuous position on every Municipal Office on or before the ninth day of October and to be kept so fixed during the remaining days of October. Printed copies thereof shall also be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the Commissioner, with the approval of the standing committee, in this behalf.

(7) On or before each 10th day of October, the Commissioner shall give notice by advertisement in the local newspapers of the publication of the said list and of the place at which and the fee for which copies of it may be obtained.

(8) Every person whose name is not in the list so published and who

[*] Portion repealed by Act XVI of 1895 is omitted.

(Chap. II.—The Municipal Constitution. Sec. 19.)

claims to have it inserted therein shall, on or before the first day of November, give notice in writing of his claim to the Commissioner.

(9) Every person whose name is in the list may object to any other person as not being entitled to have his name retained therein. Every person objecting shall, on or before the first day of November, give to the Commissioner and also give to the person objected to, or leave at his last known place of abode, notice in writing of the objection and of the nature thereof.

(10) If the name of any person is entered as a voter in more than one ward list, he may, by notice in writing, which he shall give to the Commissioner on or before the first day of November, choose for which one of those wards he shall be entitled to vote.

(11) If the name of an undivided family or of any association or body of individuals, other than a company or firm, has been entered in the list, or if the names of trustees, being two or more in number, of any building or land have been so entered, any one individual person duly authorized in this behalf by the members of such family, association or body or by such trustees may, by notice in writing, which he shall give to the Commissioner on or before the first day of November, apply that his name be entered in the list as the representative, for the purposes of the list, of such family, association, body or trustees.

(12) The Commissioner shall, on some one of the first ten days of November, revise the list prepared as aforesaid.

(13) He shall for this purpose hear the claims, objections and applications which have been duly made as aforesaid in open office, giving three clear days' notice of the holding of the inquiry by written notice served upon each claimant, person objecting and applicant and upon each person objected to, and also fixed on some conspicuous place in every municipal office.

(14) The Commissioner shall insert in the list the name of every person who has duly claimed to have his name inserted therein and whose claim is proved to the Commissioner's satisfaction.

(15) The Commissioner shall expunge from the list the name of every person proved to his satisfaction to be dead and may correct any clerical error or omission in the list.

(16) Subject as aforesaid, the Commissioner shall retain in the list the name of every person to whom objection has not been duly made.

(17) The Commissioner shall also retain therein the name of every person objected to, unless the objector appears by himself or by some other person duly authorized by him in this behalf in support of the objection.

(18) Where the objector so appears, the Commissioner shall require proof of the qualification of the person objected to, and if within such reasonable time as the Commissioner, subject to the provision of sub-section (22), fixes in this behalf, such person's qualification is not proved to his satisfaction, shall expunge his name from the list.

(19) The Commissioner shall not retain the name of one person in more than one ward list. If any person whose name has been entered in more than one ward list has not chosen as aforesaid, the Commissioner shall determine for which one of those wards he shall be entitled to vote. But this shall not be deemed to prevent the names of individual members of companies, firms, undivided families or other associations or bodies, or of persons, who are trustees, which have been separately entered in the list under sub-section (5), from being retained on the list for one ward each, in addition to the names of the companies, firms, undivided families or other associations or bodies of which they are, respectively, members, or in addition to the names of the trustees, as the case may be, if such individuals or persons are entitled on their own separate account to have their names so retained.

(20) The name of one person may be separately entered and retained by the Commissioner in the list as a voter of a ward and as a justice and as a fellow, or in any two of those capacities, if such person is entitled to be enrolled in the municipal election roll in all or both such capacities, as the case may be.

(21) If no individual person has applied as aforesaid to have his name entered in the list as the representative of an undivided family or other association or body, not being a company or a firm, or of two or more trustees of any building or land, the Commissioner shall determine what individual person shall be entitled to represent such undivided family, or other association or body, or trustees, and enter his name in the list as the person qualified to vote or to be elected, in behalf of the undivided family or other association or body, or of the trustees, as the case may be.

(22) The Commissioner may adjourn the hearing of any matter under this section from time to time, so that no adjourned hearing be held after the tenth day of November.

Appeals
against
Commis-
sioner's
orders on
revision of
the list by
whom to be
heard.

20. In the event of the Commissioner rejecting any claim, objection or choice duly made under the last preceding section, the claimant or objector or person aggrieved may, at any time within five days after such rejection, apply to the Chief Judge of the Small Cause Court, and the said Chief Judge shall, within twenty days after receipt of such application and after such inquiry as he deems

(*Chap. II.—The Municipal Constitution. Secs. 21-23.*)

necessary, make such order for correcting the list or otherwise as shall seem to him fit, and his order shall be conclusive.

21. (1) When the list prepared as aforesaid has been revised by the Commissioner and corrected in compliance with any order passed in this behalf by the Chief Judge aforesaid, a printed copy thereof, signed by the Commissioner, shall be the municipal election roll and shall come into operation on the 10th of December and continue in operation for the twelve months beginning on that day.

Completion of the municipal election roll.

(2) The municipal election roll shall be divided and arranged in the same manner as the list from which it is made up. The separate ward lists, when completed, as hereinbefore provided, shall be called ward rolls. The ward rolls and the justices' roll and the fellows' roll shall collectively be deemed to constitute the municipal election roll.

(3) Every person enrolled in the municipal election roll shall be deemed to be entitled to vote at a ward election or as a justice or fellow, as the case may be, provided, in the case of a justice or a fellow, that such person be still a justice or fellow, as the case may be, at the time of the election; and every person not enrolled in the said roll shall be deemed to be not entitled so to vote.

(4) Printed copies of the municipal election roll shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as shall from time to time be prescribed by the Commissioner, with the approval of the standing committee, in this behalf.

(5) If a municipal election roll is not made in due time, the municipal election roll in operation immediately before the time appointed for its preparation shall continue in operation until the new roll is made.

Elections of Councillors.

22. (1) General elections of councillors shall be fixed by the Commissioner subject to the provisions of section 23, to take place triennially on such days in the months of January and February as he shall think fit.

Dates of elections.

(2) [*Repealed by Act XVI of 1895.*]

(3) Elections to fill casual vacancies shall be fixed by the Commissioner to take place on such days as he shall think fit as soon as conveniently may be after the occurrence of the vacancies.

23. The dates for all general elections shall be fixed in the following order and with the following intervals, namely:—

Order in which general elections are to be held.

first, the ward elections shall be fixed to take place simultaneously for all the wards;

(Chap. II.—The Municipal Constitution. Secs. 24-26.)

secondly, the day for election by the Bombay Chamber of Commerce shall be fixed at an interval not exceeding twenty-one days after the day fixed for the ward election ;

thirdly, the day for the justices' election shall be fixed at an interval not exceeding seven days after the day fixed for the election by the Bombay Chamber of Commerce ;

fourthly, the day for the fellows' election shall be fixed at an interval not exceeding fourteen days after the day fixed for the justices' election.

Division of the city into wards for purposes of elections.

24. (1) For the purposes of elections, the city shall be divided into wards, and the number of councillors to be elected at ward elections shall be apportioned over the said wards.

(2) The corporation may, with the sanction of Government, from time to time alter the number and boundaries of the wards and re-apportion the councillors to be elected at ward elections among the wards, but not so as that any such alteration or re-apportionment shall first have effect at a ward election to fill a casual vacancy.

(3) Unless and until they are so altered or re-apportioned, the number and respective boundaries of the wards and the number of councillors to be elected for each ward shall be as specified in Schedule B.

Notice to be given of days fixed for ward elections and justices' elections.

25. Fifteen days at least before the day fixed for a ward election or for a justices' election, notice of such election shall be given by the Commissioner. Such notice shall be given by advertisement in the Bombay Government Gazette and in the local newspapers, and, in the case of a ward election, by posting placards in conspicuous places in the ward for which such election is to take place.

Candidates at ward elections and justices' elections, must be nominated. Provisions regarding nominations.

26. (1) Candidates for election at a ward election or a justices' election must be duly nominated in writing in accordance with the provisions hereinafter contained.

(2) With respect to such nominations, the following provisions shall have effect, namely :—

(a) The Commissioner shall provide printed forms of nomination-papers, and any person entitled to vote at the election shall be supplied, at any time within seven days previous to the day fixed for the election, with as many such forms as may be required, free of charge ;

(b) Each nomination-paper must state the name, abode and description of the candidate in full, and be subscribed by two persons entitled to vote at the election as proposer and seconder ;

(Chap. II.—The Municipal Constitution. Sec. 26.)

- (c) Every nomination-paper subscribed as aforesaid must be delivered at the Commissioner's office before five o'clock in the afternoon of the day fixed for the election ;
- (d) Each candidate must be nominated by a separate nomination-paper, but any person entitled to vote at the election may subscribe as many nomination-papers as there are vacancies to be filled, but no more ;
- (e) If any person nominated—
- (i) is not enrolled in the municipal election roll as voter of a ward or as a justice or as a fellow, or
 - (ii) although enrolled in the municipal election roll as a justice or a fellow, has ceased to be a justice or a fellow, or
 - (iii) is disqualified for being a councillor for any of the reasons set forth in section 16,
- the Commissioner shall declare such person's nomination invalid ;
- (f) If there is no valid nomination, it shall be deemed that no councillor has been elected and proceedings for filling the vacancy or vacancies shall be taken under section 34 ;
- (g) If the number of valid nominations is less than that of the vacancies, the persons nominated shall be deemed to be elected, and for the remaining vacancy or vacancies it shall be deemed that no councillor has been elected and proceedings for filling such vacancy or vacancies shall be taken under section 34 ;
- (h) If the number of valid nominations is the same as that of the vacancies, the persons nominated shall be deemed to be elected ;
- (j) If the number of valid nominations exceeds that of the vacancies, the election of councillors shall be made from among the persons nominated, and such election shall be termed " a contested election " ;
- (k) If, when two or more ward elections are held simultaneously for different wards, any person is deemed, under clause (g) or clause (h), to be elected a councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the Commissioner, choose, by writing signed by him and delivered to the Commissioner, or, in his default, the Commissioner shall, when the time for choice has expired, declare for which one of those wards he shall serve. The choice or declaration so made shall be conclusive, and such person's nomination for the ward

(Chap. II.—The Municipal Constitution. Secs. 27-28.)

or wards for which he is not to serve shall be deemed to be null and void ;

- (l) If, when ward elections are held as aforesaid, any person who is deemed, under clause (g) or clause (h), to be elected a councillor for any one or more wards, has also been duly nominated for any one or more wards for which the number of nominations exceeds that of the vacancies, he shall within twenty-four hours after receipt of written notice thereof from the Commissioner choose, by writing signed by him and delivered to the Commissioner, whether he shall serve for the ward or for any one of the wards for which he is elected, or will stand as a candidate at the contested election or elections for the other ward or wards. In his default, the Commissioner shall, when the time for choice has expired, declare that he shall serve for the ward or for some one of the wards for which he is elected, and his nomination for any other ward shall be deemed to be null and void. If such person chooses, by writing as aforesaid, to stand as a candidate at the contested election or elections, his nomination for the ward or wards for which he is elected shall be deemed to be null and void. Any choice or declaration made under this clause shall be conclusive.

Poll to be taken when a ward election or a justices' election is contested.

27. (1) When a ward election or a justices' election is contested, a poll shall be taken seven days after the day fixed for the election. At such poll, the municipal election roll which was in operation on the day fixed for the election shall be deemed to be the roll to which reference must be made for the purposes of the election.

Names of candidates validly nominated to be published.

(2) At least four days before the day of the poll, the Commissioner shall cause the names of all the persons validly nominated, with their respective abodes and descriptions and the names of the persons subscribing their respective nomination-papers as proposers and seconders, to be published in the Bombay Government Gazette and in the local newspapers.

Provisions respecting contested ward elections.

28. With respect to contested ward elections, the following provisions shall have effect, namely :—

- (a) One or more polling-places shall be provided by the Commissioner for each ward, as he thinks fit, and the Commissioner may appoint such and so many polling-officers and other persons to assist at the poll as he shall think fit, and, with the approval of the standing

(Chap. II.—The Municipal Constitution. Sec. 28.)

- committee, pay them such reasonable remuneration for their services as he shall determine ;
- (b) The poll shall commence at nine o'clock in the forenoon and close at six o'clock in the afternoon of the same day ;
- (c) The Commissioner shall have voting-papers, in such forms as he from time to time thinks fit, printed, and the said forms shall be supplied to persons entitled to vote, on any of the four days (not being a Sunday or a public holiday) previous to the day of the poll at the municipal office and on the day of the poll at each polling-place, free of charge ;
- (d) At each election for any ward, every voter shall be entitled to a number of votes equal to the number of councillors to be elected at such election for such ward, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit ;
- (e) No votes shall be received for any candidate whose name has not been published by the Commissioner, under sub-section (2) of section 27, as having been validly nominated ;
- (f) No vote shall be received from any person whose name is not enrolled in the ward-roll as a voter of the ward for which the election is being held ;
- (g) When the name in the ward-roll is that of a joint-stock company, a vote on behalf of the said company may be received from its secretary, agent or manager ;
- (h) When the name in the ward-roll is that of any company, other than a joint-stock company, or of a firm, a vote on behalf of such company or firm may be received from any person who produces to the polling-officer a power-of-attorney authorizing him to represent the said company or firm for the purpose of the election ;
- (j) The polling-officer shall, if required by two persons whose names are enrolled in the ward-roll, or by a candidate, put to any person offering to vote, at the time of his presenting his voting-paper, but not afterwards, the following questions, or either of them :—
- (i) Are you the person enrolled in the ward-roll as follows (*read the whole entry from the roll*) ?
- (ii) Have you already voted at the present election (*add, in case of simultaneous elections in two or more wards, or at any election being at present held for any other ward*) ?

(Chap. II.—The Municipal Constitution. Sec. 28.)

- (k) A person to whom either of the said questions is put shall be bound to answer the same truly. His voting paper shall not be received until he has answered the question or questions so put to him ;
- (l) Except as aforesaid, no inquiry shall be permitted at a ward election as to the right of any person to vote thereat ;
- (m) The answers or answer made by any person to whom the said questions or either of them are or is put shall be recorded by the polling-officer under his signature in writing, and such writing, together with the said person's voting-paper, shall be forwarded by the polling-officer, at the close of the poll, separately from the voting-papers of the persons whose right to vote has not been challenged as aforesaid ; and the polling-officer shall direct the parties to any such challenge to appear, within three days after the poll, before the Commissioner ;
- (n) The name of the person, or of every person for whom a voter votes, and all other details prescribed by the form of the voting-paper, shall be written legibly, in English, in the voting-paper, and the voter shall sign, or attach his mark to, the voting-paper in the presence of the polling-officer ; and the said officer shall attest each such signature or mark and shall attach consecutive numbers to each of the voting-papers presented to him ;
- (o) After the close of the poll, the polling-officer shall forward all the voting-papers presented to him, in one or more packets duly secured and sealed, to the Commissioner, together with a list of the cases, if any, in which a person's right to vote has been challenged ;
- (p) The Commissioner shall, as soon as may be, hear and decide upon all challenges and other objections, if any, to or regarding the poll made to him in writing not later than five o'clock in the afternoon of the day after the poll, and cause lists to be prepared of the valid votes given for each candidate. The said lists and the voting-papers on which they are based shall be kept in the Commissioner's office, unless called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, for three months ;
- (q) The person, or where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected who have the greatest number of valid votes, shall be deemed to be elected ;

(Chap. II.—The Municipal Constitution. Sec. 29.)

- (r) Where an equality of such votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Commissioner in such manner as he shall determine ;
- (s) If a candidate is elected councillor for more than one ward, he shall, within twenty-four hours after receipt of written notice thereof from the Commissioner, choose, by writing signed by him and delivered to the Commissioner, or, in his default, the Commissioner shall when the time for choice has expired, declare for which of those wards he shall serve, and the choice or declaration shall be conclusive ;
- (t) When any such choice or declaration has been made, the votes recorded for the candidate aforesaid in any ward for which he is not to serve shall be deemed not to have been given, and the candidate, if any, who, but for the said votes, would have been declared elected for such ward, shall be deemed to have been duly elected for the same.

29. With respect to justices' contested elections the following provisions shall have effect, namely :—

Provisions
regarding
justices'
contested
elections.

- (a) The poll shall be taken at a meeting of the justices, of the time and place of which reasonable notice shall be given by the Commissioner by advertisement in the Bombay Government Gazette and in the local newspapers, and which shall be presided over by such one of the justices present, as may be chosen by the meeting to be chairman for the occasion ;
- (b) Every person entitled to vote may vote by signing and personally delivering, at the meeting held in accordance with the notice given under clause (a), to the chairman of such meeting, a voting-paper containing the name in full of the candidate or of each of the candidates for whom he votes ;
- (c) Every voter shall be entitled to vote for any number of candidates not exceeding the number of vacancies ;
- (d) No vote shall be received for any candidate whose name has not been published by the Commissioner, under sub-section (2) of section 27, as having been validly nominated ;
- (e) No vote shall be received from any person whose name is not enrolled

(Chap. II.—The Municipal Constitution. Secs. 30-32.)

in the justices' roll or who is not on the day of the meeting a justice ;

- (f) The chairman of the meeting, as soon as all the voting-papers of the justices present and voting have been delivered to him, shall close the meeting and shall, as soon as may be, cause lists to be prepared of the valid votes given for each candidate. The said lists, and the voting-papers on which they are based, shall be delivered by the chairman of the meeting to the municipal secretary, by whom, unless they are called for in the meantime by the Chief Judge of the Small Cause Court for the purpose of any appeal, they shall be kept for three months ;
- (g) The person, or, where there is more than one councillor to be elected, the persons not exceeding the number of councillors to be elected, who have the greatest number of valid votes shall be deemed to be elected ;
- (h) In case of an equality of such votes, the chairman of the meeting shall have a second or casting vote ;
- (j) The chairman of the meeting shall make a return in duplicate to the Commissioner setting forth the name in full of every person elected at the meeting.

Proceedings
at fellows'
elections.

30. (1) Elections of councillors by fellows shall be made, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the senate of the University of Bombay convened in accordance with the rules at the time in force in this behalf : Provided that no vote shall be received from any person whose name is not enrolled in the fellows' roll or who is not on the day of the meeting a fellow.

(2) The Registrar of the University shall make a return in duplicate to the Commissioner setting forth the name, abode and description of every person so elected.

Proceedings
at elections
by the Cham-
ber of Com-
merce.

31. (1) Elections of councillors by the Bombay Chamber of Commerce shall be made by the members for the time being of the said Chamber, subject to the provisions of section 15, in such manner as shall from time to time be determined at a meeting of the said Chamber convened in accordance with the rules at the time in force in this behalf.

(2) The Secretary to the said Chamber shall make a return in duplicate to the Commissioner setting forth the name in full of every person so elected.

Declaration
of results of
elections.

32. (1) The result of every election shall be declared by fixing, as soon as may be after the election, in some conspicuous place on the chief municipi-

pal office, a notice certifying the names of the persons, if any, elected and, in the case of a contested election, the number of votes recorded for each candidate.

(2) The said notice shall be signed, in the case of a ward-election and in the case of a justices' election which is not contested, by the Commissioner, in the case of a contested justices' election, by the chairman of the meeting of justices at which the election took place, in the case of a fellows' election, by the Registrar of the University of Bombay, and in the case of an election by the Bombay Chamber of Commerce, by the Secretary of that Chamber.

33. (1) If the qualification of any person declared to be elected for being a councillor is disputed, or if the validity of any election is questioned, whether by reason of the improper rejection by the Commissioner of a nomination or of the improper reception or refusal of a vote, or for any other cause, any person enrolled in the municipal election roll may, at any time, within eight days after the result of the election has been declared, apply to the Chief Judge of the Small Cause Court.

Election petitions to be heard and disposed of by Chief Judge of the Small Cause Court.

(2) If the said Chief Judge, after making such inquiry as he deems necessary, finds that the election was a valid election and that the person whose election is objected to is not disqualified, he shall confirm the declared result of the election. If he finds that the election was not a valid election, he shall set it aside, so far as concerns the person whose election is objected to. If he finds that there is no objection to the validity of the election-proceedings, but that the person whose election is objected to is disqualified for being a councillor, he shall declare such person's election null and void, and direct that the candidate, if any, in whose favour the next highest number of votes was recorded after the said person, or after all the persons who were returned as elected at the said election, shall be deemed to have been elected.

(3) The said Chief Judge's order shall be conclusive.

(4) If he sets aside an election or if, when he declares a person who has been declared elected disqualified for being a councillor, there is no other candidate who can be deemed to have been elected, proceedings for filling the vacancy or vacancies shall be taken under section 34.

(5) Every election not called in question in accordance with the foregoing provisions shall be deemed to have been to all intents a good and valid election.

34. (1) If from any cause no councillor is elected at any general election, Procedure

(Chap. II.—The Municipal Constitution. Secs. 35-36.)

if election fails.

[^a] the retiring councillor or councillors shall, if willing to serve, be deemed to be re-elected.

(2) If, in any such case, the retiring councillor is not willing to serve, or some of the retiring councillors are willing to serve and some are not, or if, in the case[^a] of an election to fill a casual vacancy, no councillor is elected, or

if, in the case of any election, an insufficient number of councillors are elected,

the Commissioner shall without delay inform the corporation of the circumstances, and thereupon the corporation, so far as it is constituted, may appoint a duly qualified person to fill the vacancy, or each vacancy, as the case may be, and, if the corporation shall fail within fifteen days after receipt of such information to appoint a person as aforesaid, the Commissioner shall appoint another day for holding a fresh election.

(3) A fresh election held under this section shall be held subject in all respects to the same provisions as if it were an election to fill a casual vacancy.

Appointment of Councillors by Government.

Government appointments of councillors when to be made.

35. (1) [*Repealed by Act XVI of 1895.*]

(2) [^a] Appointments [^b] of councillors by Government to succeed retiring councillors shall be made triennially not less than seven days before the day for retirement.

(3) Appointments of councillors by Government to fill casual vacancies shall be made as soon as conveniently may be after the occurrence of such vacancies.

Proceedings of the Corporation.

Provisions regulating the corporation's proceedings.

36. The corporation shall meet for the despatch of business and shall from time to time make such regulations with respect to the summoning-notice, place, management and adjournment of such meetings, and generally with respect to the mode of transacting and managing the business of the corporation as they think fit subject to the following conditions:

(a) there shall be one ordinary meeting in each month; the ordinary meeting in the month of March shall be held not later than on the twentieth day of that month ;

[^a] Portion repealed by Act XVI of 1895 is omitted.

[^b] " Appointments " was substituted for " appointment " by Act XVI of 1895.

(Chap. II.—The Municipal Constitution. Sec. 36.)

- (b) the first meeting in the month of April after general elections shall be held as early as conveniently may be in the said month on a day and at a time and place to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner ;
- (c) the day, time and place of meeting shall in every other case be fixed by the president of the corporation, or in the event of the office of president being vacant, or of the death or resignation of the president or of his ceasing to be a councillor, or of his being incapable of acting, by the chairman of the standing committee ;
- (d) the president of the corporation or, in any such event as aforesaid, the chairman of the standing committee may, whenever he thinks fit, and shall, upon a written requisition signed by not less than sixteen councillors or by not less than four members of the standing committee, call a special meeting ;
- (e) every meeting shall be open to the public, unless a majority of the councillors present thereat decide by a resolution, which shall be put by the presiding authority, of his own motion or at the request of any councillor present, without previous discussion, that any inquiry or deliberation pending before the corporation is such as should be held in private, and provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings ;
- (f) if at any time during a meeting it shall be brought to the notice of the presiding authority that the number of councillors present falls short of twenty, inclusive of the presiding authority, the presiding authority shall adjourn the meeting to some other day, fixing such time and place for the same as he shall think convenient, and the business which remains undisposed of at such meeting shall be disposed of at the adjourned meeting or, if the latter meeting should be again adjourned, at any subsequent adjourned meeting, whether there be a quorum of twenty members present thereat or not ;
- (g) every meeting shall be presided over by the president, if he is present at the time appointed for holding the same and, if the office of president is vacant or if the president is absent, by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion ;

(Chap. II.—The Municipal Constitution. Ser. 36.)

- (*h*) at least seven clear days' notice shall ordinarily be given of every meeting, other than an adjourned meeting, but in cases of urgency any such meeting may be called, except for the purpose of considering an annual budget-estimate, in pursuance of a written requisition signed by not less than four members of the standing committee, upon a notice of not less than three clear days; of adjourned meetings such previous notice shall be given as shall be practicable having regard to the period of the adjournment;
- (*i*) every notice of a meeting shall specify the time and place at which such meeting is to be held and the business to be transacted thereat and shall be given by the municipal secretary by advertisement in the local newspapers and, except in the case of adjourned meetings or of meetings called upon a requisition of urgency, in the Bombay Government Gazette;
- (*k*) any councillor who desires at any meeting to bring forward any business, or to make any substantive proposition, which is not already specified in the notice of such meeting, shall give written notice of the same to the municipal secretary at least three clear days before the day fixed for the meeting; and a supplementary announcement of the business or propositions, of which notice has been so given, shall be given by the said secretary in not less than one local daily newspaper not later than the day previous to the meeting;
- (*l*) except at a meeting called on a requisition of urgency or at the discussion at any meeting of a budget-estimate, no business shall be transacted at any meeting other than the business specified in the notice published under clause (*j*) or urgent business not specified in the said notice which the standing committee or the Commissioner deem it expedient to bring before the meeting, and no substantive proposition shall be made or discussed which is not specified in the said notice or in the supplementary announcement, if any, published under clause (*k*), or which is not in support of the recommendation of the standing committee or of the Commissioner with reference to any urgent business brought by either of those authorities, respectively, before the meeting: Provided that no such urgent business as aforesaid shall be brought before any meeting, unless at least three-fourths of the councillors present at such meeting, such three-fourths being not less than fifteen in number, assent to its being brought forward thereat;

(Chap. II.—The Municipal Constitution. Sec. 36.)

- (m) at a meeting called on a requisition of urgency and during the discussion at any meeting of a budget-estimate, no business shall be transacted and no substantive proposition shall be made or discussed which does not directly relate to the business for which the urgent meeting was called, or to the budget-estimate, as the case may be; and no proposition involving any change in the taxes which the standing committee propose to impose, or an increase or decrease of any item of expenditure in a budget-estimate, shall be made or discussed at any meeting at which such budget-estimate is under consideration, unless such proposition is specified in the notice of the meeting published under clause (j) or in the supplementary announcement, if any, published under clause (k), or unless, in the case of an adjourned meeting, each of the conditions mentioned in the proviso to clause (n) has been fulfilled;
- (n) any meeting may, with the consent of a majority of the councillors present, be adjourned from time to time, but no business shall be transacted and, except as is hereinafter provided, no proposition shall be discussed at any adjourned meeting other than the business and propositions remaining undisposed of at the meeting from which the adjournment took place: Provided that at any adjourned meeting at which a budget-estimate is under consideration a proposition involving any change such as is described in clause (m) may be made and discussed, notwithstanding that such proposition is not one remaining undisposed of at the meeting from which the adjournment took place, if each of the following conditions has been fulfilled, namely:—
- (i) that written notice of such propositions has been given at the meeting from which the adjournment took place;
 - (ii) that the adjournment has been for not less than three clear days; and
 - (iii) that a special announcement of the proposition has been given by the municipal secretary (who shall be bound to give such announcement) in not less than one local daily newspaper not later than the day previous to the adjourned meeting;
- (o) a minute of the names of the councillors present and of the proceedings at every meeting shall, on the day following the meeting, or as soon thereafter as may be, be drawn up and fairly entered by the municipal secretary in a book to be provided for this purpose, and

(Chap. II.—The Municipal Constitution. Sec. 37.)

shall be signed at, and by the presiding authority of, the next ensuing meeting; and the said minute-book shall at all reasonable times be open at the chief municipal office to inspection by any councillor free of charge, and by any other person on payment of a fee of eight annas;

- (p) a councillor shall not vote or take part in the discussion of any matter before a meeting in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person;
- (q) every question other than the question whether the standing committee or the Commissioner shall be permitted to bring urgent business before a meeting without notice shall be decided by a majority of votes of the councillors present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes;
- (r) a declaration by the presiding authority that a proposition has been carried and an entry to that effect in the minute-book shall, unless a poll be demanded at the time of such declaration by not less than four councillors, be conclusive evidence of the fact, without proof of the number of votes given for or against the proposition;
- (s) when a poll is taken, the vote of each councillor present and voting upon the proposition shall be taken by tellers appointed by the presiding authority and the names of the councillors voting respectively for or against the proposition shall be recorded in the minute-book;
- (t) the Commissioner shall have the same right of being present at a meeting of the corporation 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.

President of the Corporation.

Appoint-
ment of

37. (1) The corporation shall at their first meeting in each official year appoint one of their own number to be president until the first meeting of the

(Chap. II.—The Municipal Constitution. Secs. 38-39.)

corporation in the next following official year, unless the councillors in the meantime retire from office, and then until the day for retirement. president of the corporation.

(2) Any councillor who ceases to be president shall be re-eligible.

(3) If any casual vacancy occurs in the office of president of the corporation, the corporation shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy, and every president so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

Committees.

38. The corporation may from time to time appoint out of their own body such and so many committees consisting of such number of persons, and may refer to such committees, for inquiry and report or for opinion, such special subjects relating to the purposes of this Act as they shall think fit. Appointment of consultative committees for special purposes.

39. (1) It shall be the duty of the corporation and of Government each to appoint four members of a Joint Schools Committee of eight members, for the purpose of giving effect to the provisions as to primary education hereinafter enacted. Appointment by the corporation and by Government of a Joint Schools Committee for purposes of primary education.

(2) [*]The members [*]duly appointed may perform all the functions legally pertaining to the committee, notwithstanding any default, delay or defect in the appointment of any member.

(3) [*]The two senior members shall retire at the end of each calendar year, and two shall be appointed or re-appointed by Government or by the corporation, whereof each shall appoint to the place vacated by any member previously appointed by itself, whether such vacancy have arisen as aforesaid or by death or resignation of the member.

(4) The names of all persons appointed to be members of the said committee shall be published by the municipal secretary in the Bombay Government Gazette.

(5) The Joint Schools Committee shall, by election from amongst its own members, appoint one member to be chairman for the current term of his office or for any shorter period. The chairman so appointed shall preside

[*] Portion repealed by Act XVI of 1895 is omitted.

(Chap. II.—The Municipal Constitution. Sec. 40.)

and, in his absence, the senior member according to date of first appointment or, in case of equality of date, the member whose name appears first in the list published in the Bombay Government Gazette shall preside at meetings of the committee. He shall have a vote and, in case of equal division, a casting vote.

(6) The corporation shall provide for the Joint Schools Committee a competent secretary and such clerks and messengers as shall be necessary. It shall also supply the committee with accommodation, stationery and the other material requisites for the due discharge of its duties on the requisition of the chairman, signified by him, by any member of the committee, or by the secretary.

(7) The Joint Schools Committee shall administer the school-fund herein-after defined and prescribed and shall provide thereout for the accommodation and maintenance of primary schools which at any time vest wholly or partly in the corporation and for otherwise aiding primary education in accordance with bye-laws duly made under section 461, and with rules made or approved by Government in this behalf.

(8) An order signed by the chairman of the said committee shall be sufficient warrant for the disbursement by any person holding the school-fund, or any part thereof, of any sum thereout in accordance with such order.

(9) The Joint Schools Committee shall appoint and remove masters, teachers and other persons employed in the primary schools maintained out of the school-fund, and shall direct and control the instruction given in such schools and the terms and conditions of such instruction, and annex to the aid given to other primary schools such terms as shall seem expedient, subject always to bye-laws duly made under section 461 and to rules made or approved by Government in this behalf.

(10) The Joint Schools Committee may, by a bye-law duly made under section 461, be invested with the powers and duties of any authority constituted under this Act, in so far as shall be necessary or expedient in order to the fulfilment of the functions imposed on such committee as contemplated in this section and in section 61, clause (g), and, to the extent to which such committee is invested as aforesaid, the powers and duties of the said authority shall be in abeyance, save as so vested and exercised accordingly.

40. The corporation may, for the purpose of giving effect to measures and arrangements in furtherance of secondary education or any branch of technical or other instruction, appoint or join in appointing a committee in the manner described in the last preceding section or as may be determined by any bye-law

Committee
may be ap-
pointed for
other educa-
tional pur-
poses.

(Chap. II.—The Municipal Constitution. Secs. 41-45.)

made under section 461, and such committee shall have in relation to the branch of education and the institutions for which it is appointed the like powers and duties as are herein assigned to the Joint Schools Committee, save as the same may be varied by any bye-law made under the said section.

41. The corporation, either singly or in concurrence with Government, may appoint a Hospital Committee with such constitution, powers and duties with respect to hospitals and institutions for the benefit of the aged, sick and infirm, vesting wholly or partly in the corporation and supported or aided out of its funds, as may be defined and provided by bye-laws made under section 461 or by any agreement made with Government in this behalf.

Appointment of Hospital Committee.

(B) The Standing Committee.

42. The standing committee shall consist of twelve councillors, eight appointed by the corporation and four by Government.

Constitution of standing committee.

43. (1) The corporation shall at their first meeting in the month of April, after general elections, appoint eight persons out of their own body to be members of the standing committee.

Members of the standing committee when to be appointed.

(2) Four other councillors shall be appointed by Government to be members of the standing committee within one week after such appointment by the corporation.

44. (1) The standing committee shall at their first meeting in each official year appoint one of their own number to be their chairman until the first meeting of the said committee in the next following official year.

Appointment of chairman of standing committee.

(2) A member of the standing committee who ceases to be chairman shall be re-eligible.

(3) If any casual vacancy occurs in the office of chairman, the standing committee shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their number to fill such vacancy, and every chairman so chosen shall continue in office so long only as the person in whose place he is appointed would have been entitled to continue if such vacancy had not occurred.

45. (1) One-half of the members of each standing committee appointed by the corporation and one-half of those appointed by Government, the selection of the said members being made by lot at such time previous to the first day of March and in such manner as the chairman shall determine, shall retire from office at noon on the first day of April next following the date of their appointment.

Members of the standing committee to retire by rotation.

(2) The remaining members of the standing committee shall retire from

(Chap. II.—The Municipal Constitution. Secs. 46-49.)

office at noon on the first day of April next following the first day of April aforesaid.

Appointment of members of standing committee to replace those who retire.

46. (1) The corporation shall at their ordinary meeting in the month of March appoint fresh members of the standing committee to fill the offices of those previously appointed by them who retire from time to time as aforesaid, and, within one week after any such appointment by the corporation, Government shall appoint fresh members to fill the offices of those previously appointed by them who retire as aforesaid.

(2) Any councillor who ceases to be a member of the standing committee shall be re-eligible.

Casual vacancies in the standing committee how to be filled up.

47. In the event of non-acceptance of office by a councillor appointed to be a member of the standing committee or of the death, resignation or disqualification of a member of the said committee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment by the corporation or by Government, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is appointed would have been entitled to hold it, if the vacancy had not occurred.

Each standing committee to continue in office till a new committee is appointed.

48. The standing committee in existence on the day for the retirement of councillors shall continue to hold office until such time as a new standing committee is appointed under section 43, notwithstanding that the members of the said committee or some of them may no longer be councillors.

Provisions regulating the proceedings of the standing committee.

49. The standing committee shall meet for the despatch of business in the chief municipal office and may, from time to time, make such regulations with respect to such meetings and with respect to the scrutiny of the municipal accounts as they think fit, subject to the following conditions:—

- (a) there shall be a meeting of the standing committee once a week, and at such other times as shall be found necessary;
- (b) the first meeting of each standing committee shall be held on a day and at a time to be fixed by the Commissioner, and if not held on that day shall be held on some subsequent day to be fixed by the Commissioner; and every subsequent meeting of the standing committee shall be held on such day and at such time as the said committee from time to time determine;
- (c) the chairman of the standing committee shall, upon a written requisition signed by the Commissioner, call a special meeting of the said committee within twenty-four hours for the transaction of any

(Chap. II.—The Municipal Constitution. Sec. 49.)

- business which, in the opinion of the Commissioner, cannot be delayed until the next ordinary meeting of the said committee ;
- (d) no business shall be transacted at a meeting of the standing committee unless at least six members are present from the beginning to the end of such meeting ;
 - (e) every meeting of the standing committee shall be presided over by the chairman, if the chairman is present at the time appointed for holding the meeting, and, if the chairman is absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion ;
 - (f) every question shall be decided by a majority of votes of the members of the standing committee present and voting on that question, the presiding authority having a second or casting vote when there is an equality of votes ;
 - (g) subject to any bye-laws in this behalf made under clause (i) of section 461, the standing committee may from time to time, by a specific resolution in this behalf, delegate any of their powers or duties to sub-committees consisting of such members of the said committee not less in number than three on each sub-committee, as they think fit ; and any sub-committee so formed shall conform to any instructions that may from time to time be given to them by the standing committee, and the said committee may at any time discontinue or alter the constitution of any sub-committee so formed ;
 - (h) a sub-committee, may elect a chairman of their meetings, and, if no such chairman is elected or if he is not present at the time appointed for holding any meeting, the members of the sub-committee present shall choose one of their number to be chairman of such meeting ;
 - (i) sub-committees may meet and adjourn as they think proper, but the chairman of the standing committee may, whenever he thinks fit and shall, upon the written request of not less than two members of a sub-committee, call a special meeting of such sub-committee ;
 - (j) questions at any meeting of a sub-committee shall be decided by a majority of votes of the members present and, in case of an equality of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the sub-committee are present from the beginning to the end thereof

(Chap. II.—The Municipal Constitution. Secs. 50-53.)

- (l) a minute shall be kept by the municipal secretary of the names of the members present and of the proceedings at each meeting of the standing committee and at each sub-committee's meetings in a book to be provided for this purpose, which shall be signed at, and by the presiding authority of, the next ensuing meeting ;
- (m) a member of the standing committee shall not vote or take part in the discussion before the said committee or before any sub-committee of any matter in which he has, directly or indirectly, by himself or by his partner, any share or interest such as is described in clauses (g) to (l), both inclusive, of section 16, or in which he is professionally interested on behalf of a client, principal or other person ;
- (n) the Commissioner shall have the same right of being present at a meeting of the standing committee and of taking part in the discussions thereat as a member of the said committee, but he shall not be at liberty to vote upon, or make, any proposition at such meeting.

Fees payable to members of the standing committee.

50. Every member of the standing committee shall be entitled to receive a fee of thirty rupees for each meeting of the said committee at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that no more than one fee shall be paid to any member for his attendance at all such meetings in any one week.

Provisions regarding validity of Proceedings.

Vacancy in corporation, etc., not to invalidate their proceedings. Proceedings of corporation, etc., not vitiated by disqualification, etc., of members thereof.

51. No act or proceeding of the corporation or of the standing committee or of any committee or sub-committee appointed under this Act shall be questioned on account of any vacancy in their body.

52. No disqualificationⁿ of, or defect in, the election or appointment of any person acting as a councillor or as the president or presiding authority of the corporation or as the chairman or as a member of the standing committee or of any committee or sub-committee appointed under this Act shall be deemed to vitiate any act or proceeding of the corporation or standing committee or of any such committee or sub-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.

53. Until the contrary is proved, every meeting of the corporation or standing committee or of a committee or sub-committee in respect of the

Proceedings of meetings to

(Chap. II.—The Municipal Constitution. Secs. 54-56.)

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 proceedings of a committee or sub-committee such committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute.

be deemed to be good and valid until the contrary is proved.

(C) The Municipal Commissioner.

54. (1) The Municipal Commissioner for the City of Bombay shall be from time to time appointed by the Governor in Council for a renewable period of three years.

Appointment of the Commissioner.

(2) But he shall be forthwith removed by Government from office if at a meeting of the corporation not less than forty-five councillors shall vote in favour of a proposition in this behalf; and he may be removed by the Governor in Council at any time if it shall appear to the Governor in Council 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.

Deputy Municipal Commissioner.

55. (1) Subject to confirmation by the Governor in Council, the corporation may at any time and from time to time appoint a person to be a Deputy Municipal Commissioner, if it shall appear to it expedient so to do.

Appointment of a Deputy Municipal Commissioner.

(2) Every person so appointed shall be subject to the same liabilities, restrictions and conditions to which the Commissioner is subject.

56. (1) A Deputy Commissioner so appointed shall be subordinate to the Commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the Commissioner as the Commissioner shall from time to time depute to him :

Functions of a Deputy Commissioner.

(2) Provided that—

(a) it shall not be lawful for a Deputy Commissioner to appear in the Commissioner's stead at any meeting of the corporation or standing committee or to exercise thereat any right or power of the Commissioner ;

(b) the Commissioner shall inform the corporation of the powers and duties which he from time to time deputes to a Deputy Commissioner.

(3) All acts and things performed and done by a Deputy Commissioner, during his tenure of the said office and in virtue thereof, shall for all purposes be deemed to have been performed and done by the Commissioner.

*(Chap. II.—The Municipal Constitution. Secs. 57-59.)**Remuneration of Commissioner and Deputy Commissioner.*

Salary of the Commissioner to be fixed by Government.

57. (1) The Commissioner shall receive such monthly salary, not exceeding rupees two thousand five hundred and not less than rupees two thousand as Government shall from time to time determine, in return wherefor he shall, except as hereinafter provided, 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 :

Duties which may be undertaken by the Commissioner outside of this Act.

(2) Provided that he may at any time—

(a) hold the office of a trustee of the port of Bombay ;

(b) with the sanction of the corporation, serve or any committee constituted for the purpose of any local inquiry or for the furtherance of any object of local importance or interest.

(3) Provided also that, with the approval of the corporation, the monthly salary of a Commissioner, who has held the appointment for a period of not less than three years, may be raised to a sum not exceeding three thousand rupees.

Remuneration of a Deputy Municipal Commissioner.

58. A Deputy Municipal Commissioner shall receive such monthly salary not exceeding rupees fifteen hundred and not less than rupees twelve hundred as the corporation shall from time to time determine.

Provisions for absence of Commissioner or Deputy Commissioner on leave.

Grant of leave of absence to the Commissioner or Deputy Commissioner. Allowance whilst absent on leave.

59. (1) Leave of absence may be granted, from time to time—

(a) to the Commissioner, by the Governor in Council, with the assent of the standing committee ;

(b) to a Deputy Commissioner, by the corporation.

(2) The allowance to be paid to the Commissioner or to a Deputy Commissioner whilst so absent on leave shall be of such amount, not exceeding respectively the amount of the salary of the Commissioner or Deputy Commissioner, as shall be fixed by the Governor in Council or the corporation, respectively : Provided that, if the Commissioner or Deputy Commissioner is a Government officer, the amount of such allowance shall be regulated by the rules at the time in force relating to the leave allowances of officers of his class.

Appointment and remuneration of acting Commissioner or acting Deputy Commissioner.

(3) During any absence of the Commissioner or of a Deputy Commissioner the Governor in Council or the corporation may appoint a person to act as Commissioner or as Deputy Commissioner, as the case may be. Every person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act or by any other enactment at the time in force on the person for whom he is appointed to act, and shall be subject to the same lia-

(Chap. II.—The Municipal Constitution. Sec. 60. Chap. III.—Duties and Powers of the Municipal Authorities. Sec. 61.)

bilities, restrictions and conditions to which the said person is liable, and shall receive such monthly salary, within the limits prescribed in sections 57 and 58 for a Commissioner and a Deputy Commissioner, as Government or the corporation, respectively, shall determine.

Disqualifications of the Commissioner and Deputy Commissioner.

60. (1) No person shall be qualified to be appointed or to be Commissioner or a Deputy Commissioner who has, directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of the corporation or in any employment with, by or on behalf of the corporation other than as Commissioner or Deputy Commissioner, as the case may be.

Commissioner and Deputy Commissioner not to be interested in any contract, etc., with the corporation.

(2) Any Commissioner or Deputy Commissioner 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 Commissioner or a Deputy Commissioner, as the case may be, and his office shall become vacant.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the corporation as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have without his being thereby disqualified for being a councillor.

CHAPTER III.

DUTIES AND POWERS OF THE MUNICIPAL AUTHORITIES.

Obligatory and Discretionary Duties of the Corporation.

61. It shall be incumbent on the corporation to make adequate provision, by any means or measures which it is lawfully competent to them to use or to take, for each of the following matters, namely :—

Matters to be provided for by the corporation.

- (a) the construction, maintenance and cleansing of drains and drainage works, and of public latrines, urinals and similar conveniences ;
- (b) the construction and maintenance of works and means for providing a supply of water for public and private purposes ;
- (c) scavenging and the removal and disposal of excrementitious and other filthy matter, and of all ashes, refuse and rubbish ;
- (d) the reclamation of unhealthy localities, the removal of noxious vegetation and generally the abatement of all nuisances ;
- (e) the regulation of places for the disposal of the dead and the provision of new places for the said purpose ;

(Chap. III.—Duties and Powers of the Municipal Authorities. Secs. 62-63.)

- (f) the registration of births and deaths;
- (g) measures for preventing and checking the spread of dangerous diseases;
- (h) the construction and maintenance of public markets and slaughter-houses and the regulation of all markets and slaughter-houses;
- (i) the regulation of offensive and dangerous trades;
- (k) the entertainment of a fire-brigade and the protection of life and property in the case of fire;
- (l) the securing or removal of dangerous buildings and places;
- (m) the construction, maintenance, alteration and improvement of public streets, bridges, culverts, causeways and the like;
- (n) the lighting, watering and cleansing of public streets;
- (o) the removal of obstructions and projections in or upon streets, bridges and other public places;
- (p) the naming of streets and the numbering of premises;
- (q) maintaining, aiding and suitably accommodating schools for primary education;
- (r) the maintenance of a municipal office and of all public monuments and other property vesting in the corporation.

Share of the expenses of the police of the city to be paid by the corporation.

62. The corporation shall also provide and pay to Government—

- (a) such proportion of the annual expenses of the police of the city as Government shall from time to time determine; and
- (b) the necessary contingent expenses, as determined from time to time by Government, incurred by the Police Commissioner in granting licenses under Bombay Act VI of 1863[*] (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*) to public conveyances in the city.

Matters which may be provided for by the corporation at their discretion.

63. The corporation may, in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters, namely:—

- (a) public vaccination;
- (b) educational objects other than those set forth in clause (g) of section 61;
- (c) constructing, maintaining or aiding libraries, museums and art galleries;
- (d) constructing or maintaining public parks and gardens and botanical and zoological collections;

[*] Printed in Vol. II of this Code, p. 52.

(Chap. III.—Duties and Powers of the Municipal Authorities. Sec. 64.)

- (e) planting and maintaining trees on road sides and elsewhere ;
- (f) surveys of buildings or lands ;
- (g) registration of marriages ;
- (h) taking of a census ;
- (j) preparation and presentation of addresses to persons of distinction ;
- (k) any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction.

And, with the previous sanction of Government, the corporation may make—

- (l) such contribution as they think fit towards any public ceremony or entertainment in the city.

Respective Functions of the several Municipal Authorities.

64. (1) The respective functions of the several municipal authorities, and of any committee appointed under section 39, 40 or 41, shall be such as are specifically prescribed in or under this Act.

Functions of the several municipal authorities.

(2) Except as in this Act otherwise expressly provided, the municipal government of the city vests in the corporation.

Municipal government of the city vests in the corporation.

(3) Subject, whenever it is in this Act expressly so directed, to the approval or sanction of the corporation or the standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act, the entire executive power for the purpose of carrying out the provisions of this Act vests in the Commissioner, who shall also—

Special functions of the Commissioner.

- (a) perform all the duties and exercise all the powers specifically imposed or conferred upon him by this Act ;
- (b) prescribe the duties of, and exercise supervision and control over, the acts and proceedings of all municipal officers and servants, other than the municipal secretary and the municipal officers and servants immediately subordinate to him, and, subject to the regulations at the time being in force under section 81, dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances ;
- (c) on the occurrence or the threatened occurrence of any sudden accident or unforeseen event, involving or likely to involve extensive damage to any property of the corporation or danger to human life, take such immediate action as the emergency shall appear to him to justify or to require, reporting forthwith to the standing committee and to the corporation, when he has done so, the action he has taken and his

(Chap. III.—Duties and Powers of the Municipal Authorities. Secs. 65-66.)

reasons for taking the same and the amount of cost, if any, incurred or likely to be incurred in consequence of such action, which is not covered by a current budget-grant, within the meaning of that expression as defined in section 130.

Corporation may call for extracts from proceedings, etc., from the standing committee, etc.

65. The corporation may at any time call for any extract from any proceedings of the standing committee or of any committee or sub-committee constituted under this Act, and for any return, statement, account or report concerning or connected with any matter with which the standing committee or any such committee or sub-committee is empowered by or under this Act to deal; and every such requisition shall be complied with by the standing committee or other committee or sub-committee, as the case may be, without unreasonable delay.

Corporation may require the Commissioner to produce documents and furnish returns and reports, etc.

66. (1) The corporation may at any time require the Commissioner—

- (a) to produce any record, correspondence, plan or other document which is in his possession or under his control as Commissioner, or which is recorded or filed in his office or in the office of any municipal officer or servant subordinate to him;
- (b) to furnish any return, plan, estimate, statement, account or statistics concerning or connected with any matter appertaining to the administration of this Act or the municipal government of the city;
- (c) to furnish a report by himself or to obtain from any head of a department subordinate to him and furnish, with his own remarks thereon, a report, upon any subject concerning or connected with the administration of this Act or the municipal government of the city.

(2) Except as is hereinafter provided, every such requisition shall be complied with by the Commissioner without unreasonable delay; and it shall be incumbent on every municipal officer and servant to obey any order made by the Commissioner in pursuance of any such requisition:

(3) Provided that if, on such a requisition as aforesaid being made, the Commissioner shall declare that immediate compliance therewith would be prejudicial to the interests of the corporation or of the public, it shall be lawful for him to defer such compliance until a time not later than the second ordinary meeting of the corporation after he shall have declared as aforesaid.

If at such meeting, or any meeting subsequent thereto, the corporation shall repeat the requisition, and it shall then still appear to the Commissioner inexpedient to comply therewith, he shall make a declaration to that effect, whereon it shall be lawful for the corporation to elect one councillor who with the president of the corporation and the chairman of the standing committee

(Chap. III.—Duties and Powers of the Municipal Authorities. Secs. 67-68.)

(or, if the president of the corporation is also chairman of the standing committee, with the said president and one member of their own body elected by the standing committee) shall form a committee who shall engage to keep secret, save as hereinafter provided, the existence and purport of such documents and matters as may be disclosed to them; and to the said committee the Commissioner shall be bound to make known and to disclose all writings and matters within his knowledge, under his control, or available to him, and embraced within the requisition; and the said committee having taken cognizance of the information, writings and matters so laid before them shall determine, by a majority in case of difference, whether or not the whole or any part, and which part, if any, of such matters ought to be disclosed to the corporation or kept secret for a defined time, which decision shall be conclusive and shall be reported to the corporation at the next ordinary meeting thereof, where also the Commissioner shall be prepared to produce documents and to make any report or statement requisite to give effect to the decision of the committee when called on to do so by the corporation.

(4) The heads of departments subordinate to the Commissioner are the executive engineer, the executive health officer, the assessor and collector, and the chief accountant.

67. The exercise by any municipal authority of any power conferred or the performance of any duty imposed by or under this Act, which will involve expenditure, shall, except in any case specified in sub-section (2) of section 115, be subject to the following provisos, namely:—

Exercise of powers to be subject to sanction by corporation of the necessary expenditure.

- (a) that such expenditure, so far as it is to be incurred in the official year in which such power is exercised or duty performed, shall be provided for under a current budget-grant, within the meaning of that expression as defined in section 130; and
- (b) that, if the exercise of such power or the performance of such duty involves or is likely to involve expenditure for any period or at any time after the close of the said official year, liability for such expenditure shall not be incurred without the sanction of the corporation.

68. (1) Any of the powers, duties or functions conferred or imposed upon or vested in the Commissioner by any of the sections, sub-sections or clauses mentioned in sub-section (2) may be exercised, performed or discharged, under the Commissioner's control and subject to his revision and to such conditions and limitations, if any, as he shall think fit to prescribe, by any municipal officer whom the Commissioner generally or specially empowers in writing in this behalf; and in each of the said sections, sub-sections and

Municipal officers may be empowered to exercise certain of the powers, etc., of the Commissioner.

(Chap. III.—Duties and Powers of the Municipal Authorities. Sec. 68.)

clauses the word "Commissioner" shall, to the extent to which any municipal officer is so empowered, be deemed to include such officer.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following, namely :—

Section 82.	Section 255.
" 83.	" 257.
" 84.	" 258, clauses (a), (b) and (c).
" 85, sub-section (1).	" 259.
" 112.	" 263, sub-section (1).
" 113, sub-section (3).	" 265.
" 142, sub-section (2).	" 266.
" 149.	" 272.
" 152, sub-section (1).	" 273.
" 153, sub-section (1).	" 276.
" 155, sub-sections (1) and (3).	" 278.
" 160.	" 279, sub-section (1).
" 162.	" 287.
" 163, sub-section (1).	" 298, sub-sections (1) and (2).
" 164.	" 300, sub-section (1).
" 165, sub-sections (1) and (2).	" 311.
" 174.	" 314.
" 175.	" 317.
" 176.	" 319.
" 177.	" 321, sub-section (2).
" 187.	" 322.
" 188.	" 324.
" 189.	" 325.
" 200.	" 326, sub-sections (2) and (3).
" 201, sub-section (2).	" 329.
" 202, sub-section (1).	" 333, sub-section (4).
" 209, sub-section (1).	" 334, sub-section (1).
" 210, sub-section (1).	" 337, sub-section (1).
" 214, sub-sections (2) and (3).	" 338.
" 222, sub-sections (1) and (2).	" 339.
" 226, sub-section (2).	" 340.
" 228.	" 342.
" 229.	" 343.
" 234.	" 345.
" 240.	" 346, sub-section (1).
" 243, sub-section (2).	" 347, clause (a).
" 244, sub-section (1).	" 348, clauses (a), (b) and (c).
" 248.	" 349.
" 249.	" 350.
" 250, sub-section (2).	" 353.
" 251.	" 354.
" 252.	" 355.
" 253.	" 363.
" 254.	" 374.

Section 375.	Section 415.
„ 377.	„ 416.
„ 380.	„ 422.
„ 383.	„ 424, sub-section (1).
„ 384, clause (a).	„ 425, sub-section (1).
„ 394.	„ 427, sub-section (2).
„ 396, sub-section (1).	„ 455.
„ 403, clause (e).	„ 479, sub-section (5).
„ 409.	„ 488.
„ 410, sub-section (1).	„ 489.
„ 412, sub-sections (1) and (2).	„ 492, clause (a).
„ 413, sub-section (1).	„ 517, clause (a).

Contracts.

69. With respect to the making of contracts under or for any purpose of this Act, the following provisions shall have effect, namely:—

Power to the Commissioner to execute contracts on behalf of the corporation.

- (a) Every such contract shall be made on behalf of the corporation by the Commissioner ;
- (b) No such contract for any purpose which, in accordance with any provision of this Act, the Commissioner may not 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, other than an agreement for the acquisition of immovable property, which will involve an expenditure exceeding five thousand rupees shall be made by the Commissioner, unless the same is previously approved by the standing committee ;
- (d) Every contract made by the Commissioner involving an expenditure exceeding five hundred and not exceeding five thousand rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee ;
- (e) The foregoing provisions of this section shall apply, respectively, to every contract which the Commissioner shall have occasion to make in the execution of this Act ; and the same provisions of this section which apply to an original contract shall be deemed to apply also to any variation or discharge of such contract.

70. (1) Every contract entered into by the Commissioner on behalf of the corporation shall be entered into in such manner and form as would bind the Commissioner if such contract were on his own behalf, and may in the like manner and form be varied or discharged : Provided that—

Mode of executing contracts.

(Chap. III.—Duties and Powers of the Municipal Authorities. Secs. 71-73.)

- (a) where any such contract, if entered into by the Commissioner, would require to be under seal, the same shall be sealed with the common seal of the corporation; 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 corporation 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 corporation, which shall remain in the custody of the municipal secretary, shall not be affixed to any contract, or other instrument, except in the presence of two members of the standing 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.

71. No contract not executed as in the last preceding section provided shall be binding on the corporation.

Contract not binding on the corporation unless executed as prescribed in section 70.

Tenders to be invited for contracts involving expenditure exceeding Rs. 3,000.

72. (1) Except as is hereinafter otherwise provided, the Commissioner shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding three thousand rupees, give notice by advertisement in the local newspapers, inviting tenders for such contract.

(2) The Commissioner shall not be bound to accept any tender which may be made in pursuance of such notice, but may accept, subject to the provision of clause (c) of section 69, any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous;

(3) Provided that the standing committee may authorize the 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.

73. The Commissioner shall require sufficient 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.

(Chap. IV.—Municipal Officers and Servants. Secs. 74-75.)

CHAPTER IV.

MUNICIPAL OFFICERS AND SERVANTS.

Executive Engineer and Executive Health Officer.

74. (1) The corporation shall appoint fit persons to be municipal executive engineer and municipal executive health officer.

Appointment of executive engineer and executive health officer.

(2) Each of the said officers shall—

- (a) be appointed for a renewable term of five years ;
- (b) devote his whole time and attention to the duties of his office ;
- (c) receive such monthly salary, not exceeding rupees fifteen hundred and not less than rupees twelve hundred, as the corporation shall from time to time determine ;
- (d) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office, on the votes of not less than two-thirds of the members present at a meeting of the corporation :

(3) Provided that—

- (e) no person shall be appointed to be executive health officer who is not a legally qualified medical practitioner ;
- (f) the corporation may, in their discretion, appoint a person probationally for a limited period only, to either of the said offices, previous to appointing him for the full term of five years ;
- (g) every appointment made under this section shall be subject to confirmation by the Governor in Council.

75. (1) On the occurrence of a vacancy in the office of executive engineer or of executive health officer, an appointment shall be made thereto by the corporation within four months from the date on which the vacancy occurred or in the event of any appointment so made by them not being confirmed by Government, within thirty days from the date of the receipt by the corporation of the order of Government.

Time within which vacancy in office of executive engineer or executive health officer must be filled up.

(2) In default of an appointment being made by the corporation as aforesaid, the Governor in Council may appoint a person to fill the vacancy, and such appointment shall for all purposes be deemed to have been made by the corporation.

(3) Pending the settlement of an appointment under sub-section (1) or (2) the corporation may appoint a person to fill the vacancy temporarily and may direct that the person so appointed shall receive such monthly salary not exceeding rupees fifteen hundred as it shall think fit. A person so appointed

(Chap. IV.—Municipal Officers and Servants. Secs. 76-78.)

to be temporary executive health officer need not be a legally qualified medical practitioner.

Executive health officer to be the consulting officer of health under Bombay Act VI of 1867.

76. The executive health officer appointed under this Act shall be the consulting officer of health for the purposes of Bombay Act VI of 1867[*] (*an Act for the better sanitary regulation of the City of Bombay*).

Municipal Secretary.

Appointment of municipal secretary.

77. (1) The standing committee shall from time to time appoint a fit person to be municipal secretary.

(2) The municipal secretary shall be secretary of the corporation and also of the standing committee, and shall—

- (a) perform such duties as he is directed by this Act to perform and such other duties in and with regard to the corporation and the standing committee as shall be required of him by those bodies respectively;
- (b) have the custody of all papers and documents connected with the proceedings of—
 - (i) the corporation and any committee appointed by the corporation;
 - (ii) the standing committee and any sub-committee thereof;
- (c) devote his whole time and attention to the duties of his office;
- (d) receive a monthly salary of rupees seven hundred which, with the previous sanction of the corporation, may be increased to a sum not exceeding rupees one thousand;
- (e) be removeable at any time from office for misconduct or for neglect of, or incapacity for, the duties of the office by the standing committee, with the approval of the corporation.

Appointment of clerks and servants subordinate to the municipal secretary.

78. (1) The standing committee may from time to time—

- (a) appoint such clerks and servants to be immediately subordinate to the municipal secretary as they think fit;
- (b) determine the nature and amount of the salaries, fees and allowances to be paid to the said servants and clerks respectively;
- (c) prescribe or delegate to the municipal secretary the power of prescribing the duties of the said clerks and servants.

Control, etc., of the said clerks and servants.

(2) The municipal secretary, subject to the orders of the standing committee, shall exercise supervision and control over the acts and proceedings of the said clerks and servants, and the standing committee, subject to the

(Chap. IV.—Municipal Officers and Servants. Secs. 79-81.)

regulations at the time being in force under section 81, shall dispose of all questions relating to the service of the said clerks and servants and their pay, privileges and allowances.

Other Officers and Servants.

79. (1) The Commissioner shall, [a] from time to time, prepare and bring before the standing committee a schedule setting forth the designations and grades of the other officers and servants who should, in his opinion, be maintained, and the amount and nature of the salaries, fees and allowances which he proposes should be paid to each.

Schedule of other officers and servants to be prepared by the Commissioner and sanctioned by the standing committee.

(2) The standing committee shall sanction such schedule either as it stands or subject to such modifications as they deem expedient: Provided that no new office of which the aggregate emoluments exceed rupees two hundred per month shall be created without the sanction of the corporation.

80. No permanent officer or servant shall be entertained in any department of the municipal administration unless he has been appointed under sections 74, 77 or 78, or his office and emoluments are included in the schedule at the time in force prepared and sanctioned under the last preceding section.

Restriction of employment of permanent officers and servants.

Leave of Absence, Acting Appointments, etc.

81. (1) The standing committee shall from time to time frame regulations in consonance with any resolution that may be passed by the corporation—

Standing Committee to frame regulations for grant of leave, etc.

- (a) fixing the amount and the nature of the security to be furnished by any municipal officer or servant from whom it may be deemed expedient to require security;
- (b) regulating the grant of leave to municipal officers and servants;
- (c) authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;
- (d) determining the remuneration to be paid to the persons appointed to act for any of the said officers or servants during their absence on leave;
- (e) regulating the period of service of all the said officers and servants;
- (f) determining the conditions under which the said officers and servants, or any of them, shall on retirement or discharge receive pensions, gratuities or compassionate allowances, and under which the widows, or other relations dependent on any of the said officers and servants, shall, after their death, receive compassionate allowances,

[*] Words repealed by Act XVI of 1895 are omitted.

(Chap. IV.—Municipal Officers and Servants. Secs. 82-84.)

and the amounts of such pensions, gratuities or compassionate allowances;

- (g) authorizing the payment of contributions, at certain prescribed rates and subject to certain prescribed conditions, to any pension or provident fund which may, with the approval of the standing committee, be established by the said officers and servants.

Such regulations to be subject to confirmation by the corporation, and, if made under clause (f), by Government.

(2) No regulation made by the standing committee under this section shall have force or validity unless and until it has been confirmed by the corporation, nor, if it is made under clause (f), unless and until it has been confirmed by Government.

Power of appointment in whom to vest.

82. Except as is hereinbefore otherwise provided, the power of appointing municipal officers and servants shall, subject to the schedule at the time being in force prepared and sanctioned under section 79, vest in the Commissioner.

Power of suspending, punishing and dismissing in whom to vest.

83. (1) Every municipal officer and servant may be fined, reduced, suspended or dismissed for any breach of departmental rules or discipline or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer or servant is appointed :

(2) Provided that—

- (a) no officer whose monthly emoluments exceed rupees three hundred shall be dismissed by the Commissioner, without the approval of the standing committee ;
- (b) any officer appointed by the corporation may be suspended by the standing committee pending an order of the corporation, such suspension and the reason therefor being forthwith reported to the corporation.

Leave of absence by whom to be granted.

84. (1) Leave of absence may be granted by the Commissioner, subject to the regulations at the time being in force under section 81, to any municipal officer or servant the power of appointing whom is vested in him ; and for a period not exceeding one month to any other municipal officer, other than an officer immediately subordinate to the municipal secretary.

(2) Leave of absence may be granted, subject as aforesaid, by the standing committee—

- (a) to any clerk or servant appointed under section 78 ;

(Chap. IV.—Municipal Officers and Servants. Secs. 85-86.)

(b) for a period exceeding one month, to any other municipal officer, the power of appointing whom is not vested in the Commissioner.

85. (1) The appointment of a person to act in the place of an officer absent on leave may be made, when necessary, and subject to the regulations aforesaid, by the same authority who grants the leave of absence : Acting appointments.

(2) Provided that—

(a) when the executive engineer or the executive health officer is granted leave of absence for a period exceeding one month, the appointment of a person to act for him shall be made by the corporation ;

(b) any appointment of a person to act as executive engineer or as executive health officer may be disallowed by the Governor in Council, and from the time of being so disallowed shall be null and void ;

(c) no person shall be appointed to act for the executive health officer for a period exceeding three months, unless such person is a legally qualified medical practitioner, but a person appointed to act for the said officer for a period not exceeding three months need not be a legally qualified medical practitioner.

(3) A person appointed under this section to act for any officer or servant shall, while so acting, perform the same duties and exercise the same powers and be subject to the same liabilities, restrictions and conditions which the permanent incumbent of the office or place is bound to perform or may exercise or to which the said incumbent is liable.

Disqualifications of Municipal Officers and Servants.

86. (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 the corporation, or in any employment with, by, or on behalf of the corporation other than as a municipal officer or servant, shall be disqualified for being a municipal officer or servant. Municipal officer or servant not to be interested in any contract, etc., with the corporation.

(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.

(3) Nothing in this section shall apply to any such share or interest in any contract or employment with, by or on behalf of the corporation as under clauses (h) and (k) of section 16 it is permissible for a councillor to have, without his being thereby disqualified for being a councillor.

(Chap. V.—Municipal Property and Liabilities. Secs. 87-90.)

CHAPTER V.

MUNICIPAL PROPERTY AND LIABILITIES.

Acquisition of Property.

Powers of corporation as to acquisition of property.

87. The corporation shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the city.

Transfer to the corporation of the property of the municipal corporation.

88. All such immoveable and other property as is held by, or in trust for, or has been granted by Government to the corporation under, or in pursuance or for the purposes of any Act hereby repealed, shall, upon and after the date when this Act comes into force, vest in the corporation in trust for the purposes of this Act, but subject to all charges and liabilities affecting the same.

Conditions affecting the vesting of the Vehar water-works in the corporation.

89. (1) On the expiry of the term of ninety-nine years, commencing on the first day of July, 1863, for which, in accordance with section 64 of the Bombay Municipal Acts of 1872 [a] and 1878[a], the Vehar lake and the property appurtenant thereto, hereinafter referred to as "the Vehar water-works," were vested in the corporation, the Governor in Council may direct that the said Vehar water-works shall vest, and the same shall in such case vest, in the corporation, on the conditions hereinafter provided and, for the purposes of this Act, for such further period not exceeding ninety-nine years as shall seem expedient :

Bom. III of 1872.
Bom. IV of 1878.

(2) Provided that on the expiry of the said first term of ninety-nine years, or of any further term for which the Governor in Council may have directed that the said Vehar water-works shall vest in the corporation, all rights and every power conveyed to the corporation shall forthwith cease and determine, and the said Vehar water-works shall revert to and become vested in Her Majesty[b] as the same were vested in Her Majesty[b] before the first day of July, 1863.

Acquisition of immoveable property by agreement.

90. (1) Whenever it is provided by this Act that the Commissioner may acquire, or whenever it is necessary or expedient for any purpose of this Act that the Commissioner shall acquire, any immoveable property, such property may be acquired by the Commissioner on behalf of the corporation by agreement on such terms and at such rates or prices or at rates or prices not exceeding

[a] Bom. Acts III of 1872 and IV of 1878 are repealed by s. 2 of this Act.

[b] The words "Her Majesty" were substituted for the original words by Bom. Act IV of 1888, s. 5 (1) (a).

(Chap. V.—Municipal Property and Liabilities. Secs. 91-92.)

such maxima as shall be approved by the standing committee, either generally for any class of cases or specially in any particular case.

(2) And whenever, under any provision of this Act, the Commissioner is authorized to agree to pay the whole or any portion of the expenses of acquiring any immoveable property, he shall do so on such terms and at such rates or prices or at rates or prices not exceeding such maxima as shall be approved by the standing committee as aforesaid :

(3) Provided that no agreement for the acquisition of any immoveable property under sub-section (1) or (2) shall be valid, if the price to be paid for such property exceeds one thousand rupees, unless and until such agreement has been approved by the corporation.

91. (1) Whenever the Commissioner is unable to acquire any immoveable property under the last preceding section by agreement, Government may, in their discretion, upon the application of the Commissioner, made with the approval of the standing committee, order proceedings to be taken for acquiring the same on behalf of the corporation, as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 [*].

Procedure when immoveable property cannot be acquired by agreement.

of 1894.

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall, subject to all other provisions of this Act, be forthwith paid by the Commissioner, and thereupon the said property shall vest in the corporation.

Disposal of Property.

92. With respect to the disposal of property belonging to the corporation the following provisions shall have effect, namely :—

Provisions governing the disposal of municipal property.

(a) the Commissioner may, in his discretion, dispose of, by sale or otherwise, any moveable property belonging to the corporation not exceeding in value, in each instance, five hundred rupees, or grant a lease of any immoveable property belonging to the corporation, including any right of fishing or of gathering and taking fruit and the like, for any period not exceeding twelve months at a time : Provided that every such lease granted by the Commissioner shall be reported by him, within fifteen days after the same has been granted, to the standing committee ;

(b) with the sanction of the standing committee, the Commissioner may dispose of, by sale or otherwise, any moveable property belonging to the corporation, of which the value does not exceed five thousand

[*] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

(Chap. V.—Municipal Property and Liabilities. Sec. 93.)

rupees, or grant a lease of any immoveable property belonging to the corporation, including any such right as aforesaid, for any period not exceeding three years at a time;

- (c) with the sanction of the corporation, the Commissioner may lease, sell or otherwise convey any property, moveable or immoveable, belonging to the corporation;
- (d) the sanction of the standing committee or of the corporation under clause (b) or clause (c) may be given either generally for any class of cases or specially in any particular case;
- (e) the aforesaid provisions of this section shall apply, respectively, to every disposal of property belonging to the corporation made under or for any purpose of this Act.

Liabilities.

93. So much of the following moneys as are still repayable on the day when this Act comes into force shall be repaid, together with the interest due thereupon, by the corporation, namely:—

(a) to the Secretary of State for India in Council—

(i) the balance of the debt due on account of the Vechar water-works [a]referred to[a] in section 140 of the Bombay Municipal Acts of 1872[b] and 1878[b] with simple interest thereon at the rate of four per centum per annum;

Bom. III of 1872.
Bom. IV of 1878.

(ii) the balance of the consolidated loan, as the same was defined in section 3, clause (3), of the Bombay Municipality's Consolidated Loan Act, 1880 [b], due on various accounts, with interest thereon at the rate of four-and-a-half per centum per annum;

Bom. II of 1880.

(b) to municipal security-holders—

(iii) the house-rate loan and the two market loans raised in 1867 and 1868 under the provisions of the Bombay Municipal Act, 1865 [c], with interest thereon at the rate of six per centum per annum;

Bom. II of 1865.

(iv) the drainage loan of 1878 raised under the provisions of the Public Works' Loan Act, 1871 [d], with interest thereon at the rate of five per centum per annum;

XXIV of 1871.

(v) the sanitary works' loans of 1885, 1886 and 1888 contracted under

[a.-a] These words were substituted (and are to be deemed to have been substituted from the 31st December, 1892) for the original words by Bom. Act I of 1894, s. 2.

[b] Bom. Acts III of 1872, IV of 1878 and II of 1880 are repealed by s. 2 of this Act.

[c] Bom. Act II of 1865 was repealed by Bom. Act III of 1872.

[d] Act XXIV of 1871 was repealed by Act XI of 1879, printed in General Acts, 1877-81, Ed. 1884, p. 335.

Debts payable by the corporation.

Vechar water-works debt.

The consolidated loan.

House-rate and market loans of 1867-68.

New drainage loan of 1878.

Sanitary works' loans of 1885,

(Chap. V.—Municipal Property and Liabilities. Secs. 94-98.)

XI of 1879.

the provisions of the Local Authorities Loan Act, 1879^[a], with interest thereon at the rate of five per centum per annum ;

1886 and 1888.

(vi) the portion of the Tansa water-works' loan contracted under the Act last aforesaid previous to the coming into force of this Act ;

Tansa water-works loan.

(vii) the portion of the drainage and water-works' loan of 1888 contracted under the said Act previous to the coming into force of this Act.

Drainage and water-works loan of 1888.

Repayment of Moneys due to the Secretary of State in Council.

94. In order to secure the repayment of the Vehar water-works' debt, the Commissioner shall, on the first day of every month, until the whole of the said debt, together with the interest due thereon, shall be liquidated, pay to Government a sum of rupees ^[b] nine thousand four hundred and ninety-eight ^[b].

Vehar water-works debt repayable in monthly instalments.

95. (1) The whole of the consolidated loan, together with the interest due thereon, shall be repaid within thirty years from the first day of January, 1881.

Period of repayment of consolidated loan.

(2) For better securing the repayment of the said loan, the Commissioner shall pay half-yearly to Government, on every first day of January and every first day of July, until the whole of the said loan, together with the interest due thereon, shall be liquidated, a sum of one lakh seventy-eight thousand three hundred and twenty-six rupees two annas and five pies.

Mode of repayment.

96. (1) Every payment to be made by the Commissioner under either of the two last preceding sections shall be made ^[c] to the officer for the time being appointed to receive Government dues, or into the Bank of Bombay ^[c].

Payments to whom to be made.

(2) Notice of every such payment having been made shall be forthwith published by the Commissioner in the Bombay Government Gazette.

Notice of payments to be published.

97. If the Commissioner fails to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.

In case of non-payment, report to be made to the Chief Secretary to Government.

98. (1) It shall be lawful for the said Chief Secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being a municipal authority or officer, to detain,

Arrears may be recovered by detention of moneys due to the corporation.

[^a] Printed, General Acts, 1877-81, Ed. 1884, p. 335.

[^{b, b}] These words were substituted (and are to be deemed to have been substituted from 31st December, 1892,) for the original words by Bom. Act I of 1894, s. 3.

[^{c, c}] These words were substituted for the original words by Bom. Act I of 1894, s. 4 (1).

(Chap. V.—Municipal Property and Liabilities. Sess. 99-100.)

to the extent of any payment or payments then in arrear, any moneys due or that may become due to the corporation, which he may then or thereafter have in his custody or control.

(2) Such officer shall detain the moneys which he is so directed to detain and pay the same, as they become due to the corporation, [*] to the officer for the time being appointed to receive Government dues, or into the Bank of Bombay[*].

(3) The moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the Vehar water-works' debt or of the consolidated loan, in preference to and with priority over all other incumbrances on and claims to such moneys.

Or by attachment of the municipal fund, etc.

99. (1) If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any tax leviable by the corporation.

(2) After such attachment, no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund or tax; but such officer may do all acts in respect thereof which the corporation or any municipal authority might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

Attachment not to defeat prior charges legally made.

(3) Provided that no such attachment shall defeat or prejudice any debt for which the fund or tax attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund or tax attached before any part of the proceeds is applied to the satisfaction of a liability for the Vehar water-works' debt or the consolidated loan.

Reversion of Vehar water-works to Government in case of default in payment of any instalment of the debt due on their account.

100. If the Commissioner fails to make any monthly payment, in accordance with section 94, on account of the Vehar water-works' debt and after notice in writing, signed by one of the Secretaries to Government, requiring payment of the same has been served upon him and forwarded to the president of the corporation and published for a period of not less than two months in the Bombay Government Gazette, shall still fail to make such payment,

the said Vehar water-works shall, notwithstanding anything contained in section 88, cease to vest in the corporation and shall forthwith become vested in Her Majesty^[b] in trust for the purposes for which the same were previously vested in the corporation.

[a.*] These words were substituted for the original words by Bom. Act I of 1894, s. 4 (1).

[b] "Her Majesty" was substituted for the original words by Bom. Act IV of 1888, s. 5

(Chap. V.—Municipal Property and Liabilities. Secs. 101-105.)

101. Nothing in the four last preceding sections shall affect the rights or remedies which the Secretary of State for India in Council has or shall have independently of this Act for the recovery of the moneys aforesaid.

Other rights and remedies of the Secretary of State for India in Council not to be affected.

102. The annual sum of the monthly instalments paid by the Commissioner under section 94, and all recoveries made under any of the foregoing sections on account of the Vehar water-works' debt, shall be appropriated as follows, namely:—

Method of appropriating payments on account of the Vehar water-works.

first, to the payment of the interest accrued on account of the principal sum of rupees thirty-seven lakhs thirty thousand and fifty-three due on account of the said debt on the first day of July, 1863 ;

secondly, to the payment of interest on all sums advanced by Government in connection with the said works since the first day of July, 1863 ;

thirdly, to the payment of all sums subsequently advanced as aforesaid ; and

lastly, to the liquidation of the said principal sum of rupees thirty-seven lakhs thirty thousand and fifty-three.

103. Every payment made by the Commissioner under section 95 and all recoveries made under any of the foregoing sections on account of the consolidated loan shall be appropriated first to the payment of the interest due at the time of such payment or recovery, and, secondly, to the reduction of the principal.

Method of appropriating payments on account of the consolidated loan.

Repayment of House-rate and Market Loans of 1867-68.

104. (1) Until such time as the corporation repay the house-rate loan and the two market loans raised in 1867 and 1868 under the provisions of sections 253 to 258 of the Bombay Municipal Act, 1865[*], it shall be incumbent on the corporation to maintain out of the taxes, on the security of which the said loans were raised, the sinking-fund prescribed by section 257 of the said Act ;

Sinking-fund for house-rate and market loans to be maintained.

(2) Provided that in the event of the corporation's discharging any portion of the said loans at any time previous to the time at which they are repayable in full, it shall be competent to the corporation to reduce *pro tanto* the amount of the said sinking-fund.

Publication of Annual Account of Balances due on Loans.

105. (1) The Commissioner shall, in the month of January in each year, publish in the Bombay Government Gazette an account showing the balances due by the corporation on the last preceding thirty-first day of December to the

Account of balances due on loans to be published by the Commissioner yearly.

[*] Bom. Act II of 1865 was repealed by Bom. Act III of 1872.

Bom. II of 1865.

(Chap. VI.—Borrowing Powers. Secs. 106-109.)

Secretary of State for India in Council and to municipal security-holders, respectively, on account of each debt or loan, if any, at the time still repayable by the corporation.

(2) The Commissioner shall also cause the said account to be printed and a printed copy thereof be forwarded to the usual or last known local place of abode of each councillor.

CHAPTER VI.

BORROWING POWERS.

Power to borrow from Government or other persons.

106. The corporation may from time to time borrow or re-borrow and take up at interest from the Secretary of State for India in Council, or, with the sanction of the Governor [a] General of India [a] in Council, from any other person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred, or to be incurred by them in the execution of this Act, or for the purpose of discharging any loan contracted under this Act or any other loan or debt for repayment of which they are liable.

Provisions applicable to any new loan contracted with Government.

107. If any new loan shall be contracted by the corporation under this Act with the Secretary of State for India in Council, the same shall be subject as regards repayment and security, and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan save only that the rate of interest, the period of repayment and the number and amount of the instalments shall, in the case of any such new loan, be fixed, under the orders of the Governor General of India in Council, by the Governor in Council.

Mortgage of taxes or immoveable property.

108. (1) The corporation may borrow or re-borrow any such sum as aforesaid from any person other than the Secretary of State for India in Council on the security of any immoveable property belonging to them or proposed to be acquired by them under this Act or of all the taxes or of any tax which they are authorized to levy for the purposes of this Act or of all or any of those securities.

(2) And 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 tax.

Provisions as to exercise of borrowing powers.

109. The exercise of the powers of borrowing conferred by this Act shall be subject to the following provisions, namely :—

- (a) money shall not be borrowed for the execution of any work other than a permanent work, including under this expression any work of which the cost ought, in the opinion of Government, to be spread over a term of years ;

[a.] These words were inserted by Bom. Act IV of 1888, s. 2.

(*Chap. VI.—Borrowing Powers. Sec. 109.*)

- (b) the sum borrowed shall not at any time exceed, with the balances of all the outstanding loans and debts due by the corporation, in the whole double the rateable value of the premises in the city assessable, as hereinafter provided, to property taxes;
- (c) the money may be borrowed for such time, not exceeding sixty years, as the corporation, with the sanction of [a] the Governor General of India in Council[a], determine in each case;
- (d) the corporation shall either pay off the money so borrowed by equal annual 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, such sum as will, with accumulations in the way of compound interest, be sufficient, after payment of all expenses, to pay off the moneys so borrowed within the period sanctioned;
- (e) the corporation 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 corporation 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;
- (f) the investment every year of any sum set apart as portion of the principal of a sinking-fund shall be made within fifteen days after the day on which the second half-yearly payment of interest is due by the corporation in respect of the loan for repayment of which such sinking-fund is established; and the re-investment of any sum received by the corporation on account of interest on moneys appertaining to a sinking-fund already invested, and the investment of any sum payable into the fund under clause (e) as the equivalent of interest which the corporation would have received, if the sinking-fund or a part thereof had not been applied in any manner authorized by the said clause, shall be made within one month from the day on which such interest is received or from the day on which such interest would have been received, as the case may be.
- (g) where money is borrowed for the purpose of discharging a previous loan, the time for repayment of the money so borrowed shall not,

[a.] These words were substituted for the original word by Bom. Act IV of 1888, s. 2.

(Chap. VI.—Borrowing Powers. Sec. 110. Chap. VII.—Revenue and Expenditure. Sec. 111.)

unless with the sanction of Government, extend beyond the unexpired portion of the period for which the original loan was sanctioned, and shall in no case be extended beyond the period of sixty years from the date of the original loan.

Form of security.

110. (1) Every mortgage authorized to be made under this chapter shall be by debenture in the form contained in Schedule C, or in such other form as the corporation, with the consent of Government, shall from time to time determine.

(2) Every debenture issued under this Act shall be transferable by endorsement, and such transfers may be in the form of Schedule D, or to the like effect.

(3) The right to payment of the moneys secured by any of such debentures and to sue in respect thereof shall vest in the holder thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

CHAPTER VII.

REVENUE AND EXPENDITURE.

The Municipal Fund.

Constitution of the municipal fund.

111. All moneys received by or on behalf of the corporation under the provisions of this Act or of any other enactment at the time in force, or under any contract,

all proceeds of the disposal of property by, or on behalf of, the corporation,

all rents accruing from any property of the corporation,

all moneys raised by any tax, levied for the purposes of this Act,

all fees and fines payable and levied under this Act or under any rule, regulation or bye-law in force thereunder,

all fees for licenses for public conveyances granted by the Police Commissioner under Bombay Act VI of 1863 [*] (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*),

all fines levied by any Magistrate in respect of any offence against the provisions of Act, or of any regulation or bye-law made under this Act,

all moneys received by or on behalf of the corporation from Government or private individuals by way of grant or gift or deposit, and

[*] Printed in Vo II of this Code, p. 52.

all interest and profits arising from any investment of, or from any transaction in connection with, any money belonging to the corporation, shall be credited to a fund, which shall be called "the municipal fund," and which shall be held by the corporation in trust for the purposes of this Act, subject to the provisions herein contained.

112. All moneys payable to the credit of the municipal fund shall be received by the Commissioner and shall be forthwith paid [a] into the Bank of Bombay [a] to the credit of an account, which shall be styled "the account of the municipal fund of the City of Bombay."

Commissioner to receive payments on account of the municipal fund and to lodge them in a bank. How the fund shall be drawn against.

113. (1) Subject to the provisions of section 520, no payment shall be made by the bank aforesaid out of the municipal fund, except upon a cheque signed by the Commissioner and by one member of the standing committee, who shall attend at the chief municipal office for this purpose at least twice a week, and by the municipal secretary, or, in the event of the illness or occasional absence of the Commissioner from the city, by two members of the standing committee and by the said secretary.

(2) Payment of any sum due by the corporation in excess of one hundred rupees shall be made by means of a cheque signed as aforesaid and not in any other way.

(3) Payment of any sum due by the corporation, not exceeding one hundred rupees in amount, may be made by the Commissioner in cash, cheques for sums not in excess of one thousand rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

114. Notwithstanding anything contained in the two last preceding sections, the Commissioner may, with the approval of the standing committee, from time to time, remit any portion of the municipal fund to a bank or other agency at any place beyond the city at which it may be desirable for the corporation to have funds in deposit, and any money payable to the credit of the municipal fund or chargeable thereagainst, which can, in the opinion of the Commissioner, be most conveniently paid into or out of the account of the corporation at any such bank or agency, may be so paid.

Deposit of portion of the municipal fund may be made with bank or agency out of Bombay, when convenient.

115. (1) Except as hereinafter provided, no payment of any sum shall be made by the Commissioner out of the municipal fund, unless the expenditure of the same is covered by a current budget-grant, and a sufficient balance of such budget-grant is still available, notwithstanding any reduction or transfer thereof which may have been made under section 133 or section 134 :

Only sums covered by a budget-grant to be expended from the municipal fund.

[a-a] These words were substituted for the original words by Bom. Act I of 1894, s. 4 (2).

(Chap. VII—Revenue and Expenditure. Secs. 116-118.)

Exceptions.

(2) Provided that the following items shall be excepted from this prohibition, namely:—

- (a) sums of which the expenditure has been sanctioned by the standing committee under section 132;
- (b) temporary payments under section 119 for works urgently required in the public service;
- (c) refunds of taxes and other moneys which the Commissioner is by or under this Act authorized to make;
- (d) repayments of moneys belonging to contractors or other persons held in deposit and of moneys collected or credited to the municipal fund by mistake;
- (e) sums which the Commissioner is by sections 222, sub-section (2), 309, sub-section (2), 315, sub-section (2), 334, sub-section (2), 395, sub-section (2), 426, sub-section (2), 427, sub-section (4), 501 and 515, clause (b), required or empowered to pay by way of compensation;
- (f) sums payable in any of the circumstances mentioned in clause (f) of section 118;
- (g) expenses incurred by the Commissioner in the exercise of the powers conferred upon him by section 434;
- (h) costs incurred by the Commissioner under clause (c) of section 64.

(3) In sub-section (1), "budget-grant" means a budget-grant within the meaning of that term as defined in section 130, and includes any sum by which such budget-grant may at any time be increased by a transfer under clause (b) of section 133.

Drafts on the municipal fund to be checked by members of the standing committee and municipal secretary.

116. The members of the standing committee and the municipal secretary shall not sign any cheque under section 113 without first satisfying themselves that the sum for which such cheque is drawn is either covered by a budget-grant as aforesaid or is an item of one of the excepted descriptions specified in sub-section (2) of the last preceding section.

Procedure when money not covered by a budget-grant is expended under clause (e), (f), (g) or (h) of section 115.

117. Whenever any sum is expended by the Commissioner under clause (e), (f), (g) or (h) of section 115, he shall forthwith communicate the circumstances to the standing committee, who shall take such action under section 133 or recommend the corporation to take, under section 131, such action as shall, in the circumstances, appear possible and expedient for covering the amount of the additional expenditure.

Purposes to which the municipal

118. The moneys from time to time credited to the municipal fund shall be applied in payment of all sums, charges and costs necessary for the pur-

(Chap. VII.—Revenue and Expenditure. Secs. 119-120.)

poses specified in sections 61, 62 and 63, or for otherwise carrying this Act into effect, or of which the payment shall be duly directed or sanctioned under any of the provisions of this Act, inclusive of—

fund is to be applied.

- (a) the expenses of every ward-election and of every justices' election held under this Act;
- (b) the fees payable under section 50 to members of the standing committee;
- (c) the salaries and other allowances of the Commissioner and of any Deputy Commissioner appointed under this Act;
- (d) the salaries and other allowances of all municipal officers and servants and all pensions, gratuities and compassionate allowances payable under the provisions of this Act or of any schedule or regulation framed under this Act and at the time in force;
- (e) all expenses and costs incurred by the Commissioner in the exercise of any power or the discharge of any duty conferred or imposed upon him by this Act, including moneys which he is required or empowered to pay by way of compensation;
- (f) every sum payable :
 - (i) under sub-section (1) of section 520 to Government;
 - (ii) under a decree or order of a Civil or Criminal Court passed against the corporation or against the Commissioner or a Deputy Commissioner *ex officio*;
 - (iii) under a compromise of any suit or other legal proceeding or claim effected under section 517.

119. (1) On the written requisition of a Secretary to Government, the Commissioner may at any time undertake the execution of any work certified by such Secretary to be urgently required in the public service, and for this purpose may temporarily make payments from the municipal fund, so far as the same can be made without unduly interfering with the regular working of the municipal administration. The cost of all work so executed and of the establishment engaged in executing the same shall be paid by Government and credited to the municipal fund.

Temporary payments from the municipal fund for works urgently required for public service.

(2) On receipt of any requisition under sub-section (1), the Commissioner shall forthwith forward a copy thereof to the corporation, together with a report of the steps taken by him in pursuance of the same.

The School-fund.

120. (1) The portion of the municipal fund to be devoted to the purposes The school-

(Chap. VII.—Revenue and Expenditure. Secs. 121-122.)

fund of
what to
consist.

specified in clause (g) of section 61 shall be credited under a separate heading in the municipal accounts and shall be called "the school-fund."

(2) There shall be carried every official year to the school-fund—

- (a) every grant made by Government for the maintenance or aid of primary education ;
- (b) the fees levied in schools wholly maintained at the cost of the school-fund ;
- (c) such contribution from the general revenue of the corporation as the corporation shall from time to time determine, the same being not less, in each official year, than a sum of such amount as added to the fees levied as aforesaid in the same year would be equal to double the Government grant for that year ;
- (d) the unexpended balance, if any, of the school-fund of the last preceding official year ;
- (e) all sums made over to the corporation, by way of endowment or otherwise, for the promotion of primary education.

Other Special Funds.

Other
special
funds may
be created
with the
approval
of the cor-
poration.

121. With the approval of the corporation, any other portion of the municipal fund may also, from time to time, be credited to a separate heading in the municipal accounts : Provided that there shall be credited and debited to such special heading such sums only as shall expressly relate to the object for which a special fund is so created.

Disposal of Balances.

Investment
of surplus
moneys.

[a] 122. (1) Surplus moneys at the credit of the municipal fund which cannot immediately or at an early date be applied to the purposes of this Act or of any loan raised thereunder may be, from time to time, deposited at interest in the Bank of Bombay or be invested in public securities.

(2) All such surplus moneys which it is necessary to keep readily available for application to such purposes, and all such surplus moneys which cannot, in the opinion of the Municipal Commissioner, concurred in by the standing committee, be favourably deposited or invested as aforesaid, may be deposited at interest at any bank or banks in the City of Bombay which the standing committee may, subject to the control of the corporation, from time to time, select for the purpose.

(3) All such deposits and investments shall be made by the Commissioner on behalf of the corporation, with the sanction of the standing committee, and, with the like sanction, the Commissioner may at any time withdraw any deposit so made or dispose of any securities and re-deposit or re-invest the

[a] This section was substituted for the original s. 122 by Bom. Act I of 1894, s. 5.

(Chap. VII.—Revenue and Expenditure. Secs. 123-125.)

money so withdrawn, or the proceeds of the disposal of such securities ; but no order for making any deposit or investment, withdrawal or disposal under this section shall have any validity unless the same be in writing, signed by the Commissioner and one member of the standing committee and the municipal secretary.

(4) The loss, if any, arising from any such deposit or investment shall be debited to the Municipal Fund.

Accounts.

123. Accounts of the receipts and expenditure of the corporation shall be kept in such manner and in such forms as the standing committee shall from time to time prescribe.

Accounts to be kept in forms prescribed by standing committee. Preparation of annual administration report and statement of accounts.

124. (1) The Commissioner shall, as soon as may be after each first day of April, have prepared a detailed report of the municipal administration of the city during the previous official year, together with a statement showing the amounts of the receipts and disbursements respectively credited and debited to the municipal fund during the said year and the balance at the credit of the fund at the close of the said year.

(2) The Commissioner shall incorporate with his said report and statement—

- (a) a report for the same period from each head of a department subordinate to him ;
- (b) the account of balances due on loans then last published under section 105 ;

and shall cause the same to be printed.

(3) After examination and review of the said printed report and statement by the standing committee, there shall be added to the compilation printed copies of such of the appendices attached to the reports of the several heads of departments, if any, as the standing committee direct and a printed copy of the standing committee's review ; and a copy of the complete compilation shall be forwarded to the usual or last known local place of abode of each councillor at least eight days previous to the ordinary meeting of the corporation in the next following month of October, and copies thereof shall be delivered to any person requiring the same, on payment of such reasonable fee for each copy as the Commissioner, with the approval of the standing committee, shall determine.

Annual Budget-Estimate.

125. The Commissioner shall, on or before each tenth day of November, have prepared and lay before the standing committee, in such form as the said committee shall, from time to time, approve,—

- (a) an estimate of the expenditure which must or should, in his opinion be incurred by the corporation in the next ensuing official year ;

Estimates of expenditure and income to be prepared annually by the Commissioner.

(Chap. VII.—Revenue and Expenditure. Secs. 126-128.)

- (b) an estimate of all balances, if any, which will be available for re-appropriation or expenditure at the commencement of the next ensuing official year ;
- (c) a statement of proposals as to the taxation which it will, in his opinion, be necessary or expedient to impose under the provisions of this Act in the said year.

Budget-estimate to be prepared by the standing committee.

126. (1) The standing committee shall, on or as soon as may be after the tenth day of November, consider the estimates and proposals of the Commissioner and, after having obtained from the Commissioner such further detailed information, if any, as they shall think fit to require, and having regard to all the requirements of this Act, shall frame therefrom, subject to such modifications and additions therein or thereto as they shall think fit, a budget-estimate of the income and expenditure of the corporation for the next official year.

- (2) In such budget-estimate, the standing committee shall—
 - (a) propose, with reference to the provisions of Chapter VIII, the levy of municipal taxes at such rates and, in the case of town-duties, on such articles, as they shall think fit ;
 - (b) provide for the payment, as they fall due, of all instalments of principal and interest for which the corporation may be liable under the provisions of Chapter V, or on account of any loan contracted after the passing of this Act, under Chapter VI ;
 - (c) allow for a cash balance at the end of the said year of not less than one lakh of rupees.

(3) The Commissioner shall cause the budget-estimate, as finally approved by the standing committee, to be printed and shall, not later than the fifteenth day of December, forward a printed copy thereof to the usual or last known local place of abode of each councillor.

Consideration of budget-estimate by corporation.

127. At a meeting of the corporation which shall be called for some day in January, not later than the tenth, the budget-estimate prepared by the standing committee shall be laid before the corporation, and they shall proceed to consider the same.

Fixing of rates of taxes.

128. (1) The corporation shall, on or before the thirty-first day of January, after considering the standing committee's proposals in this behalf, determine, subject to the limitations and conditions prescribed in Chapter VIII, the rates at which municipal taxes shall be levied and the articles on which town-duties shall be levied in the next ensuing official year.

- (2) Except under sections 134 and 196, the rates so fixed and the articles

(Chap. VII.—Revenue and Expenditure. Secs. 129-133.)

so appointed shall not be subsequently altered for the year for which they have been fixed.

129. Subject to the exigency of sub-section (1) of the last preceding section, the corporation may refer the budget-estimate back to the standing committee for further consideration, or adopt the budget-estimate or any revised budget-estimate submitted to them, either as it stands or subject to such alteration as they deem expedient: Provided that the budget-estimate finally adopted by the corporation shall fully provide for each of the matters specified in clauses (b) and (c) of section 126.

Final adoption of budget-estimate.

130. Any sum entered on the expenditure side of a budget-estimate which has been adopted by the corporation shall be termed a "budget-grant."

"Budget-grant" defined.

131. (1) On the recommendation of the standing committee, the corporation may from time to time during an official year increase the amount of any budget-grant, or make an additional budget-grant for the purpose of meeting any special or unforeseen requirement arising during the said year, but not so that the estimated cash balance at the close of the year shall be reduced below one lakh of rupees.

Corporation may increase amount of budget-grants and make additional grants.

(2) Such increased or additional budget-grants shall be deemed to be included in the budget-estimate adopted by the corporation for the year in which they are made.

132. If any portion of a budget-grant remains unexpended at the close of the year in the budget-estimate for which such grant was included, and if the amount thereof has not been taken into account in the opening balance of the municipal fund entered in the budget-estimate of the next following year, the standing committee may sanction the expenditure of such unexpended portion during the next following year for the completion, according to the original intention or sanction, of the purpose or object for which the budget-grant was made, but not upon any other purpose or object.

Rule as to unexpended budget-grants.

133. (1) The standing committee may, if they think necessary, at any time during an official year—

Reduction or transfer of budget-grants.

(a) reduce the amount of a budget; or

(b) transfer and add the amount, or a portion of the amount, of one budget-grant to the amount of any other budget-grant in the budget-estimate:

Provided that—

(c) due regard be had when making any such reduction or transfer to all the requirements of this Act;

(Chap. VII.—Revenue and Expenditure. Secs. 134-136.)

(d) the aggregate sum of the budget-grants contained in the budget-estimate adopted by the corporation shall not be increased, except by the corporation under section 131 ;

(e) every such reduction or transfer shall be brought to the notice of the corporation at their next meeting.

(2) If any such reduction or transfer is of an amount exceeding five hundred rupees, the corporation may pass with regard thereto such order as they think fit, and it shall be incumbent on the standing committee and the Commissioner to give effect to the said order.

Re-adjustment of income and expenditure to be made by the corporation during the course of the official year whenever necessary.

134. (1) If it shall at any time during any official year appear to the corporation, upon the representation of the standing committee, that, notwithstanding any reduction of budget-grants that may have been made by the standing committee under the last preceding section, the income of the municipal fund during the said year will not suffice to meet the expenditure sanctioned in the budget-estimate of the said year and to leave at the close of the year a cash balance of not less than one lakh of rupees, it shall be incumbent on the corporation to forthwith sanction any measure which shall be necessary for proportioning the year's income to the expenditure.

(2) For this purpose, the corporation may either diminish the sanctioned expenditure of the year, so far as it may be possible so to do with due regard to all the requirements of this Act, or have recourse to supplementary taxation.

Scrutiny and Audit of Accounts.

Weekly scrutiny of accounts by standing committee.

135. (1) The standing committee shall conduct, or cause to be conducted under their superintendence, a weekly scrutiny of the municipal accounts and publish weekly an abstract of receipts and expenditure of the week last preceding, signed by not less than two members of the said committee and by the municipal secretary.

(2) For this purpose, the standing committee shall have access to all the municipal accounts and to all records and correspondence relating thereto, and the Commissioner shall forthwith furnish to the standing committee any explanation concerning receipts and disbursements which they may call for.

Appointment of municipal auditors.

136. (1) The municipal accounts shall also be examined and audited from week to week by auditors specially appointed in this behalf for each official year by the corporation.

(2) The auditors so appointed may—

(a) by summons in writing, require the production before them of any book, deed, contract, account, voucher or other document or paper necessary for the proper conduct of their audit ;

(Chap. VII.—Revenue and Expenditure. Secs. 137-138. Chap. VIII.—Municipal Taxation. Sec. 139.)

- (b) by summons in writing, require any person having the custody or control of, or accountable for, any such book, deed, contract, account, voucher or other document or paper to appear in person before them ;
- (c) require any person so appearing before them to make and sign a declaration with respect to such book, deed, contract, account, voucher or other document or paper.

(3) The auditors so appointed shall receive such reasonable remuneration, not exceeding in the whole ten thousand rupees per annum, as the corporation shall from time to time determine.

137. (1) The auditors so appointed shall forthwith report to the standing committee any material impropriety or irregularity which they may at any time observe in the expenditure or in the recovery of moneys due to the corporation or in the municipal accounts, and shall furnish to the standing committee such information as the said committee shall from time to time require concerning the progress of their audit, and shall, as soon as may be after the commencement of each official year, deliver to the standing committee a report upon the whole of the municipal accounts for the previous official year.

Information and report to be furnished by auditors.

(2) The Commissioner shall cause the said report to be printed and forward a printed copy thereof, along with the printed copy of the administration report and statement of accounts which he is required by sub-section (3) of section 124 to forward to each councillor.

138. (1) The Governor in Council may at any time appoint an auditor for the purpose of making a special audit of the municipal accounts and of reporting thereon to Government: and [a] the costs of any such audit [b] as determined by the Governor in Council shall [b] be chargeable to the municipal fund.

A special audit may be directed by the Governor in Council.

(2) An auditor so appointed may exercise any power which an auditor appointed by the corporation may exercise.

CHAPTER VIII.

MUNICIPAL TAXATION.

Municipal Taxes defined.

139. For the purposes of this Act, taxation shall be imposed as follows, namely :—

- (1) property-taxes ;

Taxes to be imposed under this Act.

[a] " And " was substituted for the original words by Bom. Act IV of 1888, s. 4.

[b.b] These words were substituted for the original words by Bom. Act IV of 1888, s. 4.

(Chap. VIII.—Municipal Taxation. Secs. 140-141.)

- (2) a tax on vehicles and animals;
- (3) a toll on vehicles entering the city from Salsette; and
- (4) town-duties.

PROPERTY-TAXES.

Property-taxes leviable.

Property-taxes of what to consist, and at what rates leviable.

Water-tax.

Halálkhor-tax.

General tax.

Water-tax on what premises to be levied.

140. The following taxes shall be levied on buildings and lands in the city and shall be called "property-taxes," namely:—

- (a) a water-tax of so many per centum of their rateable value as the corporation shall deem reasonable with reference to the expenses of providing a water-supply for the city;
- (b) a halálkhor-tax of so many per centum, not exceeding three, of their rateable value as will, in the opinion of the corporation, suffice to provide for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools and for efficiently maintaining and repairing the municipal drains constructed or used for the reception or conveyance of such matter, subject, however, to the provisos that the minimum amount of such tax to be levied in respect of any one separate holding of land, or of any one building or of any one portion of a building which is let as a separate holding, shall be four annas per month, and that the amount of such tax to be levied in respect of any hotel, club or other large premises may be specially fixed under section 172;
- (c) a general tax of not less than eight and not more than twelve per centum of their rateable value, together with not less than one-eighth and not more than three-quarters per centum of their rateable value added thereto in order to provide for the expense necessary for fulfilling the duties of the corporation arising under clause (k) of section 61 and Chapter XIV.

141. Subject to the provisions of section 169, the water-tax shall be levied only in respect of premises—

- (a) to which a private water-supply is furnished from, or which are connected by means of communication-pipes with, any municipal water-work; or
- (b) which are situated in a portion of the city in which the Commissioner has given public notice that sufficient water is available from

(Chap. VIII.—Municipal Taxation. Secs. 142-144.)

municipal water-works for furnishing a reasonable supply to all the premises in the said portion.

142. (1) The halálkhor-tax shall be levied only in respect of premises—

- (a) situated in any portion of the city in which public notice has been given by the Commissioner that the collection, removal and disposal of all excrementitious and polluted matter from privies, urinals and cesspools will be undertaken by municipal agency; or
- (b) in which, wherever situate, there is a privy, water-closet, cesspool, urinal, bathing-place or cooking-place connected by a drain with a municipal drain :

Halálkhor-tax on what premises to be levied.

(2) Provided that the said tax shall not be levied in respect of any premises situated in any portion of the city specified in clause (a) in or upon which, in the opinion of the Commissioner, no such matter as aforesaid accumulates or is deposited.

(3) If the Commissioner directs, under sub-section (2) of section 248, that a separate water-closet, privy or urinal need not be required for any premises, the halálkhor-tax shall, nevertheless, be levied in respect of the said premises, if, but for such direction, the same would be leviable in respect thereof.

143. (1) The general tax shall be levied in respect of all buildings and lands in the city, except—

- (a) buildings exclusively occupied for public worship or for charitable purposes;
- (b) buildings and lands vesting in Her Majesty^[*] or in the corporation, in respect of which the said tax, if levied, would under the provisions hereinafter contained be primarily leviable from the Secretary of State for India in Council or the corporation, respectively.

General tax on what premises to be levied.

(2) The following buildings shall not be deemed to be buildings exclusively occupied for public worship or for charitable purposes within the meaning of clause (a), namely :—

- (c) buildings in which any trade or business is carried on; and
- (d) buildings in respect of which rent is derived, whether such rent is or is not applied exclusively to religious or charitable purposes.

144. (1) The Secretary of State for India in Council shall pay to the corporation annually, in lieu of the general tax from which buildings and lands vesting in Her Majesty ^[^b] are exempted by clause (b) of section 143, a sum ascertained in the manner provided in sub-sections (2) and (3).

Payment to be made to the corporation in lieu of the general tax

[*] "Her Majesty" was substituted for the original words by Bom. Act IV of 1888, s. 5.

[^b] "Her Majesty" was substituted for the original word by Bom. Act IV of 1888, s. 5.

(Chap. VIII.—Municipal Taxation. Secs. 145-146.)

by the Secretary of State for India in Council.

(2) The rateable value of the buildings and lands in the city vesting in Her Majesty [a] and beneficially occupied, in respect of which, but for the said exemption, general tax would be leviable from the Secretary of State for India in Council, shall be fixed by a person from time to time appointed in this behalf by the Governor in Council, with the concurrence of the corporation. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in Her Majesty [a] in the city materially increases or decreases.

(3) The sum to be paid annually to the corporation by the Secretary of State for India in Council shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (2).

145. For section 36 of the Bombay Port Trust Act, 1879, the following section shall be substituted, namely :—

Bom. VI of 1879.

[Printed in Vol. II of this Code, p. 390.]

Liability for Property-taxes.

Amendment of section 36, Bombay Act VI of 1879.

Primary responsibility for property-taxes on whom to rest.

146. (2) Property-taxes shall be leviable primarily from the actual occupier of the premises upon which the said taxes are assessed, if such occupier holds the said premises immediately from Government or from the corporation or from a fazendár.

(2) Otherwise the said taxes shall be primarily leviable as follows, namely:—

- (a) if the premises are let, from the lessor ;
- (b) if the premises are sub-let, from the superior lessor ;
- (c) if the premises are unlet, from the person in whom the right to let the same vests.

(3) But if any land has been let for any term exceeding one year to a tenant, and such tenant has built upon the land, the property-taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or his legal representative, whether the premises

[a] " Her Majesty " was substituted for the original words by Bom. Act IV of 1888, s. 5 (c).

(Chap. VIII.—Municipal Taration. Secs. 147-149.)

be in the occupation of the said tenant or of his legal representative, or of a sub-tenant.

147. (1) If any premises assessed to any property-tax are let, and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of the last preceding section, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the property-tax levied from him and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

Apportionment of responsibility for property-tax when the premises assessed are let or sub-let.

(2) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under this section, from such tenant or sub-tenant and the amount of property-tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(3) Any person entitled to receive any sum under this section shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same.

148. If any person who is primarily liable for the payment of any property-tax himself pays rent to another person other than Government or the corporation in respect of the premises upon which such tax is assessed, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said tax if the amount of the rent payable by him were the rateable value of the said premises.

Person primarily liable for property-tax entitled to credit, if he is a rent-payer.

Notice of transfer, etc., of premises assessable to Property-Taxes.

149. (1) Whenever the title of any person primarily liable for the payment of property-taxes on any premises to or over such premises is transferred, the person whose title is so transferred and the person to whom the same shall be transferred shall, within three months after execution of the instrument of transfer, or after its registration, if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer, in writing, to the Commissioner.

Notice to be given to the Commissioner of all transfers of title of persons primarily liable to payment of property-tax.

(Chap. VIII.—Municipal Taxation. Secs. 150-153.)

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred, as heir or otherwise, shall give notice of such transfer to the Commissioner within one year from the death of the deceased.

Form of notice.

150. (1) The notice to be given under the last preceding section shall be in the form either of Schedule E or Schedule F, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the Commissioner may, if he thinks it necessary, require the production of the instrument of transfer, if any, or of a copy thereof obtained under section 57 of the Indian Registration Act, 1877 [a]. III of 1877

Liability for payment of property-taxes to continue in the absence of any notice of transfer.

151. (1) Every person primarily liable for the payment of a property-tax on any premises, who transfers his title to or over such premises without giving notice of such transfer to the Commissioner as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of all property-taxes from time to time payable in respect of the said premises until he gives such notice, or until the transfer shall have been recorded in the Commissioner's books.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said property-taxes, or to affect the prior claim of the Commissioner on the premises, conferred by section 212, for the recovery of the property-taxes due thereupon.

Notice to be given to the Commissioner of the erection of a new building, etc.

152. (1) When any new building is erected, or when any building is rebuilt or enlarged,

or when any building which has been vacant is re-occupied,

the person primarily liable for the property-taxes assessed on the building shall within fifteen days give notice thereof, in writing, to the Commissioner.

(2) The said period of fifteen days shall be counted from the date of the completion or of the occupation, whichever first occurs, of the building which has been newly erected or rebuilt, or of the enlargement, as the case may be, and, in the case of a building which has been vacant, from the date of the re-occupation thereof.

Notice to be given to the Commissioner of demolition or removal of a building.

153. (1) When any building or any portion of a building, which is liable to the payment of a property-tax, is demolished or removed, otherwise than by order of the Commissioner, the person primarily liable for the payment of the said tax shall give notice thereof in writing to the Commissioner.

[a] For Act III of 1877 see the revised edition, as modified up to 1st December, 1892, published by the Legislative Department.

(Chap. VIII.—Municipal Taxation. Secs. 154-156.)

(2) Until such notice is given, the person aforesaid shall continue liable to pay every such property-tax as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

Valuation of Property assessable to Property-taxes.

154. (1) In order to fix the rateable value of any building or land assess- Rateable value how to be determined.
 able to a property-tax, there shall be deducted from the amount of the annual rent for which such land or building might reasonably be expected to let from year to year a sum equal to ten per centum of the said annual rent, and the said deduction shall be in lieu of all allowance for repairs or on any other account whatever.

(2) The value of any machinery contained or situate in or upon any building or land shall not be included in the rateable value of such building or land.

155. (1) To enable him to determine the rateable value of any building or land and the person primarily liable for the payment of any property-tax leviable in respect thereof, the Commissioner may require the owner or occupier of such building or land, or of any portion thereof, to furnish him, within such reasonable period as the Commissioner prescribes in this behalf, with information, or with a written return signed by such owner or occupier,— Commissioner may call for information or returns from owner or occupier or enter and inspect assessable premises.

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

(b) as to the dimensions of such building or land, or of any portion thereof, and the rent, if any, obtained for such building or land, or any portion thereof.

(2) Every owner or occupier on whom any such requisition is made shall be bound to comply with the same and to give true information or to make a true return to the best of his knowledge or belief.

(3) The Commissioner may also, for the purpose aforesaid, make an inspection of any such building or land.

Assessment-book.

156. The Commissioner shall keep a book, to be called "the assessment-book," in which shall be entered every official year—

(a) a list of all buildings and lands in the city, distinguishing each Assessment-book what to contain.
 either by name or number as he shall think fit;

(Chap. VIII.—Municipal Taxation. Secs. 157-158.)

- (b) the rateable value of each such building and land determined in accordance with the foregoing provisions of this Act ;
- (c) the name of the person primarily liable for the payment of the property-taxes, if any, leviable on each such building or land ;
- (d) if any such building or land is not liable to be assessed to the general tax, the reason of such non-liability ;
- (e) when the rates of the property-taxes to be levied for the year have been duly fixed by the corporation and the period fixed by public notice, as hereinafter provided, for the receipt of complaints against the amount of rateable value entered in any portion of the assessment-book has expired, and, in the case of any such entry which is complained against, when such complaint has been disposed of in accordance with the provisions hereinafter contained, the amount at which each building or land entered in such portion of the assessment-book is assessed to each of the property-taxes, if any, leviable thereon ;
- (f) if, under section 169 or 170, a charge is made for water supplied to any building or land by measurement or the water-tax or charge for water by measurement is compounded for, or if, under section 172, the halalkhor-tax for any building or land is fixed at a special rate, the particulars and amount of such charge, composition or rate ;
- (g) such other details, if any, as the Commissioner from time to time thinks fit to direct.

The assessment-book to be made separately for each ward and in parts, if necessary.

157. (1) The assessment-book shall be made in separate books called "ward assessment-books," one for each of the wards into which the city is for the time being divided under the provisions of section 24 ; and each ward assessment-book may, if the Commissioner thinks fit, be divided into two or more parts for such purposes and with such several designations as the Commissioner shall determine.

(2) The ward assessment-books and their respective parts, if any, shall collectively constitute the assessment-book.

Treatment of property which is let to two or more persons in separate occupancies.

158. (1) When any building or land is let to two or more persons holding in severalty, the Commissioner may, for the purpose of assessing such building or land to the property-taxes, either treat the whole thereof as one property, or, with the written consent of the owner of such building or land, treat each several holding therein or any two or more of such several holdings together, or each floor or flat, as a separate property.

(Chap. VIII.—Municipal Taxation. Secs. 159-162.)

(2) When the Commissioner has determined to treat all the several holdings comprised within any one building or land under this section as one property, he may, subject to any general conditions which may from time to time be prescribed by the standing committee in this behalf, at any time not later than seven days before the first day of any half-year for which an instalment of general tax will be leviable in respect of the said property, sanction a drawback of one-fifth part of the general tax so leviable.

Allowance of drawback in such cases.

159. (1) When the name of the person primarily liable for the payment of property-taxes in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment-book, and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

Person primarily liable for property-taxes how to be designated, if his name cannot be ascertained. Occupier liable for property-taxes until he gives information.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all property-taxes leviable on the premises of which he is in occupation.

160. (1) When the entries required by clauses (a), (b), (c) and (d) of section 156 have been completed, as far as practicable, in any ward assessment-book, the Commissioner shall give public notice thereof and of the place where the ward assessment-book, or a copy of it, may be inspected.

Public notice to be given when valuation of property in any ward has been completed.

(2) Such public notice shall be given by advertisement in the Bombay Government Gazette and in the local newspapers, and also by posting placards in conspicuous places throughout the ward.

161. (1) Every person who reasonably claims to be the owner or occupier of some premises entered in the assessment-book or the agent of any such owner or occupier shall be permitted, free of charge, to inspect and to take extracts from any portion of the said book which relates to the said premises.

Assessment-book to be open to inspection.

(2) Any person not entitled under sub-section (1) to inspect and take extracts from any portion of the assessment-book free of charge shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the Commissioner, with the approval of the standing committee.

162. (1) The Commissioner shall, at the time and in the manner prescribed in section 160, give public notice of a day, not being less than fifteen days from the publication of such notice, on or before which complaints against the

Time for filing complaints against

(Chap. VIII.—Municipal Taxation. Secs. 163-166.)

valuations to be publicly announced.

Special notices to be issued in certain cases.

Time and manner of filing complaints against valuations.

Notice to complainants of day fixed for investigating their complaints.

Hearing of complaint.

Authentication of ward assessment-books when all complaints have been disposed of.

amount of any rateable value entered in the ward assessment-book will be received in his office.

(2) In every case in which any premises have for the first time been entered in the assessment-book as liable to the payment of property-rates, or in which the rateable value of any premises liable to such payment has been increased, the Commissioner shall, as soon as conveniently may be after the issue of the public notice under sub-section (1), give a special written notice to the owner or occupier of the said premises specifying the nature of such entry and informing him that any complaint against the same will be received in his office at any time within fifteen days from the service of the special notice.

163. (1) Every complaint against the amount of any rateable value entered in the assessment-book must be made by written application to the Commissioner, which shall be left at his office on or before the day or the latest day fixed in this behalf in the public or special notice aforesaid.

(2) Every such application shall set forth briefly but fully the grounds on which the valuation is complained against.

164. The Commissioner shall cause all complaints so received to be registered in a book to be kept for this purpose, and shall give notice, in writing, to each complainant of the day, time and place when and whereat his complaint will be investigated.

165. (1) At the time and place so fixed, the Commissioner shall investigate and dispose of the complaint, in the presence of the complainant, if he shall appear, and, if not, in his absence.

(2) For reasonable cause, the Commissioner may from time to time adjourn the investigation.

(3) When the complaint is disposed of, the result thereof shall be noted in the book of complaints kept under section 164, and any necessary amendment shall be made, in accordance with such result, in the assessment-book.

166. (1) When all such complaints, if any, have been disposed of, and the entries required by clause (e) of section 156 have been completed in the ward assessment-book, the said book shall be authenticated by the Commissioner, who shall certify, under his signature, that except in the cases, if any, in which amendments have been made, as shown therein, no valid objection has been made to the rateable values entered in the said book.

(2) Thereupon the said ward assessment-book, subject to such alterations as may thereafter be made therein under the provisions of the next following section, shall be accepted as conclusive evidence of the amount of each pro-

(Chap. VIII.—Municipal Taxation. Secs. 167-169.)

perty-tax leviable on each building and land in the ward in the official year to which the book relates.

167. (1) The Commissioner may, upon the representation of any person concerned, or upon any other information, at any time during the official year to which an assessment-book relates, amend the same by inserting therein the name of any person whose name ought to be so inserted or any premises previously omitted, or by striking out the name of any person not liable for the payment of any property-tax, or by increasing or reducing the amount of any rateable value and of the assessment based thereupon, or by making or cancelling an entry, exempting any premises from liability to any property-tax.

Assessment-book may be amended by the Commissioner during the official year.

(2) Every such amendment shall be deemed to have been made, for the purpose of determining the liability or exemption of the person concerned in accordance with the altered entry from the earliest day in the current official year when the circumstances justifying the amendment existed.

168. (1) It shall not be necessary to prepare a new assessment-book every official year. Subject to the provisions of sub-section (3), the Commissioner may adopt the entries in the last preceding year's book, with such alterations as he thinks fit, as the entries for each new year.

New assessment-book need not be prepared every official year.

(2) But public notice shall be given, in accordance with sections 160 and 162, every year, and the provisions of the said sections and of sections 163 to 167, both inclusive, shall be applicable each year.

(3) A new assessment-book shall be prepared at the least once in every four years.

Special Provisions concerning the Water and Halalkhor Taxes.

169. (1) The Commissioner may —

(a) in such cases as the standing committee shall either generally or specially direct, instead of levying the water-tax in respect of any premises liable thereto under section 141, charge for the water supplied to such premises, by measurement, at such rate as shall from time to time be prescribed by the said committee in this behalf;

A charge by measurement or a periodical lump payment may be substituted for the water-tax.

(b) with the approval of the standing committee, compound with any person for the supply of water to any premises for a renewable term of one or more years not exceeding five, on payment of a fixed periodical sum, in lieu of the water-tax or charge by measurement which would otherwise be leviable from such person in respect of the said premises.

(Chap. VIII.—Municipal Taxation. Secs. 170-172.)

(2) The standing committee may, for the cases in which the Commissioner charges for water by measurement under clause (a), from time to time prescribe such conditions as they shall think fit as to the use of the water and as to the charge to be paid for water consumed whilst a meter is out of order or under repair; and, in each case in which a composition is made under clause (b), the said committee may prescribe such conditions as to the use of the water as they shall think fit; Provided that no condition prescribed under this sub-section shall be inconsistent with this Act or with any bye-law made under this Act.

(3) A person who is charged for water by measurement or who has compounded for a fixed periodical sum shall not be liable for payment of the water-tax, but any sum payable by him on account of water and not paid when it becomes due shall be recoverable by the Commissioner as if it were an arrear of water-tax.

170. If, in respect of any premises, water-tax would be leviable under this Act from the Secretary of State for India in Council or from the Trustees of the Port of Bombay, the Commissioner, in lieu of levying such tax, shall charge for the water supplied to such premises, by measurement, at such rate as shall be prescribed by the standing committee in this behalf, not exceeding, in the case of the Secretary of State for India in Council, the minimum rate, and, in the case of the said Trustees, the maximum rate at the time being charged under clause (a) of section 169 to any other person; and such charge shall be recoverable as provided in sub-section (3) of the said section.

171. No tax or charge of any kind shall be levied or demanded for the use of water in or from any drinking-fountain, tank, reservoir, cistern, pump, well, duct, stand-pipe or other work, used for the gratuitous supply of water to the inhabitants of the city and vesting in the corporation: Provided that the use of water in or from any such work shall be limited as prescribed in sub-section (3) of section 269.

172. (1) The Commissioner may, whenever he thinks fit, fix the halalkhor-tax to be paid in respect of any hotel, club or other large premises at such special rate as shall be approved by the standing committee in this behalf, either generally or in any particular case, whether the service in respect of which such tax is leviable be performed by halalkhors or by substituted means or appliances.

(2) In the case of premises in respect of which the halalkhor-tax is payable by the Secretary of State for India in Council or by the Trustees

Government and the Port Trust to be charged for water by measurement.

Supply of water at public drinking-fountains, etc., not to be taxed.

Halalkhor-tax may be fixed at special rates in certain cases.

(Chap. VIII.—Municipal Taxation. Secs. 173-176.)

of the Port of Bombay, the Commissioner shall fix the said tax at a special rate approved as aforesaid.

(3) In any such case the amount of the halálkhor-tax shall be fixed with reference to the cost or probable cost of the collection, removal and disposal by the agency of municipal halálkhors, of excrementitious and polluted matter from the premises.

173. (1) Any person who has paid to the Commissioner any water-tax or halálkhor-tax in respect of any premises shall, if he was not himself in occupation of the said premises during the period for which he has made such payment, be entitled to receive the amount of the said payment from the person, if any, in actual occupation of the said premises for the said period.

Water-tax or halálkhor-tax paid by any person may be recovered by him from the occupier of the premises for which it is paid.

(2) For the recovery of the said amount from the person aforesaid, the person who has paid the same shall have the same rights and remedies as if such amount were rent payable to him by the person from whom he is entitled to receive the same.

Refund of Property-taxes for Vacancies.

174. When any building or land, or any portion of any premises which the Commissioner has treated under section 158 as a separate property, has been vacant for not less than thirty consecutive days, the Commissioner shall, subject to the provisions hereinafter contained, refund the amount of the water-tax and halálkhor-tax, if any, paid for the number of days that such vacancy lasted.

Refund of water and halálkhor-taxes when and to what extent obtainable.

175. When any building or land, or any portion of any premises which the Commissioner has treated under section 158 as a separate property, has been vacant for not less than sixty consecutive days, the Commissioner shall, subject to the provisions hereinafter contained, refund two-thirds of the amount of the general tax, if any, paid for the number of days that such vacancy lasted.

Refund of general tax when and to what extent obtainable.

176. (1) No refund of any property-tax shall be claimable from the Commissioner as aforesaid, unless notice in writing of the vacancy shall have been given by the person liable for the payment of the tax, or his agent, to the Commissioner.

Refund not claimable unless notice of vacancy is given to the Commissioner.

(2) No refund shall be paid by the Commissioner for any period previous to the day of the delivery of such notice.

(3) When a vacancy continues from one half-year in respect of which property-taxes are, under section 197, recoverable, into the next following half-year, no refund of any property-tax shall be claimable from the Commissioner as aforesaid on account of such continued vacancy, unless notice thereof shall

(Chap. VIII.—Municipal Taxation. Secs. 177-181)

be given to the Commissioner as aforesaid within thirty days from the commencement of the said next following half-year.

Refund of water-tax inadmissible unless application for stopping water-supply has been made.

177. No refund of water-tax shall be claimable except from such time as a written application shall have been made to the Commissioner to stop the water-supply to the vacant premises.

Refund of general tax inadmissible when drawback has been sanctioned.

178. No refund of general tax shall be claimable in any case in which the Commissioner has sanctioned a draw back under sub-section (2) of section 158.

Applications for refund when and how to be made.

179. It shall be in the discretion of the Commissioner to disallow any claim for refund of any property-tax, unless application therefor is made to him in writing within thirty days after the expiry of the half-year to which the claim relates, accompanied by the bill presented to the applicant under section 200 for the amount of the tax from which the refund is claimed.

TAX ON VEHICLES AND ANIMALS.

Tax on what vehicles and animals to be levied.

180. Except as hereinafter provided, a tax at rates not exceeding those specified in Schedule G shall be levied on all vehicles and on all animals of the descriptions specified in the said schedule which are kept within the city.

Exemptions from the tax.

181. The said tax shall not be leviable in respect of—

- (a) any vehicle or animal certified by the Commissioner or the Police Commissioner, as the case may be, to be employed by the owner thereof for municipal or police purposes ;
- (b) gun-carriages, ordnance carts or wagons, and artillery and cavalry horses ;
- (c) any horse which any person, exempted, by an order issued under section 3 of the Municipal Taxation Act, 1881^[a], from the operation of any municipal tax on horses, is bound, by the regulations of the service to which he belongs, to keep ;
- (d) any horse exempted from municipal taxation by section 25 of the Indian Volunteers Act, 1869^[b] ;

XI of 1881.

XX of 1869

[a] Printed, General Acts, 1877-81, Ed. 1884, p. 470.

[b] Printed, General Acts, 1867-76, Ed. 1887, p. 136.

(Chap. VIII.—Municipal Taxation. Secs. 182-184.)

- (e) vehicles and animals belonging to Her Majesty [*] or to the corporation ;
- (f) vehicles and animals which belong to the persons to whom the right of working street-tramways in the city is granted by the Bombay Tramways Act, 1874^[b], and which are exempted from municipal taxation by the said Act ;
- (g) vehicles kept by *bonâ fide* dealers in vehicles for sale merely, and not used ;
- (h) trucks used exclusively on a wharf, or in or upon any premises appertaining to a factory, workshop, warehouse or railway ;
- (j) hand-barrows having one wheel only and children's perambulators.

182. (1) Every person who has owned or had charge of any vehicle or animal in respect of which the tax aforesaid is leviable shall, if he has owned or had charge thereof,—

Periods by which liability for the tax is determinable.

- (a) for not less than thirty days in any quarter, be liable for the whole tax for that quarter ;
- (b) for less than thirty but more than seven days in any quarter, be liable for one-third of the whole tax for that quarter ;
- (c) for not more than seven days in any quarter, be exempt from liability for the tax for that quarter.

(2) When a person has owned or had charge of two or more vehicles or two or more animals of the same description, each at different periods in one quarter, he shall, for the purposes of this section, be deemed to have owned or had charge of one vehicle or one animal only, as the case may be, for the aggregate number of days in the said two or more periods.

183. If a vehicle has been under repair or standing at a carriage-maker's during the whole of any quarter, no tax shall be leviable in respect thereon for that quarter.

Vehicles under repair, or standing at carriage-maker's, exempt.

184. If an animal has been, during the whole of any quarter in any institution for the reception of infirm or disused animals, or if any animal certified by a veterinary surgeon to have been unfit for use during the whole of any quarter has not been used during such quarter, no tax shall be leviable in respect of such animal for that quarter.

Animals unfit for use, and not used, exempt.

[*] "Her Majesty" was substituted for the original words by Bombay Act IV of 1888, s. 5 (a).

[b] Printed in Vol. II of this Code, p. 167.

(Chap. VIII.—Municipal Taxation. Secs. 165-187.)

Livery-stable-keepers and others may be compounded with.

185. The Commissioner may, with the approval of the standing committee, compound with any livery-stable-keeper or other person keeping vehicles or horses or bullocks for hire, or with any dealer having stables in which horses are kept for sale on commission or otherwise, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of the taxes which such livery-stable-keeper or other person or dealer would otherwise be liable to pay under section 180.

Vehicle and animal tax-book to be kept.

186. (1) The Commissioner shall keep a book, in which shall be entered from time to time—

- (a) a list of the persons liable to pay any tax under section 180 ;
- (b) a specification of the vehicles and animals in respect of which the said persons are, respectively, liable to the said tax ;
- (c) the amount of tax payable by each such person and the period for which it is payable ;
- (d) the particulars of every composition made under section 185.

(2) Any person whose name is entered in the said book, or the agent of any such person, shall be permitted, free of charge, to inspect and take extracts from any portion of the said book which relates to such person.

(3) Any person not entitled under sub-section (2) to inspect and take extracts from any portion of the said book, free of charge, shall be permitted to do so on payment of such fee as shall from time to time be prescribed in this behalf by the Commissioner, with the approval of the standing committee.

Returns may be called for from owners of premises and persons supposed to be liable to the tax.

187. (1) In order that the said list may be prepared, the Commissioner may require—

- (a) the owner of any premises let to or occupied by more than one person owning or having the charge of vehicles and animals to furnish him with a written return signed by such owner, of the name and address of each of the said persons and of the animals and vehicles owned by or in the charge of each of the said persons kept upon such owner's premises ;
- (b) any person supposed to be liable to the payment of any tax on a vehicle or animal to furnish him with a written return signed by such person and containing such information concerning the vehicles and animals, if any, owned by or in the charge of such person as the Commissioner shall deem necessary.

(2) Every person on whom any such requisition is made shall be bound to comply with the same, within such reasonable period as the Commissioner

(Chap. VIII.—Municipal Taxation. Secs. 188-191.)

prescribes in this behalf, whether such person be liable to the payment of any such tax or not, and to make a true return to the best of his knowledge or belief.

188. Every person who, in any quarter for which a tax on vehicles and animals is leviable, becomes possessed of any vehicle or animal in respect of which he will be liable to the payment of the said tax, shall, if in the immediately preceding quarter he was not liable to the payment of any such tax, give notice, in writing, to the Commissioner, within fifteen days after he has become possessed of such vehicle or animal, of the fact of his having become possessed thereof.

Notice to be given to commissioner by a person not hitherto liable to the tax, who becomes possessed of a vehicle or animal in respect of which liability arises.

189. (1) The Commissioner may make an inspection of any stable or coach-house or any place wherein he may have reason to believe that there is any vehicle or animal liable to a tax under this Act.

Power to inspect stables and summon persons liable to the tax.

(2) The Commissioner may, by written summons, require the attendance before him of any person whom he has reason to believe to be liable to the payment of a tax in respect of a vehicle or animal, or of any servant of any such person, and may examine such person or servant as to the number and description of vehicles and animals owned by or in the charge of such person; and every person so summoned shall be bound to attend before the Commissioner and to give true information, to the best of his knowledge or belief, as to the said matters.

TOLL ON VEHICLES ENTERING THE CITY FROM SALSETTE.

190. (1) A toll, at a rate not exceeding two annas each, shall be levied on all vehicles entering the city from Salsette which are not liable to the tax leviable under section 180, except vehicles of the descriptions specified in clauses (a), (b), (e), (f) and (h) of section 181.

Rate and method of levying the toll.

(2) The said toll shall be leviable on each occasion that any vehicle liable thereto enters the city from Salsette.

191. (1) The driver of every vehicle in respect of such a toll is paid under the last preceding section shall be entitled to receive from the person who collects the same a ticket certifying payment thereof.

Ticket certifying payment of toll to be given to driver of vehicle;

(2) The possession of any such ticket shall not, however, be deemed to exempt the person who owns or has charge of the vehicle from the tax leviable under section 180, if such vehicle is kept in the city for any such period as renders it liable to the said tax.

but vehicle on which toll has been paid not to be exempt from tax under section 180, if otherwise liable thereto.

TOWN-DUTIES.

Town-duties at what rates and on what articles leviable.

192. (1) Except as hereinafter provided, duties at rates not exceeding those respectively specified in Schedule H shall be levied in respect of the several articles mentioned in the said Schedule or of so many of them as the corporation shall from year to year, in accordance with section 128, determine when the said articles are imported from any place into the city.

(2) The said duties shall be called "town-duties."

Table of rates of town-duties to be affixed on certain places.

193. The Commissioner shall cause tables of the town-duties for the time being leviable, specifying the rates at which and the articles on which the same are leviable, to be printed in the English, Gujaráthi, Maráthi and Urdu languages and to be affixed in a conspicuous position at every place at which the said town-duties are levied.

Exemption of articles belonging to Government from town-duty. Refund of town-duty on articles which become the property of Government after importation.

194. (1) No town-duty shall be leviable on any article which, at the time of its importation, is certified by an officer empowered by Government in this behalf to be the property of Government.

(2) If any article on which town-duty is paid is imported under a written declaration signed by the importer that such article is being imported for the purpose of fulfilling a specified contract with Government or otherwise for the use of Government, the full amount of the duty paid thereon shall be refunded, on production, at any time within six months after importation, of a certificate signed by an officer empowered by Government in this behalf certifying that the article so imported has become the property of Government.

Refund of town-duty on export.

195. (1) When any article upon which town-duty has been paid shall be exported from the city, the full amount of the duty so paid shall, subject to the provisions hereinafter contained, be refunded.

(2) Such refunds shall be paid under such rules as the Commissioner, with the approval of the standing committee, shall from time to time frame in this behalf:

(3) Provided that—

(a) no refund shall be paid on any article, other than timber or flour, not exported within six months, or on any timber not exported within twelve months, from the date of its importation;

(b) a refund shall be claimable on all flour exported from the city, without proof of the importation of the same into the city, equal to seventy-five per centum of the amount of the duty at the time being leviable on the grain from which such flour has been prepared;

(Chap. VIII.—Municipal Taxation. Secs. 196-200.)

- (c) no refund shall be paid unless the same is applied for within one month from the date of exportation ;
- (d) no refund shall be made of any less amount than five rupees ;
- (e) no rule framed by the Commissioner under this section shall have effect unless and until it is confirmed by Government.

SUPPLEMENTARY TAXATION.

196. Whenever the corporation determine, under section 134, to have recourse to supplementary taxation in any official year, they shall do so by increasing, for the unexpired portion of the said year, the rates at which any tax imposable under this Act is being levied or by adding to the number of articles on which town-duties are being levied, but every such increase or addition shall be made subject to the limitations and conditions on which any such tax is imposable.

Any tax imposable under this Act may be increased by way of imposing supplementary taxation.

COLLECTION OF TAXES.

197. Each of the property-taxes shall be payable in advance in half-yearly instalments on each first day of April and each first day of October.

Property-taxes payable half-yearly in advance.

198. (1) Except as is hereinafter otherwise provided, the tax on vehicles and animals shall be payable quarterly in arrear on each first day of April and each first day of July and each first day of October and each first day of January :

Tax on vehicles and animals payable quarterly in arrear ;

(2) Provided that, in the case of any public conveyance licensed by the Police Commissioner under Bombay Act VI of 1863^[*] (*an Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay*), the person who keeps or lets such public conveyance for hire shall be required by the said Commissioner, before any license is issued to him under the said Act, to pay into the municipal office the tax leviabale on the said public conveyance and the animal or animals used for the same, for the whole period for which such license is to be granted, together with the fee payable for such license.

but tax on public conveyances to be paid in advance.

199. Tolls on vehicles entering the city from Salsette and town-duties shall be payable on demand.

Tolls and town-duties payable on demand.

200. (1) When any property-tax or tax on vehicles and animals, other than public conveyances and the animals used therefor, or any instalment of any such tax, shall have become due, the Commissioner shall, with the

Presentation of bills for certain taxes.

[*] Printed in Vol. II of this Code, p. 52.

(Chap. VIII.—Municipal Taxation. Secs. 201-203.)

least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum due.

(2) Every such bill shall specify the period for which, and the premises, vehicle or animal in respect of which, the tax is charged, and shall also give notice of the time within which an appeal may be preferred, as hereinafter provided, against such tax.

When one bill may be presented for several claims.

201. (1) All the sums due for each half-year for all or any of the three property-taxes by any one person on account of one and the same property shall be charged to such person in one bill and shall be recoverable from him in the lump: Provided that nothing herein contained shall affect the liability of such person to any increased tax to which he may be assessed on account of the said property under section 167.

(2) If any one person is liable for all or any of the said taxes on account of more properties than one, it shall be competent to the Commissioner to charge to such person in one or several bills, as he shall think fit, the several sums payable by him on account of such properties: Provided that if such person, by written notice to the Commissioner, requests to be furnished with several bills, the Commissioner shall comply with such request in respect of all the said taxes for which such person becomes liable after receipt by the Commissioner of his said notice.

Notice of demand.

202. (1) If the amount of tax for which any bill has been presented as aforesaid is not paid into the municipal office within fifteen days from the presentation thereof, the Commissioner may cause to be served upon the person liable for the payment of the same a notice of demand in the form of Schedule I, or to the like effect.

(2) For every notice of demand which the Commissioner causes to be served on any person under this section, a fee of such amount not exceeding one rupee as shall in each case be fixed by the Commissioner shall be payable by the said person and shall be included in the costs of recovery.

Distress.

203. If the person liable for the payment of the said tax do not within fifteen days from the service of the notice of demand pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioner, and if no appeal is preferred against the said tax, as hereinafter provided, such sum, with all costs of the recovery, may be levied under a warrant in the form of Schedule J, or to the like effect, to be issued by the Commissioner, by distress and sale of the goods and chattels of the defaulter, or, if the defaulter be the occupier of any premises in respect of which a pro-

(Chap. VIII.—Municipal Taxation. Secs. 204-209.)

erty-tax is due, by distress and sale of any goods and chattels found on the said premises.

204. The goods and chattels of any person liable for the payment of any tax, for levy of which a warrant has been issued as aforesaid, may be distrained wherever the same may be found.

Goods of defaulter may be distrained, wherever found.

205. The officer charged with the execution of a warrant of distress issued under section 203 shall forthwith make an inventory of the goods and chattels which he seizes under such warrant, and shall at the same time give a written notice, in the form of Schedule K, to the person in possession thereof at the time of seizure that the said goods and chattels will be sold as therein mentioned.

Inventory and notice of distress and sale.

206. (1) If the warrant is not in the meantime suspended by the Commissioner or discharged, the goods and chattels seized shall, after the expiry of the period named in the notice served under the last preceding section, be sold by order of the Commissioner, who shall apply the proceeds or such part thereof as shall be requisite, in discharge of the sum due and of the costs of recovery.

Sale.

(2) The surplus, if any, shall be forthwith credited to the municipal fund, but, if the same be claimed by written application to the Commissioner within one year from the date of the sale, a refund thereof shall be made to the person in possession of the goods and chattels at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

207. For every distraint made under this Act a fee shall be charged at the rate set forth in Schedule L, and the said fee shall be included in the costs of recovery.

Fees for distraints.

208. The Commissioner may, in his discretion, remit the whole or any part of any fee chargeable under the last preceding section or under subsection (2) of section 202.

Fees for cost of recovery may be remitted.

209. (1) If the sum due on account of any property-tax remains unpaid after a bill for the same has been duly presented to the person primarily liable for the payment thereof, and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the Commissioner may present a bill for the amount to the occupier of the said premises, or, if there are two or more occupiers thereof, may present a bill to each of them for such portion of the sum due as bears to the whole amount due the

When occupiers may be held liable for payment of property-taxes.

(Chap. VIII.—Municipal Taxation. Secs. 210-212.)

same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within fifteen days from the presentation of any such bill to pay the amount therein claimed, the said amount may be recovered from him in accordance with the foregoing provisions.

(3) No arrear of a property-tax shall be recovered from any occupier under this section, which has remained due for more than one year or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from, an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

210. (1) If the Commissioner shall at any time have reason to believe that any person from whom any sum is due on account of any property-tax or tax on vehicles and animals, or who would be liable for any sum on account of the tax on vehicles and animals if the current quarter had come to a close, is about forthwith to remove from the city, the Commissioner may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

(2) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand, and the Commissioner's warrant for distress and sale may be issued and executed without any delay.

211. Instead of proceeding against a defaulter by distress and sale as hereinbefore provided, or after a defaulter shall have been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, by such defaulter, on account of a property-tax or of the tax on vehicles and animals, may be recovered from him by a suit in any Court of competent jurisdiction.

212. Property-taxes due under this Act in respect of any building or land shall, subject to the prior payment of the land-revenue, if any, due to Government thereupon, be a first charge upon the said building or land and upon the goods and chattels, if any, found within or upon such building or land and belonging to the person liable for such taxes.

Summary proceedings may be taken against persons about to leave the city.

Defaulters may be sued for arrears, if necessary.

Property-taxes to be a first charge on premises on which they are assessed.

(Chap. VIII.—Municipal Taxation. Secs. 213-214.)

213. (1) Tolls on vehicles entering the city from Salsette and town-duties—

Collection of tolls and town-duties how to be effected.

- (a) may be collected, under the orders of the Commissioner, by municipal officers and servants appointed in this behalf; or
- (b) if the Commissioner thinks fit, may, with the approval of the standing committee, be farmed by him for any period not exceeding one year at a time or be collected by or under the orders of any person whom the Commissioner, with the approval of the standing committee appoints to be his agent for this purpose.

(2) The said tolls and town-duties shall be collected and refunds of town-duties shall be made at such places and be managed and controlled in such manner as the Commissioner, with the approval of the standing committee, shall from time to time direct.

214. (1) If any toll payable in respect of a vehicle entering the city from Salsette is not paid on demand, the person authorized under section 213 to collect the same may seize—

Procedure in case of non-payment of toll.

- (a) any part of the contents of the vehicle in respect of which the toll is payable of sufficient value to defray the toll; or
- (b) if the vehicle is empty, or the contents are of insufficient value to defray the toll, the vehicle itself.

(2) If the toll and the costs, if any, incurred on account of the seizure, remain undischarged for twenty-four hours after the seizure, the case shall be reported to the Commissioner; and the Commissioner shall forthwith issue a public notice, fixing some convenient time within three days after the date of the seizure for the sale by public auction of the property which has been seized.

(3) If at any time before the sale is commenced in accordance with such public notice the person in whose possession the property was at the time it was seized shall pay to the Commissioner a sum equal to double the amount of the toll due, together with all the expenses incurred on account of the non-payment of the toll and of the seizure and intended sale, the Commissioner shall forthwith release the property seized.

(4) If such payment is not made, the property seized shall be sold by auction in accordance with the public notice, and the proceeds shall be devoted to the discharge of the toll and of all expenses incurred on account of the non-payment of the toll and of the seizure and sale. The surplus, if any, shall be forthwith credited to the municipal fund, but, if the same be claimed by written application to the Commissioner within one year from the date of the

(Chap. VIII.—Municipal Taxation. Secs. 215-217.)

sale, a refund thereof shall be made to the person in whose possession the property was at the time of the seizure. Any surplus not claimed within one year as aforesaid shall be the property of the corporation.

Powers of persons authorized to collect and refund town-duties.

215. Every person authorized under section 213 to collect or to refund town-duties shall have, in respect of the collection of the said duties and of paying refunds and of the confiscation of goods in connection therewith, the same powers as are conferred by any law at the time in force on the Commissioner of Customs of Bombay and the officers subordinate to him in respect of the levy of customs-duties and of the grant of drawbacks and of the confiscation of goods in connection therewith, and shall also have the same privileges and be subject to the same liabilities in respect of anything done by him in or for the purpose of collecting or refunding town-duties as the said Commissioner of Customs and the officers subordinate to him have or are subject to under any law at the time in force relating to customs-duties.

Writing off of irrecoverable taxes.

216. The Commissioner may, with the approval of the standing committee, from time to time, write off any sum due on account of any tax or of the costs of recovering any tax which shall, in his opinion, be irrecoverable.

APPEALS AGAINST VALUATIONS AND TAXES.

Appeals when and to whom to lie.

[^a] 217. (1) Subject to the provisions hereinafter contained, appeals against any rateable value or tax fixed or charged under this Act shall be heard and determined by the Chief Judge of the Small Cause Court.

(2) But no such appeal shall be heard by the said Chief Judge, unless—

- (a) it is brought within fifteen days after the accrual of the cause of complaint;
- (b) in the case of an appeal against a rateable value, a complaint has previously been made to the Commissioner under section 163, and such complaint has been disposed of;
- (c) in the case of an appeal against any amendment made in the assessment-book under section 167 during the official year, a complaint has been made by the person aggrieved within fifteen days after he first received notice of such amendment, and his complaint has been disposed of;
- (d) in the case of an appeal against a tax, or in the case of an appeal made against a rateable value after a bill for any property-tax assessed

[^a] As to references by the Chief Judge of the Court of Small Causes to the High Court, before or on the hearing of an appeal under s. 217, see Act XII of 1888, s. 2, printed in Vol. I of this Code, p. 264.

(Chap. VIII.—Municipal Taxation. Secs. 218-219. Chap. IX.—Drains and Drainage-works. Secs. 220-221.)

upon such value has been presented to the appellant, the amount claimed from the appellant has been deposited by him with the Commissioner.

218. For the purposes of the last preceding section, cause of complaint shall be deemed to have accrued as follows, namely:—

Cause of complaint when to be deemed to have accrued.

- (a) in the case of an appeal against a rateable value, on the day when the complaint made to the Commissioner under section 163 against such value is disposed of ;
- (b) in the case of an appeal against any amendment made in the assessment-book, under section 167, during the official year, on the day when the complaint made to the Commissioner by the person aggrieved against such amendment is disposed of ;
- (c) in the case of an appeal against a tax, on the day when payment thereof is demanded or when a bill therefor is presented.

219. (1) Every rateable value fixed under this Act against which no complaint is made as hereinbefore provided, and

Unappealed values and taxes and decisions on appeal to be final.

the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and

the decision of the Chief Judge aforesaid upon any appeal against any such value or tax, shall be final.

(2) Effect shall be given by the Commissioner to every decision of the said Chief Judge on any appeal against any such value or tax.

CHAPTER IX.

DRAINS AND DRAINAGE-WORKS.

Municipal Drains.

220. All drains belonging to the corporation—which in this Act are referred to as “municipal drains”—shall be under the control of the Commissioner.

Municipal drains to be under the control of the Commissioner.

221. The Commissioner shall maintain and keep in repair all municipal drains and, when authorized by the corporation in this behalf, shall construct such new drains as shall from time to time be necessary for effectually draining the city.

Drains to be constructed and kept in repair by the Commissioner.

(Chap. IX.—Drains and Drainage-works. Secs. 222-225.)

Powers for
making
drains.

222. (1) The Commissioner may carry any municipal drain 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 city, or, for the purpose of outfall or distribution of sewage, without the city.

(2) The Commissioner may enter upon, and construct any new drain in the place of an existing drain in, any land wherein any municipal drain has been already lawfully constructed, or repair or alter any municipal drain so constructed.

(3) In the exercise of any power under this section, as little damage as can be shall be done, and compensation shall be paid by the Commissioner to any person who sustains damage by the exercise of such power.

Buildings,
etc., not to
be erected
without per-
mission
over drains.

223. (1) Without the written permission of the Commissioner, no building, wall or other structure shall be newly erected, and no street or railway shall be constructed, over any municipal drain.

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the Commissioner may, with the approval of the standing committee, remove or otherwise deal with the same as he shall think fit, and the expenses thereby incurred shall be paid by the person offending.

Alteration
and discon-
tinuance of
drains.

224. (1) The Commissioner may enlarge, arch over or otherwise improve any municipal drain, and may discontinue, close up or destroy any such drain which has, in his opinion, become useless or unnecessary :

(2) Provided that the discontinuance, closing up or destruction of any drain shall be so done as to create the least practicable nuisance or inconvenience to any person, and, if by reason of anything done under this section any person is deprived of the lawful use of any drain, the Commissioner shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed.

Cleansing
drains.

225. (1) The municipal drains shall be so constructed, maintained and kept as to create the least practicable nuisance and shall be from time to time properly flushed, cleansed and emptied.

(2) For the purpose of flushing, cleansing and emptying the said drains, the Commissioner may, when authorized by the corporation in this behalf, construct or set up such reservoirs, sluices, engines and other works as he shall from time to time deem necessary.

(Chap. IX.—Drains and Drainage-works. Secs. 226-228.)

226. (1) Every drain in, alongside or under any street which has been or shall be constructed, whether at the cost of the municipal fund or not, for the sole use and benefit of, or which shall be continued for the sole use and benefit of, any premises adjoining or near to such street, shall be maintained and from time time repaired, flushed, cleansed and emptied by the owner or occupier of the said premises.

Maintenance of drains kept up for the benefit of certain premises only.

(2) The Commissioner may, by written notice, require the owner or occupier of the said premises to repair, flush, cleanse, empty or, with the approval of the standing committee, to take such other order with any such drain as the Commissioner shall deem necessary.

Drains of Private Streets and Drainage of Premises.

227. The owner of a private street shall be entitled to connect the drain of such street with a municipal drain, subject to the following conditions, namely :—

Power to connect drains of private streets with municipal drains.

- (a) Before commencing to construct such drain the owner of the street shall submit to the Commissioner a plan of the street, bearing the signature of a licensed surveyor in token of its having been made by him or under his supervision, and drawn to such a convenient scale as the Commissioner shall require, and there shall be shown on such plan the position, course and dimensions of the proposed drain, with a section or sections thereof, and such other particulars in relation thereto as the Commissioner shall deem necessary and require, and no such drain shall be proceeded with without the approval in writing or contrary to the directions of the Commissioner.
- (b) The drain of such private street shall, at the expense of the owner of the street, be constructed of such size, material and description and be branched into the municipal drain in such manner and form of communication in all respects, as the Commissioner, with the approval of the standing committee, shall direct.
- (c) The Commissioner may, if he thinks fit, construct such part of such drain and such part of the work necessary for branching the same into the municipal drain as shall be in or under any public street or place vesting in the corporation and, in such case, the expenses incurred by the Commissioner shall be paid by the owner of the private street.

228. The owner or occupier of any premises shall be entitled to cause his drain to empty into a municipal drain, provided that he first obtains the written permission of the Commissioner and that he complies with such conditions as the Commissioner prescribes as to the mode in which and the

Power of owners and occupiers of premises to drain into municipal drains.

(Chap. IX.—Drains and Drainage-works. Secs. 229-230.)

superintendence under which the communications between drains not belonging to the corporation and municipal drains are to be made.

Connections with municipal drains not to be made except in conformity with section 227 or 228.

229. No person shall, without complying with the provisions of section 227 or 228, as the case may be, make or cause to be made any connection of a drain belonging to himself or to some other person with any municipal drain; and the Commissioner may, with the approval of the standing committee, close, demolish, alter or re-make any such connection made in contravention of this section, and the expenses incurred by the Commissioner in so doing shall be paid by the owner of the street or the owner or occupier of the premises for the benefit of which the connection was made, or by the person offending.

Rights of owners and occupiers of premises to carry drains through land belonging to other persons.

230. (1) If it shall appear to the Commissioner that the only means or the most convenient means, by which the owner or occupier of any premises can cause his drain to empty into a municipal drain, is by carrying the same into, through or under any land belonging to some person other than the said owner or occupier, the Commissioner, after giving to the owner of the land a reasonable opportunity of stating any objection, may, with the approval of the standing committee, if no objection is raised, or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorize the said owner or occupier to carry his drain into, through or under the said land in such manner as he shall think fit to allow.

(2) Every such order, bearing the signature of the Commissioner, shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving to the owner of the land reasonable written notice of his intention so to do, to enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and to execute the necessary work.

(3) Subject to all other provisions of this Act, the owner or occupier of any premises, or any agent or person employed by him for this purpose, may, after giving to the owner of any land, wherein a drain has been already lawfully constructed for the drainage of his said premises, reasonable written notice of his intention so to do, enter upon the said land with assistants and workmen, at any time between sunrise and sunset, and construct a new drain in the place of the existing drain or repair or alter any drain so constructed.

(4) In executing any work under this section, as little damage as can be shall be done, and the owner or occupier of premises by whom or in whose behalf the work is done shall—

(a) cause the work to be executed with the least practicable delay;

(Chap. IX.--Drains and Drainage-works. Secs. 231-232.)

- (b) fill in, re-instate and make good, at his own cost and with the least practicable delay, the ground or portion of any building or other construction opened, broken up or removed for the purpose of executing the said work ;
- (c) pay compensation to any person who sustains damage by the execution of the said work.

(5) If the owner of any land, into, through or under which a drain has been carried under this section, whilst such land was unbuilt upon, shall, at any time afterwards, desire to erect a building on such land, the Commissioner shall, with the approval of the standing committee, by written notice, require the owner or occupier of the premises for the benefit of which such drain was constructed to close, remove or divert the same in such manner as shall be approved by the said committee, and to fill in, re-instate and make good the land as if the drain had not been carried into, through or under the same : Provided that no such requisition shall be made, unless, in the opinion of the standing committee, it is necessary or expedient, in order to admit of the construction of the proposed building or the safe enjoyment thereof, that the drain be closed, removed or diverted.

231. Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage and a municipal drain or some place legally set apart for the discharge of drainage is situated at a distance not exceeding one hundred feet from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises—

Commissioner may enforce drainage of undrained premises situate within a hundred feet of a municipal drain.

- (a) to make a drain of such material, size and description and laid at such level and with such fall and outlet as may appear to the Commissioner necessary, emptying into such municipal drain or place aforesaid ;
- (b) to provide and set up all such appliances and fittings as may appear to the Commissioner necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith ;
- (c) to remove any existing drain, or other appliance or thing used or intended to be used for drainage, which is injurious to health.

232. (1) Where any premises are, in the opinion of the Commissioner, without sufficient means of effectual drainage, but no municipal drain or such place as aforesaid is situated at a distance not exceeding one hundred feet

Commissioner may enforce drainage of undrained

(Chap. IX.—Drains and Drainage-works. Secs. 233-234.)

premises not situate within a hundred feet of a municipal drain.

from some part of the said premises, the Commissioner may, by written notice, require the owner or occupier of the said premises to make a drain emptying into a covered cesspool.

(2) And the Commissioner may in like manner require any such drain and, if no suitable cesspool already exists, any such cesspool to be of such materials, size and description, and to be made at such level and with allowance for such fall, as may appear to him to be necessary.

Commissioner may close or limit the use of existing private drains.

233. (1) Where a drain connecting any premises with a municipal drain is sufficient for the effectual drainage of the said premises and is otherwise unobjectionable, but is not, in the opinion of the Commissioner, adapted to the general drainage system of the city, the Commissioner, with the approval of the standing committee, may —

(a) subject to the provision of sub-section (2), close, discontinue or destroy the said drain and cause any work necessary for that purpose to be done;

(b) direct that the said drain shall, from such date as he prescribes in this behalf, be used for sullage, excrementitious matter and polluted water only or for rain-water and unpolluted subsoil water only, and, by written notice, require the owner or occupier of the premises to make a new and entirely distinct drain for rain-water and unpolluted subsoil water or for sullage, excrementitious matter and polluted water, as the case may be.

(2) No drain may be closed, discontinued or destroyed by the Commissioner under clause (a), except on condition of his providing another drain as effectual for the drainage of the premises and communicating with any municipal drain which the Commissioner thinks fit; and the expenses of the construction of any drain so provided by the Commissioner and of any work done under clause (a) shall be paid by the Commissioner.

(3) Any requisition made by the Commissioner under clause (b) may embrace any detail specified in clause (a) or clause (b) of section 231.

New buildings not to be erected without drains.

234. (1) It shall not be lawful newly to erect any building, or to rebuild any building, or to occupy any building newly erected or rebuilt, 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 Commissioner 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 premises appurtenant thereto, all such appliances and fittings as

(Chap. IX.—Drains and Drainage-works. Secs. 235-238.)

may appear to the Commissioner to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said premises, and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) 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 one hundred feet from such building; but if no such drain or place is within that distance, then such drain shall empty into such cesspool as the Commissioner directs.

235. No person shall, except with the permission of the Commissioner, pass or cause or permit to be passed any excrementitious matter into any cesspool made or used under section 232 or section 234, or into any drain communicating with any such cesspool.

Excrementitious matter not to be passed into cesspool.

236. Every owner of a drain connected with a municipal drain shall be bound to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under section 238.

Obligation of owners of drains to allow use thereof or joint ownership therein to others.

237. Any person desiring to drain his premises into a municipal drain, through a drain of which he is not an owner, may make a private arrangement with the owner for permitting his use of the drain or may apply to the Commissioner for authority to use such drain or to be declared joint owner thereof.

How right of use or joint ownership of a drain may be obtained by a person other than the owner.

238. (1) On receipt of any such application, the Commissioner, after giving the owner of the drain a reasonable opportunity of stating any objection thereto, may, with the approval of the standing committee, if no objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, either authorize the applicant to use the drain or declare him to be a joint owner thereof, on such conditions as to the payment of rent or compensation and as to connecting the drain of the applicant with the drain to which his application refers and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the joint drain, or otherwise, as may appear to him equitable.

Commissioner may authorize person other than the owner of a drain to use the same or declare him to be a joint owner thereof.

(2) Every such order bearing the signature of the Commissioner shall be a complete authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, after giving or tendering to the owner of the drain the compensation or rent specified in the said order and otherwise fulfilling, as far as possible, the conditions of the said order, and

(Chap. IX.—Drains and Drainage-works. Secs. 239-242.)

after giving to the owner of the drain reasonable written notice of his intention so to do, to enter upon the land in which the said drain is situate, with assistants and workmen, at any time between sunrise and sunset, and, subject to all provisions of this Act, to do all such things as may be necessary for—

- (a) connecting the two drains ; or
- (b) renewing, repairing or altering the connection ; or
- (c) discharging any responsibility attaching to the person in whose favour the Commissioner's order is made for maintaining, repairing, flushing, cleaning or emptying the joint drain or any part thereof.

(3) In respect of the execution of any work under sub-section (2), the person in whose favour the Commissioner's order is made shall be subject to the same restrictions and liabilities which are specified in sub-section (4) of section 230.

Sewage and rain-water drains to be distinct.

239. Whenever it is provided in this chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Commissioner to require that there shall be one drain for sullage, excrementitious matter and polluted water and another and an entirely distinct drain for rain-water or unpolluted subsoil water or for both rain-water and unpolluted subsoil water, each emptying into separate municipal drains or other suitable places.

Drains not to pass beneath buildings.

240. Except with the written permission of the Commissioner, and in conformity with such conditions as shall be prescribed by the standing committee, either generally or specially, in this behalf, no drain shall be so constructed as to pass beneath any part of a building.

Provisions as to position of cesspools.

241. No person shall construct a cesspool beneath any part of a building used or intended to be used for human habitation or in which any person may be or may be intended to be employed in any manufacture, trade or business ; nor within twenty feet of any well, spring or tank, nor, except with the written permission of the Commissioner, within twenty feet of any cistern, main, pipe or other work containing or carrying water for drinking or other domestic purpose, or for manufacturing drinks for the use of man.

Right of corporation to drains, etc., constructed, etc., at charge of municipal fund on premises not belonging to the corporation.

242. All drains, ventilation-shafts and pipes and all appliances and fittings connected with drainage-works constructed, erected or set up at the charge of the municipal fund upon premises not belonging to the corporation, whether before or after the passing of this Act, and whether for the use of the owner or occupier of the said premises or not, shall, unless the corporation has otherwise determined or shall at any time otherwise determine, vest, and be deemed to have always vested, in the corporation.

(Chap. IX.—Drains and Drainage-works. Secs. 243-245.)

243. (1) Every drain and cesspool, whether belonging to the corporation or to any other person, shall be provided with proper traps and coverings and with proper means of ventilation.

All drains and cesspools to be properly covered and ventilated.

(2) The Commissioner may, by written notice, require the owner of any drain or cesspool not belonging to the corporation to provide and apply to the said drain or cesspool such trap and covering and such means of ventilation as would be provided and applied if such drain or cesspool belonged to the corporation.

244. (1) For the purpose of ventilating any drain or cesspool, whether belonging to the corporation or to any other person, the Commissioner may erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as shall appear to the Commissioner necessary—

Affixing of pipes for ventilation of drains, etc.

(2) Provided that any shaft or pipe so erected or affixed shall—

- (a) be carried at least ten feet higher than any sky-light or window situated within a distance of twenty feet therefrom ;
- (b) if the same be affixed to a wall supporting the eave of a roof, be carried at least five feet higher than such eave ;
- (c) be erected or affixed so as to create the least practicable nuisance or inconvenience to the inhabitants of the neighbourhood ;
- (d) be removed by the Commissioner to some other place, if at any time the owner of the premises, building or tree upon or to which the same has been erected or affixed is desirous of effecting any change in his property which either cannot be carried out, or cannot, without unreasonable inconvenience, be carried out, unless the shaft or pipe is removed.

(3) If the Commissioner declines to remove a shaft or pipe under clause (d), the owner of the premises, building or tree, upon or to which the same has been erected or affixed, may apply to the Chief Judge of the Small Cause Court ; and the said Chief Judge may, after such inquiry as he thinks fit to make, direct the Commissioner to remove the shaft or pipe, and it shall be incumbent on the Commissioner to obey such order.

Disposal of Sewage.

245. The Commissioner may cause all or any municipal drains to empty into the sea or other place, whether within or without the city, and dispose of the sewage at any place, whether within or without the city, and in any manner, which he shall deem suitable for such purpose : Provided that—

Appointment of places for emptying of drains and disposal of sewage.

- (a) the Commissioner shall not cause any municipal drain to empty into any place into which a municipal drain has not heretofore emptied

(Chap. IX.—Drains and Drainage-works. Secs. 246-248.)

or dispose of sewage at any place or in any manner at or in which sewage has not heretofore been disposed of, without the sanction of the corporation ;

(b) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance ;

(c) no municipal drain shall be made to empty into any place, and no sewage shall be disposed of at any place or in any manner which Government shall think fit to disallow.

Provision of means for disposal of sewage.

246. (1) For the purpose of receiving, storing, disinfecting, distributing or otherwise disposing of sewage, the Commissioner may, when authorized by the corporation in this behalf—

(a) construct any work within or without the city ;

(b) purchase, or take on lease any land, building, engine, material or apparatus, either within or without the city ;

(c) enter into an arrangement with any person, for any period not exceeding twenty years, for the removal or disposal of sewage :

(2) Provided that any power conferred by this section shall be exercised in such manner as to cause the least practicable nuisance.

Water-closets, Privies, Urinals, etc.

New buildings to be supplied with sufficient privy accommodation.

247. It shall not be lawful newly to erect any building or to re-build any building without a sufficient water-closet, or privy and urinal.

Power to enforce provision of privy accommodation.

248. (1) If it appears to the Commissioner that any premises are without a water-closet or privy or urinal, or that the existing water-closet or privy or urinal available for the occupiers of any premises is insufficient, inefficient or, for sanitary reasons, objectionable, the Commissioner shall, by written notice, require the owner of such premises to provide a water-closet, privy or urinal or an additional water-closet, privy or urinal, as the case may be, to his satisfaction :

(2) Provided that where a water-closet, privy or urinal has been and is used in common by the occupiers of two or more premises, or, if in the opinion of the Commissioner, a water-closet, privy or urinal may be so used and is sufficient for all the occupiers of the two or more premises using or intending to use the same, he need not require a separate water-closet or privy or urinal to be provided on or for each of the said premises.

(*Chap. IX.—Drains and Drainage-works. Secs. 249-251.*)

249. Where it appears to the Commissioner that any premises are, or are intended to be used, as a market, railway-station, dock, wharf or other place of public resort, or as a place in which persons exceeding twenty in number are employed in any manufacture, trade or business or as workmen or labourers, the Commissioner may, by written notice, require the owner or occupier of the said premises to construct a sufficient number of water-closets or latrines or privies and urinals for the separate use of each sex.

Power to require privy accommodation to be provided for factories, etc

250. (1) The owner or occupier of any premises on which there is a privy shall—

Provisions as to privies.

- (a) have between such privy and any building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, an air-space of at least three feet in width and open to the sky ;
- (b) have such privy shut off by a sufficient roof and wall, or fence, from the view of persons dwelling in the neighbourhood or passing by ;
- (c) unless and except for such period as he shall be permitted by the Commissioner, under the power next hereinafter conferred, to continue any existing door or trap-door, close up and not keep any door or trap-door in such privy opening on to a street ;

(2) Provided that the Commissioner may permit the continuance for such period as he may think fit of any existing door or trap-door in a privy opening on to a street, if a nuisance is not thereby created :

(3) Provided also that clause (a) shall not be deemed to apply to any privy in existence when this Act comes into force, unless—

- (d) there is space available on the premises of the owner or occupier for the erection of a new privy conformably to the said clause ; and
- (e) the existing privy can be removed and a new one erected as aforesaid without destroying any portion of a permanent building other than the existing privy.

251. The owner or occupier of any premises on which there is a water-closet shall—

Provisions as to water-closets.

- (a) have such water-closet divided off from any part of a building or place used or intended to be used for human habitation, or in which any person may be or may be intended to be employed in any manufacture, trade or business, by such means as the Commissioner shall deem sufficient ;
- (b) have such water-closet in such a position that one of its sides at the least shall be an external wall ;

(Chap. IX.—Drains and Drainage-works. Secs. 252-255)

- (c) have the seat of such water-closet placed against an external wall ;
- (d) cause such water-closet to be provided with such means of constant ventilation as the Commissioner shall deem adequate, by a window or other aperture in one of the walls of such water-closet opening directly into the external air, or by an air-shaft or by some other suitable method or appliance ;
- (e) have such water-closet supplied by a supply-cistern and flushing apparatus and fitted with a soil-pan or receiver and such other appliances of such materials, size and description as the Commissioner shall deem necessary : Provided always that a cistern from which a water-closet is supplied shall not be used, or be connected with another cistern which is used, for supplying water for any other purpose.

Public necessaries,

252. The Commissioner shall provide and maintain, in proper and convenient situations and on sites vesting in the corporation, water-closets, latrines, privies and urinals and other similar conveniences for public accommodation.

Inspection.

Drains, etc., not belonging to the corporation to be subject to inspection and examination,

253. All drains, ventilation-shafts and pipes, cesspools, house-gullies, water-closets, privies, latrines and urinals which do not belong to the corporation or which have been constructed, erected or set up at the charge of the municipal fund on premises not belonging to the corporation, for the use or benefit of the owner or occupier of the said premises, shall be open to inspection and examination by the Commissioner.

Power to open ground, etc., for purposes of such inspection and examination.

254. For the purpose of such inspection and examination, the Commissioner may cause the ground or any portion of any drain or other work exterior to a building, or, with the approval of the standing committee, any portion of a building, which he shall think fit, to be opened, broken up or removed : Provided that in the prosecution of any such inspection and examination, as little damage as can be, shall be done.

When the expenses of inspection and examination are to be paid by the Commissioner.

255. If upon any such inspection and examination as aforesaid it shall be found that the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal examined is in proper order and condition, and that none of the provisions of this chapter has been contravened in respect of the construction or maintenance thereof, and that no encroachment has been made thereupon, the ground or portion of any building, drain or other work, if any, opened, broken up or removed for the purpose of such in-

(Chap. IX.—Drains and Drainage-works. Secs. 256-258.)

spection and examination shall be filled in, re-instated and made good by the Commissioner.

256. But if it shall be found that any drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy, latrine or urinal so examined is not in good order or condition, or has been repaired, changed, altered or encroached upon, or except when the same has been constructed by or under the order of the Commissioner, if it has been constructed in contravention of any of the provisions of this chapter or of any enactment at the time in force ;

When the expenses of inspection and examination are to be paid by the owner,

the expenses of the inspection and examination shall be paid by the owner of the premises, and the said owner shall fill in, re-instate and make good the ground, or portion of any building, drain or other work opened, broken up or removed for the purpose of such inspection and examination, at his own cost.

257. (1) When the result of the inspection and examination is as described in the last preceding section, the Commissioner may, by written notice, require the owner of the premises in which the drain, ventilation-shaft or pipe, cesspool, house-gully, water-closet, privy or urinal is situate—

Commissioner may require repairs, etc., to be made.

(a) to close or remove the same or any encroachment thereupon ; or

(b) to renew, repair, cover or recover, trap, ventilate, pave and pitch, flush, cleanse or take such other order with the same as he shall think fit to direct, and to fill in, re-instate and make good the ground or portion of any building, drain or other work opened, broken up or removed for the purpose of the inspection and examination aforesaid.

(2) In any such case as aforesaid, the Commissioner may forthwith and without notice stop up or demolish any drain by which sullage, excrementitious matter or polluted water is carried through, from, into or upon any premises in contravention of any of the provisions of this chapter : and all expenses incurred by the Commissioner in so doing shall be paid by the owner of the premises.

General Provisions.

258. No person shall—

(a) in contravention of any of the provisions of this chapter, or of any notice issued or direction given under this chapter or without the written permission of the Commissioner, in any way alter the fixing, disposition or position of, or construct, erect, set up, renew, rebuild, remove, obstruct, stop up, destroy or change any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal, or any trap, covering or other fitting or appliance connected therewith ;

Prohibition of acts contravening the provisions of this chapter or done without sanction.

(Chap. IX.—Drains and Drainage-works. Secs. 259-260.)

- (b) without the written permission of the Commissioner, renew, rebuild or unstop any drain, ventilation-shaft or pipe, cesspool, water-closet, privy, latrine or urinal, or any fitting or appliance, which has been or has been ordered to be discontinued, demolished or stopped up under any of the provisions of this chapter;
- (c) without the written permission of the Commissioner, make any encroachment upon or in any way injure, or cause or permit to be injured, any drain, cesspool, house-gully, water-closet, privy, latrine or urinal;
- (d) drop, pass or place or cause or permit to be dropped, passed or placed into or in any drain, any brick, stone, earth, ashes, or any substance or matter by which or by reason of the amount of which such drain is likely to be obstructed;
- (e) pass, or permit or cause to be passed into any drain provided for a particular purpose any matter or liquid for the conveyance of which such drain has not been provided;
- (f) cause or suffer to be discharged into any drain from any factory, bakehouse, distillery, workshop or workplace or from any building or place in which steam, water or mechanical power is employed, any hot water, steam, fumes or any liquid which would prejudicially affect the drain or the disposal by sale or otherwise of the sewage conveyed along the drain or which would, from its temperature or otherwise, be likely to create a nuisance.

When materials and work may be supplied and done under this chapter for any person by the Commissioner.

259. (1) On the written request of any person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the Commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done; but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said materials, fittings and work.

(2) The Commissioner shall not permit any work which any person is required to do under any of the provisions of this chapter to be done except through the agency of a licensed plumber.

Commissioner may execute certain works under

260. (1) The Commissioner may, if he thinks fit, cause any work described in section 230, 231, 233, 256 or 257 to be executed by municipal or other agency under his own orders, without first of all giving the person by whom

(Chap. X.—Water-supply. Secs. 261-263.)

the same would otherwise have to be executed the option of doing the same.

this chapter without allowing option to persons concerned of executing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the corporation 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.

Expenses in such cases by whom to be paid.

CHAPTER X.

WATER-SUPPLY.

Construction and Maintenance of Municipal Water-works.

261. For the purpose of providing the city with a supply of water proper and sufficient for public and private purposes, the Commissioner, when authorized by the corporation in this behalf, may—

General powers for supplying the city with water.

- (a) construct and maintain water-works, either within or without the city, and do any other necessary acts;
- (b) purchase or take on lease any water-work or any water or right to store, or to take and convey water, either within or without the city;
- (c) enter into an arrangement with any person for a supply of water.

262. The Commissioner shall manage all water-works belonging to the corporation—all which water-works are in this Act referred to as “municipal water-works”—and maintain the same in good repair and efficient condition, and shall cause all such alterations and extensions to be from time to time made in the said water-works as shall be necessary or expedient for improving the said works.

Municipal water-works to be managed and kept in repair by the Commissioner.

263. (1) The Commissioner, and any person appointed by Government under section 264 in this behalf, may, for the purpose of inspecting or repairing or executing any work in, upon or in connection with any municipal water-work, at all reasonable times:

Power of access to municipal water-works.

- (a) enter upon and pass through any land, within or without the city, adjacent to or in the vicinity of such water-work, in whomsoever such land may vest;
- (b) convey into and through any such land all necessary materials, tools and implements.

(Chap. X.—Water-supply. Secs. 264-267.)

(2) In the exercise of any power conferred by this section, as little damage as can be shall be done, and compensation for any damage which may be done in the exercise of any of the said powers shall be paid by the Commissioner, or, if any person appointed under section 264 by Government has caused the damage, by Government.

Inspection of municipal water-works by persons appointed by Government.

264. Any person appointed by Government in this behalf shall at all reasonable times have liberty to enter upon and inspect any municipal water-work.

Power of carrying water-mains, etc.

265. The Commissioner shall have the same powers and be subject to the same restrictions for carrying, renewing and repairing water-mains, pipes and ducts within or without the city as he has and is subject to under the provisions hereinbefore contained, for carrying, renewing and repairing drains within the city.

Fire-hydrants to be provided.

266. The Commissioner shall cause fire-hydrants and all necessary works, machinery and assistance for supplying water in case of fire to be provided and maintained; and shall have painted or marked on the buildings and walls or in some other conspicuous manner, within the streets, words or marks near to such hydrants to denote the situation thereof, and shall cause a hydrant-key to be deposited at each place within the city where a municipal fire engine is kept, and do such other things for the purpose aforesaid as he shall deem expedient.

Prohibition of building and other acts which would injure sources of water-supply.

267. (1) Except with the sanction of the corporation and, in the case of the Vehār water-works, of Government, or, for the purposes of section 262, under the authority of the Commissioner, no person shall—

- (a) erect any building for any purpose whatever within the limits of the water-shed of any lake or reservoir from which a supply of water is derived for any municipal water-work;
- (b) extend, alter or apply to any purpose, different to that to which the same has been heretofore applied, any building already existing within the said limits;
- (c) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatsoever, whereby injury may arise to any such lake or reservoir or to any portion thereof, or whereby the water of any such lake, tank or reservoir may be fouled or rendered less wholesome.

(Chap. X.—Water-supply. Secs. 268-269.)

(2) The limits of the water-shed of the Vehar lake shall, for the purposes of this section, be deemed to be the limits defined in a plan marked "B," authenticated by the signatures of the Governor and Members of Council, and deposited in the office of the Secretary to the Government of Bombay.

268. (1) Without the written permission of the Commissioner, no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any municipal water-main.

Buildings, etc., not to be erected over municipal water-main without permission.

(2) If any building, wall or other structure be so erected or any street or railway be so constructed, the Commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to him shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

Public gratuitous Water-supply.

269. (1) All existing public drinking-fountains, tanks, reservoirs, cisterns, pumps, wells, ducts and works for the supply of water for the gratuitous use of the inhabitants of the city shall vest in the corporation and be under the control of the Commissioner.

Vesting of public drinking-fountains, etc., in the corporation.

(2) The Commissioner may maintain the said works and provide them with water, and, when authorized by the corporation in this behalf, may construct any other such works for supplying water for the gratuitous use of the inhabitants of the city :

(3) Provided that water carried away by any of the inhabitants from any such work shall be taken only for his private use and not for sale, and shall not, except with the written permission of the Commissioner, be carried away in a cask, cart, pakhál or masak.

(4) The Commissioner may temporarily, and with the approval of the corporation, permanently close any of the said works, either entirely or partially.

(5) In case any such work is permanently closed, either entirely or partially, by the Commissioner, the site thereof, or of the portion thereof which is so closed, and the materials of the same may be disposed of as the property of the corporation : Provided that if any such work, which is permanently closed, either entirely or partially, was a gift to the public by some private person, the said site and materials or the proceeds of the sale thereof shall, unless by reason of their value being insignificant or for other sufficient reason the corporation think fit to otherwise direct, be applied to or towards some local work of public utility bearing the name of such person or to or towards

(Chap. X. — Water-supply. Secs. 270-273.)

any such local work which shall be approved by the corporation and by the heirs or other representatives, if any, of the said person.

Public drinking-fountains, etc., may be set apart for particular purposes.

270. (1) The Commissioner may assign and set apart each of the said works and the water therein for use by the public for such purpose only as he shall think fit, and shall cause to be indicated by a notice affixed on a conspicuous spot on or near each such work the purpose for which the same is so assigned and set apart.

(2) No person shall make use of any such work or of any water therein for any purpose other than the purpose for which the same has been so assigned or set apart.

Private Water-supply.

Applications for private water-supply from whom to be received.

271. (1) Communication-pipes for conveying to any premises a private supply of water from a water-main or other municipal water-work shall not ordinarily be connected with the main or other water-work except on the written application or with the written assent of the owner of the premises, or of the person primarily liable for the payment of property-taxes on the said premises.

Commissioner may in certain cases require owners to obtain private water-supply.

(2) But if it shall appear to the Commissioner that any premises, situate within any portion of the city in which a public notice has been given by the Commissioner under clause (b) of section 141, are without a proper supply of pure water, the Commissioner shall, by written notice, require the owner of the said premises, or the person primarily liable for the payment of property-taxes thereon, to obtain a supply from a municipal water-work adequate to the requirements of the persons usually occupying or employed upon the said premises, and to provide communication-pipes and do all such works as may be necessary for that purpose.

Communications with municipal water-works to be made at the cost of the applicant for a private water-supply.

272. Communication-pipes and all fittings and works necessary for making a connection with any municipal water-work or for conveying a private supply of water from any municipal water-work into any premises shall be procured and executed, subject to the inspection and to the satisfaction of the Commissioner, at the cost of the person who obtains the supply.

Connections with water-works and communication-

273. No communication-pipe shall be laid except with the written permission of the Commissioner, and no connection with any municipal water-work shall be made except by a municipal officer or servant empowered by the Commissioner in this behalf, nor until such municipal officer as the Commissioner

(Chap. X.—Water-supply. Secs. 274-278.)

appoints in this behalf shall have certified that the communication-pipes and all necessary fittings and works have been laid, applied and executed in a satisfactory manner.

274. (1) The Commissioner may, whenever it shall appear to him to be necessary, by written notice require that any premises furnished with a private water-supply from any municipal water-work shall, within a reasonable period which shall be prescribed in the said notice, be provided with a storage-cistern of such size, material, quality and description and with such fittings and placed in such position as he thinks fit.

(2) The Commissioner shall also from time to time prescribe the size, material, quality, description and position of the pipes, taps, cocks and other fittings to be employed for the purposes of any connection with, or of any communication from, any municipal water-work, and no such connection or communication shall be made by any person otherwise than as so prescribed.

275. It shall be incumbent on the owner or occupier of any premises to which a private water-supply is furnished from any municipal water-work to keep in efficient repair every pipe conveying water from the said water-work to such premises and every meter for measuring water, not being a municipal meter, and every tap, cock or other fitting and every storage-cistern in or connected with any such pipe, so as effectually to prevent the water from running to waste.

276. (1) Where water is supplied by measurement, the Commissioner may either provide a meter and charge the consumer for the same such rent as shall from time to time be prescribed in this behalf by the standing committee, or may permit the consumer to provide a meter of his own of such size, material and description as the Commissioner shall approve for this purpose.

(2) The Commissioner shall at all times keep all meters and other instruments for measuring water, let by him for hire to any person, in proper order for correctly registering the supply of water, and in default of his so doing such person shall not be liable to pay rent for the same during such time as such default continues.

277. Where water is supplied by measurement, the register of the meter or other instrument for measuring water shall be *prima facie* evidence of the quantity consumed.

Inspection.

278. (1) The Commissioner may make an inspection of any premises to which a private water-supply is furnished by the corporation in order—

(a) to remove, test, examine and replace any meter for measuring water ;
or

pipes not to be made or laid without authority.

Provisions as to storage-cisterns and other fittings, etc., to be used for connections with water-works.

Communication-pipes, etc., to be kept in efficient repair by owner or occupier of premises.

Provision of meters when water is supplied by measurement.

Register of meter to be evidence.

Commissioner, etc., may inspect premises in order to examine

(Chap. X.—Water-supply. Sec. 279.)

meter, communication-pipes, etc.

- (b) to examine the communication-pipes, and the taps, cocks and other fittings thereof, and the storage-cisterns connected therewith; or
 - (c) to see if there be any waste or misuse of water.
- (2) The Commissioner may, by written notice, require the owner or occupier of the premises to remedy any defect which shall be found to exist in any such meter not being a municipal meter let to him for hire, or in any such communication-pipe, tap, cock or other fitting or cistern.

Cutting off private Water-supply.

Power to cut off private water-supply or to turn off water.

279. (1) The Commissioner may, with the sanction of the standing committee, cut off the connection between any municipal water-work and any premises to which a private water-supply is furnished by the corporation or turn off the water from such premises in any of the following cases, namely:—

- (a) in default of payment of any instalment of water-tax or of any sum due for water within fifteen days after a bill for such tax or sum has been duly presented;
- (b) if the owner or occupier of the premises neglects, within the period prescribed in this behalf in any notice given under sub-section (1) of section 274, to comply with any requisition made to him by the Commissioner regarding the provision of a storage-cistern;
- (c) if the owner or occupier of the premises fails, within the period prescribed in this behalf in any notice given under sub-section (2) of section 278, to put any such cistern or any pipe conveying water from any municipal water-work or any tap, cock or other fitting thereof into good repair, so as effectually to prevent the water from running to waste;
- (d) if, after receipt of a written notice from the Commissioner requiring him to refrain from so doing, the owner or occupier of the premises continues—
 - (i) to use the water, or to permit the same to be used in contravention of any bye-law made under this Act or of any condition prescribed under sub-section (2) of section 169;
 - (ii) when payment for the water is not made by measurement, to permit any person not residing on premises in respect of which water-tax is paid to carry away from such owner's or occupier's premises water derived from the municipal water-work;
- (e) if the owner or occupier of the premises wilfully or negligently injures or damages his meter or any pipe conveying water from any municipal water-work.

(2) The expense of cutting off the connection or of turning off the water in any such case as aforesaid shall be paid by the owner or occupier of the premises.

280. No person to whom water is supplied by measurement or on payment of a fixed periodical sum shall contravene any condition prescribed under sub-section (2) of section 169 for the use of such water or permit any such condition to be contravened. Conditions as to use of water not to be contravened.

281. No water-pipe shall be laid in a drain or on the surface of an open channel or house-gully or within twenty feet of a cesspool or in any position where the pipe is likely to be injured or the water therein polluted; and no well or tank and, except with the consent of the Commissioner, no cistern shall be constructed within twenty feet of a cesspool. Water-pipes, etc., not to be placed where water will be polluted.

282. (1) No person shall fraudulently dispose of any water supplied to him by the corporation. Prohibition of fraudulent and unauthorized use of water.

(2) No person to whom a private supply of water is furnished by the corporation shall, except when the water supplied is charged for by measurement, permit any person who does not reside on premises in respect of which water-tax is paid to carry away water from the premises to which it is supplied.

(3) No person, who does not reside on premises in respect of which water-tax is paid, shall carry-away water from any premises to which a private supply is furnished by the corporation, unless, in any case in which such supply is charged for by measurement, he does so with the permission of the person to whom such supply is furnished.

283. (1) No person shall fraudulently—

- (a) alter the index to any meter or prevent any meter from duly registering the quantity of water supplied;
- (b) abstract or use water before it has been registered by a meter set up for the purpose of measuring the same.

Prohibition of fraud in respect of meters.

(2) The existence of artificial means under the control of the consumer for causing any such alteration, prevention, abstraction or use shall be evidence that the consumer has fraudulently effected the same.

General Provisions.

284. No person shall wilfully or negligently—

- (a) injure or suffer to be injured any meter belonging to the corporation or any of the fittings of any such meter;
- (b) break, injure or open any lock, cock, valve, pipe, work or engine appertaining to any municipal water-work;
- (c) flush or draw off the water from any such water-work, thereby causing such water to be wasted;

Prohibition of wilful or neglectful acts relating to water-works.

(Chap. X.—Water-supply. Secs. 235-238. Chap. XI.—Regulation of Streets. Sec. 259.)

(d) do any act whereby the water in or derived from any municipal water-work shall be wasted ;

(e) obstruct, divert or in any way injure or alter any water-main or duct.

Compensation to be payable by offenders against section 283 or 284.

285. Compensation shall be paid by the offender for any damage which the corporation sustains by reason of any contravention of section 283 or section 284.

Occupier of premises to be primarily liable for certain offences against this chapter.

286. If it shall be shown that an offence against some provision of this chapter or against some bye-law made under this Act at the time in force relating to water-supply has occurred on any premises to which a private supply of water is furnished by the corporation, it shall be presumed, until the contrary is proved, that such offence has been committed by the occupier of the said premises.

When materials and work may be supplied and done under this chapter for any person by the Commissioner.

287. (1) On the written request of any person who is required under any of the provisions of this chapter to supply any materials or fittings or to do any work, the Commissioner may, in such person's behalf, supply the necessary materials or fittings, or cause the necessary work to be done ; but he shall not do so in any case to which the provisions of section 493 or 495 will not apply, unless a deposit is first of all made by the said person of a sum which will, in the opinion of the Commissioner, suffice to cover the cost of the said materials, fittings and work.

(2) The Commissioner shall not permit any work, which any person is required to do under any of the provisions of this chapter, to be done except through the agency of a licensed plumber, and any person who causes or allows communication-pipes or any fittings or work necessary for conveying a private supply of water from a municipal water-work into any premises to be laid, applied or executed by any person other than a licensed plumber shall not be entitled to demand a connection with the municipal water-work.

Power to supply water without the city.

288. The Commissioner may supply water from a municipal water-work to any local authority or person without the city on such terms as to payment and as to the period and conditions of supply as shall be, either generally or specially, approved by the corporation.

CHAPTER XI.

REGULATION OF STREETS.

Construction, Maintenance and Improvement of Public Streets.

Vesting of

289. (1) All streets within the city, being or which at any time become

(Chap. XI.—*Regulation of Streets. Secs. 290-293.*)

public streets, and the pavements, stones and other materials thereof, shall vest in the corporation and be under the control of the Commissioner.

Public streets in the corporation.
Powers of Commissioner in respect of public streets.

(2) The Commissioner shall from time to time cause all such streets to be levelled, metalled or paved, channelled, altered and repaired, as occasion shall require; he may also from time to time widen, extend or otherwise improve any such street or cause the soil thereof to be raised, lowered or altered, and may place and keep in repair fences and posts for the safety of foot-passengers: Provided that no widening, extension or other improvement of a public street, the aggregate cost of which will exceed five thousand rupees, shall be undertaken by the Commissioner unless or until such undertaking has been authorized by the corporation.

(3) With the sanction of the corporation, the Commissioner may permanently close the whole or any part of a public street: Provided that such sanction of the corporation shall not be given unless one month at least before the meeting at which the matter is decided a notice signed by the Commissioner has been put up in the street or part of a street which it is proposed to close, informing the residents of the said proposal, nor until the objections to the said proposal, if any, made in writing at any time before the day of the said meeting have been received and considered by the corporation.

290. Whenever any public street, or part of a public street, is permanently closed under section 289, the site of such street, or of the portion thereof which has been closed, may be disposed of as land vesting in the corporation.

Disposal of land forming site of closed streets.

291. The Commissioner, when authorized by the corporation in this behalf, may at any time—

Power to make new public street.

(a) lay out and make a new public street;

(b) agree with any person for the making of a street for public use through the land of such person, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation, and that such street shall become, on completion, a public street.

292. Nothing in sub-sections (1) and (3) of section 289 or in the two last preceding sections shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879[*].

Saving of provisions of sections 37 and 38, Bombay Act VI of 1879. Permission to lay tramways or railways on public streets

293. (1) Permission shall not be granted to any person to lay or work upon any public street any tramway or railway or the like, by any municipal

[*] Printed in Vol. II of this Code, p. 377.

(Chap. XI.—Regulation of Streets. Secs. 294-296.)

to need the sanction of the corporation and confirmation by Government.

authority other than the corporation, and no such permission shall have validity unless and until it is confirmed by Government.

(2) Nothing in this section shall be deemed to affect the provisions of the Bombay Tramways Act, 1874 [a].

Bom. I of
1874.

Minimum width of new public streets.

294. No new public street made under section 291 shall be less than forty feet in width if such street be made for carriage traffic, or twenty feet if such street be made for foot traffic only ; and no steps and, except with the written permission of the Commissioner under section 310, no other projection shall extend on to any such street.

Power to construct or adopt public bridges, etc., over or under railways, etc.

295. The Commissioner, when authorized by the corporation in this behalf, may agree—

- (a) with any person to adopt and maintain any existing or projected bridge, viaduct or arch, and the approaches thereto, and may accordingly adopt and maintain such bridge, viaduct or arch and approaches as parts of public streets, or as property vesting in the corporation ; or
- (b) for the construction or alteration of any such bridge, viaduct or arch or for the purchase or acquisition of any adjoining land required for the foundation and support thereof or for the approaches thereto, either entirely at the expense of such person or partly at the expense of such person and partly at the expense of the corporation.

Power to acquire premises for improvement of public streets.

296. (1) The Commissioner may, subject to the provisions of sections 90, 91 and 92—

- (a) acquire any land required for the purpose of opening, widening, extending or otherwise improving any public street or of making any new public street and the buildings, if any, standing upon such land ;
- (b) acquire, in addition to the said land and the buildings, if any, standing thereupon, all such land, with the buildings, if any, standing thereupon, as it shall seem expedient for the corporation to acquire outside of the regular line, or of the intended regular line, of such street ;
- (c) lease, sell or otherwise dispose of any land or building purchased under clause (b).

(2) Any conveyance of land or of a building under clause (c) may comprise such conditions as the Commissioner thinks fit, as to the removal of the existing building, the description of new building to be erected, the

[a] Printed in Vol. II of this Code, p. 167.

(Chap. XI.—Regulation of Streets. Secs. 297-299.)

period within which such new building shall be completed and other such matters.

Preservation of Regular Line in Public Streets.

297. (1) The Commissioner shall prescribe a line on each side of any public street within which, except under the provisions of section 310, no portion of any building abutting on the said street shall, after such line has been prescribed, be constructed. Prescribing the regular line of a street.

(2) A line so prescribed shall be called "the regular line of the street."

298. (1) If any part of a building abutting on a public street is within the regular line of such street, the Commissioner may, whenever it is proposed — Setting back buildings to regular line of the street.

(a) to rebuild such building or take down such building to an extent exceeding one-half thereof above the ground-level, such half to be measured in cubic feet; or

(b) to remove, re-construct or make any addition to any portion of such building which is within the regular line of the street;

in any order which he issues, under section 345 or 346, concerning the rebuilding, alteration or repair of such building, require such building to be set back to the regular line of the street.

(2) When any building, or any part thereof within the regular line of a public street, falls down, or is burnt down or is taken down, whether under the provisions of section 351 or 354, or otherwise, the Commissioner may at once take possession, on behalf of the corporation, of the portion of land within the regular line of the street theretofore occupied by the said building, and, if necessary, clear the same.

(3) Land acquired under this section shall thenceforward be deemed a part of the public street and shall vest, as such, in the corporation.

299. (1) If any land, not vesting in the corporation, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building, or if a platform, verandah, step or some other structure external to a building abutting on a public street, or a portion of a platform, verandah, step or other such structure, is within the regular line of such street, Acquisition of open land or of land occupied by platforms, etc., within the regular line of a street.

the Commissioner may, after giving to the owner of the land or building not less than seven clear days' written notice of his intention so to do, take possession on behalf of the corporation of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, step or other such structure as aforesaid, or of the portion of the said platform, verandah, step or other such structure as aforesaid which is within the regular line of

the street, and, if necessary, clear the same, and the land so acquired shall thenceforward be deemed a part of the public street :

(2) Provided that when the land or building is vested in Her Majesty[*] or in any corporation constituted by Royal Charter or by an Act of Parliament or of the Governor General of India in Council or of the Governor in Council possession shall not be taken as aforesaid without the previous sanction of Government.

300. (1) If any building which abuts on a public street is in rear of the regular line of such street, the Commissioner may, whenever it is proposed,—

(a) to re-build such building, or

(b) to alter or repair such building in any manner that will involve the removal or re-erection of such building, or of the portion thereof which abuts on the said street, to an extent exceeding one-half of such building or portion thereof, above the ground-level, such half to be measured in cubic feet,

in any order which he issues, under section 345 or 346, concerning the re-building, alteration or repair of such building, permit or, with the approval of the standing committee, require such building to be set forward to the regular line of the street.

(2) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building; and it shall be deemed to be a sufficient compliance with a permission or requisition to set forward a building to the regular line of a street if a wall of such materials and dimensions as are approved by the Commissioner is erected along the said line.

301. (1) Compensation shall be paid by the Commissioner to the owner of any building or land acquired for a public street under section 298 or 299 for the value of the said land and for any loss, damage or expense sustained by such owner in consequence of the order made by the Commissioner under either of the said sections.

(2) If, in consequence of any order to set forward a building made by the Commissioner under the last preceding section, the owner of such building sustains any loss or damage, compensation shall be paid to him by the Commissioner for such loss or damage.

(3) If the additional land which will be included in the premises of any person required or permitted under the last preceding section to set forward a building belongs to the corporation, the order or permission of the Com-

Setting forward of buildings to regular line of the street.

Compensation to be paid in cases under the three last sections.

[*] " Her Majesty " was substituted for the original words by Bom. Act IV of 1888, s. 5 (a).

(Chap. XI.—Regulation of Streets. Secs. 302-304.)

missioner to set forward the building shall be a sufficient conveyance to the said owner of the said land ; and the terms and conditions of the conveyance shall be set forth in the said order or permission.

(4) If, when the Commissioner requires a building to be set forward, the owner of the building is dissatisfied with any of the terms or conditions of the conveyance, the Commissioner shall, upon the application of the said owner at any time within fifteen days after the said terms and conditions are communicated to him, refer the case for the determination of the Chief Judge of the Small Cause Court, whose decision thereupon shall be conclusive.

Provisions concerning Private Streets.

302. Every person who intends to make or lay out a new private street shall give written notice of his intention to the Commissioner, and shall, along with such notice, submit plans and sections, showing the intended level, direction and width and means of drainage of such street and the height and means of drainage of the buildings to be erected on each side thereof.

Notice of intention to lay out new private street to be given to Commissioner.

303. (1) The level, direction, width and means of drainage of every new private street and the height and means of drainage of the buildings to be erected on each side thereof shall be fixed and determined by the Commissioner with the approval of the standing committee.

Level, etc., of new private streets and of the buildings on either side thereof to be determined by Commissioner.

(2) But if within thirty days after the receipt by the Commissioner of any notice under the last preceding section the disapproval by the Commissioner of the level, direction, width or means of drainage of the proposed new street or of the proposed height or means of drainage of the buildings to be erected on each side thereof shall not be communicated to the person who gave the notice under the last preceding section, the proposals of the said person shall be deemed to have been approved by the Commissioner.

304. (1) No person shall make or lay out any new private street or erect any building on either side thereof otherwise than in accordance with the directions of the Commissioner under the last preceding section or with proposals approved by him under the said section, as the case may be.

New private street not to be made and buildings on either side thereof not to be erected except in accordance with Commissioner's directions or approval.

(2) If any new private street be made or laid out, or if any building on either side of any such street be erected in contravention of this section, the Commissioner may, by written notice, require the person who is making or laying out or has made or laid out such street, or who is erecting or has erected such building, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him in that behalf and addressed to the Commissioner, to show sufficient cause why such street or

(Chap. XI.—Regulation of Streets. Secs. 305-308.)

building should not be altered to the satisfaction of the Commissioner or, if that be impracticable, why the same should not be demolished or removed ;

or shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf, and show cause as aforesaid.

(3) If such person shall fail to show sufficient cause, to the satisfaction of the Commissioner, why such street or building should not be so altered or demolished or removed, the Commissioner may cause the street or building to be so altered or demolished or removed and the expenses thereof shall be paid by the said person.

Levelling
and drain-
ing of pri-
vate streets.

305. If any private street be not levelled, metalled or paved, sewered, drained, channelled and lighted to the satisfaction of the Commissioner, he may, with the sanction of the standing committee, by written notice, require the owners of the several premises fronting or adjoining the said street or abutting thereon to level, metal or pave, drain and light the same in such manner as he shall direct.

Power to
declare pri-
vate streets,
when
sewered,
etc., public
streets.

306. (1) When any private street has been levelled, metalled or paved, sewered, drained, channelled and made good to the satisfaction of the Commissioner, he may and, upon the request of the owner or of any of the owners of such street, shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction,

by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street :

(2) Provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or of the greater part thereof shall, by notice in writing to the Commissioner, object thereto.

(3) Nothing in this section shall be deemed to affect the provisions of sections 37 and 38 of the Bombay Port Trust Act, 1879^[a].

Bom. VI
of 1879.

Applica-
bility of sec-
tions 305
and 306
when a
street is in
part public
and in part
private.
Prohibition
of projections
upon streets,
etc.

307. If a portion only of any street is a public street, within the meaning of that term as defined in clause (x) of section 3, the other portion of such street may for all purposes of sections 305 and 306 be deemed to be a private street.

Projections and Obstructions.

308. (1) No person shall erect, set up or place against or in front of any premises any structure or fixture which will—

(a) overhang, jut or project into, or in any way encroach upon or

(Chap. XI.—Regulation of Streets. Secs. 309-310.)

obstruct the safe or convenient passage of the public along any street,
or

- (b) jut or project into or encroach upon any drain or open channel in any street, so as in any way to interfere with the use or proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Commissioner may, by written notice, require the owner or occupier of any premises to remove any structure or fixture which has been erected, set up or placed against, or in front of, the said premises in contravention of this section [a] or of section 196 of the Bombay Municipal Act, 1872, [a] [b] or to alter the same in such manner as the Commissioner thinks fit to direct.

Power to require removal of the same.

Bom. III of 1872.

(3) If the occupier of the said premises removes or alters any structure or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by himself, to credit in account with the owner of the premises for all reasonable expenses incurred by him in complying with the said notice.

309. (1) If any such structure or fixture as is described in the last preceding section has been erected, set up or placed against, or in front of, any premises, at any time before the Bombay Municipal Act, 1872 [b], came into force, the Commissioner may give notice as aforesaid to the owner or occupier of the said premises.

Power to require removal or alteration of projections, etc., made before Bom. Act III of 1872 came into force.

(2) But, if in any such case the structure or fixture shall have been lawfully erected, set up or placed, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

310. (1) The Commissioner may give a written permission, on such terms as he shall in each case think fit, to the owner or occupier of any building abutting on any street—

Projections over streets may be permitted in certain cases.

- (a) to erect an arcade over such street or any portion thereof, or
- (b) to put up a verandah, balcony, sunshade, weather-frame or other such structure or thing projecting from any upper storey over any street or portion thereof :

(2) Provided that no permission shall be given by the Commissioner for the erection of an arcade in any public street in which the construction of arcades has not been previously sanctioned by the corporation.

[*.] This reference was inserted by Bom. Act IV of 1888, s. 6.
[b] Bom. Act III of 1872 was repealed by s. 2 of this Act.

(Chapter XI.—Regulation of Streets. Secs. 311-314.)

(3) The provisions of section 308 shall not be deemed to apply to any arcade, verandah, balcony, sunshade, weather-frame or other structure or thing erected or put up under and in accordance with the terms of a permission granted under this section.

Ground-floor doors, etc., not to open outwards on streets.

311. The Commissioner may at any time, by written notice, require the owner of any premises on the ground-floor of which any door, gate, bar or window opens outwards upon a street, or upon any land required for the improvement of a street, in such manner as, in the opinion of the Commissioner, to obstruct the safe or convenient passage of the public along such street, to have the said door, gate, bar or window altered so as not to open outwards.

Prohibition of structures or fixtures which cause obstruction in streets.

312. (1) No person shall, except with the permission of the Commissioner under section 310 or 317, erect or set up any wall, fence, rail, post, step, booth or other structure or fixture in or upon any street or upon or over any open channel, drain, well, or tank in any street so as to form an obstruction to or an encroachment upon, or a projection over, or to occupy, any portion of such street, channel, drain, well or tank.

(2) Nothing in this section shall be deemed to apply to any erection or thing to which clause (c) of section 322 applies.

Prohibition of deposit, etc., of things in streets.

313. (1) No person shall, except with the written permission of the Commissioner,—

- (a) place or deposit upon any street, or upon any open channel, drain or well in any street, any stall, chair, bench, box, ladder, bale or other thing so as to form an obstruction thereto or encroachment thereon;
- (b) project at a height of less than twelve feet from the surface of the street any board or shelf beyond the line of the plinth of any building, over any street, or over any open channel, drain, well or tank in any street;
- (c) attach to, or suspend from, any wall or portion of a building abutting on a street, at a less height than aforesaid, anything whatever.

(2) Nothing in clause (a) applies to building-materials.

314. The Commissioner may, without notice, cause to be removed—

- (a) any wall, fence, rail, post, step, booth or other structure or fixture which shall be erected or set up in or upon any street, or upon or over any open channel, drain, well or tank contrary to the provisions of sub-section (1) of section 312, after the same comes into force;
- (b) any stall, chair, bench, box, ladder, bale, board or shelf, or any other thing whatever placed, deposited, projected, attached or suspended

Commissioner may, without notice, remove anything erected in contravention of section 312, after it comes into force or deposited, etc.,

(Chap. XI.—Regulation of Streets. Secs. 315-319.)

in, upon, from or to any place in contravention of sub-section (1) of section 313. in contravention of section 313.

315. (1) The Commissioner may, by written notice, require the owner or occupier of any premises contiguous to, or in front of, or in connection with which any wall, fence, rail, post, step, booth or other structure or fixture, which it would be unlawful to erect or set up after section 312 comes into force, has been erected or set up before the said section comes into force, to remove the said wall, fence, rail, post, step, stall or other structure or thing. Power to require removal of any structure or fixture erected or set up before section 312 came into force.

(2) But, if in any such case the structure or fixture shall have been lawfully erected or set up, compensation shall be paid by the Commissioner to every person who sustains loss or damage by the removal or alteration thereof.

316. (1) No person shall tether any animal or cause or permit the same to be tethered by any member of his family or household in any public street. Prohibition of the tethering of animals in the public streets.

(2) Any animal tethered as aforesaid may be removed by the Commissioner or by any municipal officer or servant and made over to a police-officer, or may be removed by a police-officer, who shall deal therewith as with an animal found straying.

Temporary Erections on Streets during Festivals.

317. With the concurrence of the Police Commissioner, the Commissioner may grant a written permission for the temporary erection of a booth and any other such structure on any street on occasions of ceremonies and festivals. Commissioner may permit booths, etc., to be erected on streets on festivals.

Provisions concerning Execution of Works in or near to Streets.

318. Whenever the soil or pavement of any street is opened or broken up by or under the order of the Commissioner or of any municipal officer or servant, for the execution of any work on behalf of the corporation, the work on account of which the same shall have been opened or broken up shall be completed and the soil or pavement filled in, re-instated and made good with all convenient speed; and, on completion of the work, the surplus of earth and materials, if any, excavated and all rubbish occasioned thereby shall be removed without delay. Street when broken up for any municipal purpose to be restored without delay.

319. (1) The Commissioner may, whilst any such work as aforesaid or any work which may lawfully be executed in any street is in progress, direct that the said street shall be wholly or partially closed for traffic or for traffic of such description as he shall think fit; and shall set up in a conspicuous Commissioner may close street in which work is in progress.

(Chap. XI.—Regulation of Streets. Secs. 320-322.)

position an order prohibiting traffic to the extent so directed, and fix such bars, chains or posts across or in the street as he shall think proper for preventing or restricting traffic therein.

(2) No person shall, without the permission of the Commissioner or without other lawful authority, remove any bar, chain or post so fixed or infringe any order prohibiting traffic so set up.

Commissioner to provide for traffic, etc., pending execution of municipal work in any street.

320. Whilst the execution of any work on behalf of the corporation is in progress in any street, the Commissioner shall, so far as may be reasonably practicable, make adequate provision for the passage or diversion of traffic, for securing access to all premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work, and shall pay compensation to any person who sustains special damage by reason of the execution thereof.

Precautions to be taken for the public safety whilst municipal works are in progress in any street.

321. (1) Whilst the execution of any work on behalf of the corporation is in progress in any street, the Commissioner shall—

- (a) take proper precaution for guarding against accident by shoring up and protecting the adjoining buildings ;
- (b) have any place where the soil or pavement has been opened or broken up fenced and guarded ;
- (c) have a light sufficient for the warning of passengers set up and kept every night against any such place and against any bars, chains or posts set up under section 319, for so long as such place shall be continued open or broken up, or such bars, chains or posts shall remain set up.

(2) No person shall, without the written permission of the Commissioner or without other lawful authority, remove any shoring-timber or fence, or extinguish any light, employed or set up for any of the purposes of this section.

Streets not to be opened or broken up and building-materials not to be deposited thereon without permission.

322. (1) No person, other than the Commissioner or a municipal officer or servant, shall, without the written permission of the Commissioner or without other lawful authority,—

- (a) open, break up, displace, take up or make any alteration in or cause any injury to the soil or pavement, or any wall, fence, post, chain or other material or thing forming part of any street ; or
- (b) deposit any building-materials in any street ;
- (c) set up in any street any scaffold or any temporary erection for the purpose of any work whatever, or any posts, bars, rails, boards or other

(Chap. XI.—Regulation of Streets. Secs. 323-326.)

things by way of enclosure, for the purpose of making mortar or depositing bricks, lime, rubbish or other materials.

(2) Any permission granted under clause (b) or clause (c) shall be terminable at the discretion of the Commissioner, on his giving not less than twenty-four hours' written notice of the termination thereof to the person to whom such permission was granted.

323. Every person to whom any permission is granted under section 322 shall, at his own expense, cause the place where the soil or pavement has been opened or broken up or where he has deposited building-materials or set up any scaffold, erection or other thing, to be properly fenced and guarded, and, in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

Precautions for public safety to be taken by persons to whom permission is granted under section 322.

324. (1) Every person to whom permission is granted under section 322 to open or break up the soil or pavement of any street; or who, under other lawful authority, opens or breaks up the soil or pavement of any street, shall with all convenient speed complete the work for which the same shall be opened or broken up, and fill in the ground and re-instate and make good the street or pavement so opened or broken up without delay, to the satisfaction of the Commissioner.

Persons to whom permission is granted under section 322 must re-instate streets, etc.

(2) If the said person shall fail to re-instate and make good the street or pavement as aforesaid, the Commissioner may restore such street or pavement, and the expenses incurred by the Commissioner in so doing shall be paid by the said person.

325. The Commissioner may, by written notice, require any person to whom permission is granted under section 322 to open or break up the soil or pavement of any street, or who, under any other lawful authority, opens or breaks up the soil or pavement of any street, for the purpose of executing any work, to make provision to his satisfaction for the passage or diversion of traffic, for securing access to the premises approached from such street and for any drainage, water-supply or means of lighting which may be interrupted by reason of the execution of the said work.

Provisions to be made by persons to whom permission is granted under section 322 for traffic, etc., when their works interrupt streets.

326. (1) No person who proposes to build, take down or re-build any building or wall, or to alter or repair any part of any building or wall, shall, in any case in which the footway in any adjacent street will be thereby obstructed or rendered less convenient, commence doing so, without first having caused to be put up a proper and sufficient board or fence, with a convenient platform and hand-rail, if there be room enough for the same and

Hoards to be set up during work on any building adjacent to a street.

(Chap. XI.—Regulation of Streets. Secs. 327-329.)

the Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

(2) No hoard or fence shall be so put up without the previous written permission of the Commissioner, and every such hoard or fence put up with such permission, with such platform and hand-rail as aforesaid, shall be continued standing and maintained in good condition to the satisfaction of the Commissioner, by the person who carries on the work, during such time as may be necessary for the public safety and convenience; and, in all cases in which the same is necessary to prevent accidents, the said person shall cause such hoard or fence to be well lighted during the night.

(3) The Commissioner may, by written notice, require the person aforesaid to remove any hoard or fence so put up.

Naming of Streets, etc.

Naming streets, and numbering of houses.

327. (1) The Commissioner may, from time to time—

- (a) with the sanction of the corporation, determine the name by which any street shall be known;
- (b) cause to be put up or painted on a conspicuous part of any house at or near each end, corner or entrance to every street, the name of such street as so determined;
- (c) cause a number to be put up or painted in a conspicuous place on the outer side, wall, door or gate of any premises.

(2) No person shall, without the written permission of the Commissioner or without other lawful authority, destroy, remove, deface or in any way injure any such name or number, or put up or paint any name or number different from that put up or painted by order of the Commissioner.

Bill-posting.

Prohibition of posting of bills, etc., except with consent of owner or occupier of buildings, etc.

328. No person shall, without the consent of the owner or occupier, affix any posting-bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence or pale, or write upon, soil, deface or mark any such building, wall, board, fence or pale with chalk or paint or in any other way whatsoever.

Dangerous Places.

Commissioner to take proceedings

329. (1) If any place is, in the opinion of the Commissioner, for want of sufficient repair, protection or enclosure, or owing to some work being carried on thereupon, dangerous to passengers along a street, or to persons, other than

(Chap. XI.—Regulation of Streets. Secs. 330-331.)

the owner or occupier of the said place, who have legal access thereto or to the neighbourhood thereof, he may, by notice in writing, require the owner or occupier thereof to repair, protect or enclose the said place or take such other step as shall appear to the Commissioner necessary, in order to prevent danger therefrom.

for repairing or enclosing dangerous places.

(2) The Commissioner may, before giving any such notice or before the period of any such notice has expired, take such temporary measures as he thinks fit to prevent danger from the said place. Any expense incurred by the Commissioner in taking such temporary measures shall be paid by the owner or occupier of the place to which the said notice refers.

Lighting of Streets.

330. The Commissioner shall—

- (a) take measures for lighting in a suitable manner the public streets and municipal markets and all buildings vesting in the corporation; and
- (b) procure, erect and maintain such a number of lamps, lamp-posts and other appurtenances as may be necessary for the said purpose; and
- (c) cause such lamps to be lighted by means of oil, gas, electricity or such other light as the corporation shall from time to time determine; and may:
- (d) place and maintain electric wires for the purpose of lighting such lamps under, over, along or across, and posts, poles, standards, stays, struts, brackets, and other contrivances for carrying, suspending or supporting, lamps or electric wires in or upon any immoveable property, without being liable to any claim for compensation thereant:

Public streets to be lighted.

Provided that such wires, posts, poles, standards, stays, struts, brackets and other contrivances shall be so placed as to occasion the least practicable inconvenience or nuisance to any person.

331. No person shall, without lawful authority, take away or wilfully break, throw down or damage—

- (a) any lamp lamp-post or lamp-iron set up in any public street or in any municipal market or building vesting in the corporation;
 - (b) any electric wire for lighting any such lamp;
 - (c) any post, pole, standard, stay, strut, bracket or other contrivance for carrying, suspending or supporting any such electric wire or lamp;
- and no person shall wilfully extinguish the light or damage any appurtenance of any such lamp.

Prohibition of removal, etc., of lamps.

(Chap. XI.—Regulation of Streets. Secs. 332-335.)

Persons accidentally breaking lamp to repair the damage.

332. If any person shall, through negligence or accident, break any lamp set up in any public street or municipal market or building vesting in the corporation, he shall pay the expenses of repairing the damage so done by him.

Manner of laying gas-pipes.

333. (1) No gas-pipe shall be laid in a drain or on the surface of an open channel or house-gully.

(2) Gas-pipes shall be laid at the greatest practicable distance from water-pipes, having regard to the width of the street. Where the width of the street will allow of it, the said distance shall not be less than four feet.

(3) When it is necessary for a gas-pipe to cross a water-pipe, the gas-pipe shall, if practicable, be laid above the water-pipe. A gas-pipe so laid shall be at least nine feet in length and, as nearly as the situation will admit of, shall be so placed as to form with the water-pipe a right angle and so that no joint in the gas-pipe will be nearer to any water-pipe than four feet. The greatest practicable distance shall be kept between a water-pipe and a gas-pipe which crosses it, and the gas-pipe shall, throughout its entire length, be sufficiently bedded in with good sound clay or other fit material of a proper consistence, which shall be well worked and rammed into a trench all round the gas-pipe.

(4) If any gas-pipe be laid in any way contrary to the provisions of this section, the Commissioner may make such alteration with respect to such pipe as he shall think necessary, and the expenses thereof shall be paid by the person under whose order or management the pipe has been laid.

Situation of gas-pipes, etc., may be altered by Commissioner.

334. (1) The Commissioner may, whenever for any of the purposes of this Act it shall appear to him necessary, by written notice, require the owner of any gas-pipe or of any other gas-work laid in any street to raise, sink or otherwise alter the situation of such pipe or work.

(2) Every alteration required to be made under sub-section (1) shall be made at the charge of the municipal fund and compensation shall be paid to the owner by the Commissioner for the damage, if any, which he sustains by reason of such alteration :

(3) Provided that no such alteration shall be made which will prevent gas passing through any pipe or work as freely and conveniently as, having regard to all the requirements of this Act, is practicable.

Buildings, etc., not to be erected without.

335. (1) Without the written permission of the Commissioner, no building, wall or other structure shall be newly erected and no street or railway shall be constructed over any gas-pipe belonging to the corporation.

(Chap. XI.—Regulation of Streets. Sec. 336. Chap. XII.—Building Regulations. Secs. 337-338.)

(2) If any building, wall or other structure be so erected, or any street or railway be so constructed, the Commissioner may, with the approval of the standing committee, cause the same to be removed or otherwise dealt with as to the Commissioner shall appear fit, and the expenses thereby incurred shall be paid by the person offending.

permission over municipal gas-pipes.

Watering of Streets.

336. The Commissioner may—

- (a) take measures for having the public streets watered at such time and seasons and in such manner as he shall think fit ;
- (b) procure and maintain such water-carts, animals and apparatus as he shall think fit for the said purpose.

Measures for watering.

CHAPTER XII.

BUILDING REGULATIONS.

Notices regarding Erection of Buildings.

337. (1) Every person who shall intend to erect a building shall give to the Commissioner notice of his said intention, in a form, obtained for this purpose under section 344, specifying the position of the building intended to be erected, the description of building, the purpose for which it is intended, and its dimensions.

Notice to be given to Commissioner of intention to erect a building.

(2) In this chapter "to erect a building" means to newly erect a building, or to re-erect any building pulled down to the plinth, or any frame-building of which only the framework is left down to the plinth, or to convert into a dwelling-house any building not originally constructed for human habitation, or to convert into more than one dwelling-house a building originally constructed as one dwelling-house only ; and a building so erected, re-erected or converted is called in this chapter "a new building."

338. At any time within thirty days after receipt of any notice under section 337, the Commissioner may, by written notice, require the person who has given the notice first hereinbefore in this section mentioned, to furnish to the Commissioner all or any of the following documents, namely :--

Commissioner may require plans and other documents to be furnished.

- (a) plans and sections of every floor of the intended building, which shall be drawn to a scale of not less than one inch to every eight feet, and shall show the position, form and dimensions of the several parts of such building and of every water-closet, privy, urinal, cesspool, well

(Chap. XII.—Building Regulations. Secs. 339-341.

and other appurtenance and, in the case of a building intended as a dwelling-house for two or more families or for carrying on any trade or business in which a number of people exceeding twenty may be employed or as a place of public resort, the means of ingress and egress;

- (b) a description in writing of the materials of which it is intended that the building shall be constructed, of the thickness of the walls and roof and of the intended mode of drainage, means of water-supply, and means of ventilation, and, if the building is to adjoin or abut on a street, the intended means of access from such street;
- (c) a block plan of such building, which shall be drawn to a scale of not less than one inch to every forty feet and shall show the position and appurtenances of the properties, if any, immediately adjoining, the width and level of the street, if any, in front and of the street, if any, at the rear of such building, the levels of the foundations and lowest floor of such building and of any yard or ground belonging thereto;
- (d) a plan showing the intended line of drainage of such building and the intended size, depth and inclination of each drain and the details of the arrangement proposed for the ventilation of the drains.

Commissioner may require plans, etc., submitted under last preceding section to be prepared by a licensed surveyor.

339. The Commissioner may decline to accept any plan, section or description as sufficient for the purposes of the last preceding section which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

Additional information and the attendance of the person who gave the notice may be required.

340. If the notice given under section 337 and the documents, if any, furnished under section 338 do not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, the Commissioner may, at any time within thirty days after receipt of the said documents, by written notice, require the production of such further particulars and details as he deems necessary.

Effect of non-compliance with requisition under section 338 or 340.

341. If any requisition made under section 338 or 340 is not complied with, the notice given under section 337 shall be deemed not to have been given.

(Chap. XII.—Building Regulations. Secs. 342-344.)

Notices regarding Execution of Works not amounting to the Erection of a Building.

342. Every person who shall intend—

- (a) to make any addition to a building, or
- (b) to make any alteration or repairs to a building, not being a frame-building, involving the removal or re-erection of any external or party-wall thereof or of any wall which supports the roof thereof, to an extent exceeding one-half of such wall above the ground-level, such half to be measured in superficial feet, or
- (c) to make any alteration or repairs to a frame-building, involving the removal or re-erection of more than one-half of the posts in any such wall thereof as aforesaid, such half to be measured in superficial feet, or
- (d) to remove or re-construct any portion of a building abutting on a street which stands within the regular line of such street,

Notice to be given to the Commissioner of intention to make additions, etc., to a building.

shall give to the Commissioner, in a form obtained for this purpose under section 344, notice of his said intention, specifying the position of the building in which such work is to be executed and the nature and extent of the intended work.

343. (1) If any notice given under the last preceding section does not supply all the information which the Commissioner deems necessary to enable him to deal satisfactorily with the case, he may, at any time within thirty days after receipt of the said notice, by written notice, require the person who gave the notice first hereinbefore in this section mentioned to furnish plans and sections of the intended new work or of any specified portion of the intended new work and a description in writing of the materials of which it is intended that the new work or any specified portion thereof shall be constructed, of the thickness of any new wall or roof which it is intended to construct and of such other particulars and details as he deems necessary.

Plans and additional information may be called for.

(2) The Commissioner may decline to accept as sufficient for the purposes of this section any plan, section or description which does not bear the signature of a licensed surveyor, in token of its having been prepared by such surveyor or under his supervision.

Forms of Notices.

344. (1) The Commissioner shall cause printed forms of notices for the purposes of section 337 or 342 to be delivered to any person requiring the same, on payment of such fee not exceeding eight annas for each form as

Printed forms of notices to be supplied to the public.

(Chap. XII.—Building Regulations. Secs. 345-346.)

shall from time to time be prescribed in this behalf by the Commissioner, with the approval of the standing committee.

(2) There shall be printed on the reverse of every such notice, or on a separate paper supplied, without extra charge, therewith, a copy of sections 337, 338, 339, 340, 341, 342, 343, 345, 346, 347, 348 and 349 and of all bye-laws made under clauses (c), (d) and (e) of section 461 at the time in force.

Commencement of Work.

When building or work may be proceeded with.

345. If within thirty days after receipt of any notice under section 337 or 342, or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, the Commissioner fails to intimate in writing, to the person who has given the said notice, his disapproval of the building which the said person proposes to erect, or of the work which he proposes to execute;

or if, within the said period, the Commissioner signifies in writing to the said person his approval of the said building or work;

the said person may, at any time within one year from the date of the delivery of the notice to the Commissioner, proceed with the said building or work in accordance with his intention as described in the notice or in any of the documents aforesaid, but not so as to contravene any of the provisions of this Act or any bye-law made under this Act at the time in force.

Building or work which is disapproved by the Commissioner may be proceeded with, subject to terms.

346. (1) If the Commissioner disapproves of any building or work of which notice has been given as aforesaid or of any portion or detail thereof, by reason that the same will contravene some provision of this Act or some bye-law made hereunder at the time in force or will be unsafe, he may, at any time within thirty days of the receipt of the notice or of the plan, section, description or further information, if any, called for under section 338, 340 or 343, as the case may be, by a written notice, intimate to the person who gave the notice first hereinbefore in this section mentioned his said disapproval and the reason for the same and prescribe terms subject to which the building or work may be deemed to be approved by him.

(2) The person who gave the notice concerning any such building or work may proceed with the same, subject to the terms prescribed as aforesaid but not otherwise, at any time within one year from the date of receipt by him under sub-section (1) of the written notice in this behalf, but not so as to contravene any of the provisions of this Act or any bye-law made hereunder at the time in force.

347. (1) No person shall commence to erect any building or to execute any such work as is described in section 342—

When work may be commenced.

(a) until he has given notice of his intention, as hereinbefore required, to erect such building or execute such work and the Commissioner has either intimated his approval of such building or work or failed to intimate his disapproval thereof within the period prescribed in this behalf in section 345 or 346;

(b) after the expiry of the period of one year prescribed in sections 345 and 346, respectively, for proceeding with the same.

(2) If a person, who is entitled under section 345 or 346 to proceed with any building or work, fails so to do within the period of one year prescribed in the said sections, respectively, for proceeding with the same, he may at any subsequent time give a fresh notice of his intention to erect such building or execute such work, and thereupon the provisions hereinbefore contained shall apply as if such fresh notice were a first notice of such person's intention.

Provisions as to Structure, Materials, etc.

348. (1) With respect to buildings which are to be newly erected on any site previously unbuilt upon, the following provisions shall have effect, namely:—

Provisions as to buildings which are to be newly erected.

(a) The erection of any such building on either side of a new street may be disapproved by the Commissioner, unless and until such new street has been levelled, metalled or paved, sewered and drained to the satisfaction of the Commissioner.

(b) The erection of any such building in any part of the city in which the position and direction of the streets likely to be required in the future have not yet been laid down or determined shall, with the assent of the standing committee, be disapproved by the Commissioner, unless the site proposed for such building is, in the opinion of the Commissioner, such as, with reference to the positions occupied by the buildings, if any, already existing in the neighbourhood, will admit of the construction in the future of one or more new streets convenient for the occupiers of all the buildings in the neighbourhood and for the purposes of drainage, water-supply and ventilation: Provided that any person whose building is so disapproved may, by written notice to the Commissioner, require that the position and direction of the future streets in the vicinity of his intended building be forthwith laid down and determined, and, if such

(Chap. XII.—Building Regulations. Sec. 348.)

requisition be not complied with within six months from the date thereof, may, subject to all other provisions of this Act applicable thereto, proceed with the erection of his building.

- (c) The foundation of any such building shall not be constructed on any site which has been filled up with, or has been used as a place for depositing, excrementitious matter or the carcasses of dead animals or other filthy or offensive matter, until such matter shall have been properly removed to the satisfaction of the Commissioner.
- (d) Every such building intended to be used as a dwelling shall be built with a plinth at least two feet above the centre of the nearest street and not below such standard level as may be fixed by the Commissioner in this behalf.
- (e) No such building which abuts on a street of a less width than fifty feet shall, without the written permission of the Commissioner, be erected to a greater height than one-and-a-half times the width of the street it abuts on.
- (f) In addition to any means of ventilation required by any bye-law made under this Act at the time in force, every such building intended to be used as a dwelling shall be so constructed that the whole of at least one side of every room thereof shall either be an external wall or abut on an interior open space. Such external wall, except where it faces a street of not less than fifteen feet in width, shall have between it and the boundary-line of the owner's premises an open space extending throughout the entire length of such wall, at least two feet wide or, in the case of a chawl or building intended to form a range of separate rooms for lodgers, at least five feet wide. Such interior open space shall have an area equal to not less than one-tenth of the aggregate floor-area of all the rooms abutting thereon and shall not be in any direction less than six feet across. And every open space, whether exterior or interior, required by this clause shall be and be kept free from any erection thereon and open to the sky and shall be and be kept open to access from each end thereof.
- (g) Every room intended to be inhabited in any such building, except a room in the roof thereof, shall be in every part at least eight feet in height from the floor to the ceiling.
- (h) Every such room in the roof of any such building shall have an average height of at least seven feet from the floor to the ceiling.
- (j) Every such room shall have a clear superficial area of not less than eighty square feet.

(Chap. XII.—Building Regulations. Secs. 349-351.)

(k) In addition to any means of ventilation required by any bye-law made under this Act at the time in force, every such room shall be ventilated by means of doors or windows which open directly into the external air and have an aggregate opening equal to not less than one-fourth of the superficial area of the side of the room which faces an open space.

(l) Huts or sheds or ranges or blocks of huts or sheds, whether the same are to be used as dwellings or stables or for any other purpose, shall be built, if the Commissioner thinks fit so to require—

(i) 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 Commissioner thinks proper for ventilation and for facilitating scavenging; and

(ii) with such and so many privies, latrines or urinals and such means of drainage as the Commissioner deems necessary; and

(iii) at such a level as will suffice for the means of drainage required by the Commissioner.

(2) Nothing in clause (a) shall be deemed to affect the power of Government to determine, under section 38 of the Bombay Port Trust Act, 1879 [a], any dispute which arises between the Trustees of the Port of Bombay and the Commissioner as to whether any road within the limits of the property of the said trustees has been duly levelled, metalled or paved, sewered and drained.

Bom. VI of 1879.

349. (1) No external wall and no covering of a roof built or renewed since the Bombay Municipal Act, 1872 [b], came into force shall, except with the written permission of the Commissioner, consist of wood, cloth, canvas, grass, leaves, mats or any other inflammable material.

Roofs and external walls of buildings not to be of inflammable material.

(2) If any external wall or covering of a roof is or has been, since the said Act came into force, constructed of any such material, the Commissioner may, by written notice, require the owner or occupier of the building to which such wall or roof appertains to remove such wall or covering.

Bom. III of 1872.

Inspection.

350. The Commissioner may at any time during the erection of a building or the execution of any such work as is described in section 342 make an inspection thereof, without giving previous notice of his intention so to do.

Inspection of buildings in course of erection, alteration, etc. Proceedings to be taken

351. (1) If the erection of any building or the execution of any such work as is described in section 342 is commenced contrary to the provisions of

[*] Printed in Vol. II of this Code, p. 377.

[b] Bom. Act III of 1872 was repealed by s. 2 of this Act.

(Chap. XII.—Building Regulations. Sec. 352.)

in respect of building or work commenced contrary to section 347.

section 347, the Commissioner, unless he deems it necessary to take proceedings in respect of such building or work under section 354, shall—

- (a) by written notice, require the person who is erecting such building or executing such work, or has erected such building or executed such work, on or before such day as shall be specified in such notice, by a statement in writing subscribed by him or by an agent duly authorized by him in that behalf and addressed to the Commissioner, to show sufficient cause why such building or work shall not be removed, altered or pulled down; or
- (b) shall require the said person on such day and at such time and place as shall be specified in such notice to attend personally, or by an agent duly authorized by him in that behalf, and show sufficient cause why such building or work shall not be removed, altered or pulled down.

(2) If such person shall fail to show sufficient cause, to the satisfaction of the Commissioner, why such building or work shall not be removed, altered or pulled down, the Commissioner, with the approval of the standing committee, may remove, alter or pull down the building or work, and the expenses thereof shall be paid by the said person.

Buildings or works commenced contrary to section 347 may be cut into and laid open for purpose of inspection.

352. (1) If there shall be reasonable ground for suspecting that in the erection of any such building or in the execution of any such work as is referred to in the last preceding section anything has been done contrary to any provision of this Act or of any bye-law made under this Act at the time in force, or that anything required by any such provision or bye-law to be done has been omitted to be done;

and if, on inspecting such building or work, it is found that the same has been completed or is too far advanced to permit of any such fact being ascertained;

the Commissioner may, with the approval of the standing committee, by written notice, require the person who has erected such building or executed such work or is erecting such building or executing such work to cause so much of the building or work as prevents any such fact being ascertained to be cut into, laid open or pulled down to a sufficient extent to permit of the same being ascertained.

(2) If it shall thereupon be found that in the erection of such building or the execution of such work nothing has been done contrary to any provision of this Act or of any bye-law made under this Act at the time in force, and that nothing required by any such provision or bye-law to be done has been omitted to be done, compensation shall be paid by the Commissioner to the person

(Chap. XII.—Building Regulations. Secs. 353-354. Chap. XIII.—Licensing of Surveyors and Plumbers. Sec. 355.)

aforesaid for the damage and loss incurred by cutting into, laying open or pulling down the building or work.

353. The Commissioner may, at any time during the erection of a building or the execution of any such work as aforesaid, or at any time within three months after the completion thereof, 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 bye-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 the notice the owner thereof, then the owner of such building or work, to cause anything done contrary to any such provision or bye-law to be amended or to do any thing which by any such provision or bye-law may be required to be done but which has been omitted to be done.

Enforcement of provisions concerning buildings and works.

Dangerous Structures.

354. (1) If it shall at any time appear to the Commissioner that any structure (including under this expression any building, wall or other structure and anything affixed to, or projecting from, any building, wall or other structure) is in a ruinous condition, or likely to fall, or in any way dangerous to any person occupying, resorting to, or passing by such structure or any other structure or place in the neighbourhood thereof, the Commissioner may, by written notice, require the owner or occupier of such structure to pull down, secure or repair such structure, and to prevent all cause of danger therefrom.

Removal of structures, etc., which are in ruins or likely to fall.

(2) The Commissioner may also, if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure or repair the said structure, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons, with a convenient platform and hand-rail, if there be room enough for the same and the Commissioner shall think the same desirable, to serve as a footway for passengers outside of such hoard or fence.

CHAPTER XIII.

LICENSING OF SURVEYORS AND PLUMBERS.

355. (1) The Commissioner may grant to any person he thinks fit a license to act as a surveyor or as a plumber for the purposes of this Act. Each such license shall be for a renewable period of one year.

Grant of licenses to surveyors and plumbers.

(Chap. XIII.—*Licensing of Surveyors and Plumbers. Secs. 356-358. Chap. XIV.—Municipal Fire-Brigade. Sec. 359.*)

(2) If any applicant for a license to act as a surveyor is a licentiate of civil engineering or a person who has passed some test of professional qualification equivalent to that for a licentiate of civil engineering, his application shall not be refused by the Commissioner, except with the approval of the standing committee and upon the ground that the applicant is unfit, through incompetency, misconduct or other grave reason, to hold such license.

(3) If the Commissioner refuses any application for a license under this section, he shall, at the request of the applicant, furnish such applicant with his reasons for such refusal in writing under his signature, without charge.

Regulations may be prescribed for guidance of licensed surveyors and plumbers.

356. The Commissioner may, with the approval of the standing committee, from time to time prescribe regulations for the guidance of licensed surveyors and plumbers, respectively, and a copy of all regulations so prescribed at the time in force shall be written on the back of every license granted to a surveyor or plumber, respectively.

Fees and charges of licensed plumbers to be prescribed by the standing committee.

357. The standing committee may from time to time prescribe the fees or charges to be paid to licensed plumbers for any work done by them under or for any purpose of this Act; and no licensed plumber shall demand or receive more than the fee or charge so prescribed for any such work.

Licensed plumber to be bound to execute work properly.

358. No licensed plumber shall execute any work under this Act carelessly or negligently or make use of any bad material, appliance or fitting for the purpose of such work.

CHAPTER XIV.

MUNICIPAL FIRE-BRIGADE.

Maintenance of firemen and of necessary fire-engines, etc.

359. (1) With a view to the discharge by the corporation of the duty of extinguishing fire and protecting life and property in case of fire, the Commissioner shall provide, in the schedule of municipal officers and servants from time to time prepared by him under section 79, for a force of firemen, with a proper number of officers over them, to be called "the municipal fire-brigade," and shall furnish the said brigade with all such fire-engines, fire-escapes, horses, accoutrements, tools, implements and means of inter-communication as may be necessary for the efficient discharge of their duties.

(2) A person may be appointed to be a member of the fire-brigade in addition to any other office or employment of such person.

(Chap. XIV.—Municipal Fire-Brigade. Secs. 360-364.)

360. The Commissioner shall from time to time make regulations for—

- (a) the training, discipline and good conduct of the men belonging to the fire-brigade ;
- (b) their speedy attendance with engines, fire-escapes and all necessary implements on the occasion of any alarm of fire ;
- (c) the maintenance of the said brigade generally in a due state of efficiency.

Power to make regulations for fire-brigade.

361. On the occasion of a fire, the chief or other officer in charge of the fire-brigade may, subject to such orders as the Commissioner may from time to time issue in this behalf, take the command of all municipal officers and servants present and of any other persons who voluntarily place their services at his disposal ; and may—

Powers of chief officer of fire-brigade at a fire.

- (a) remove, or order any fireman or other officer or person under his command to remove, any persons who interfere by their presence with the operations of the fire-brigade ;
- (b) take generally any measures that appear expedient for the protection of life and property, with power, by himself or by the persons under his command, to break into or through or take possession of, or pull down any premises for the purpose of putting an end to such fire, doing as little damage as possible ;
- (c) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred and utilize the water of any well or tank available for the purpose of extinguishing such fire.

362. It shall be the duty of all police-officers and of all municipal officers and servants to aid the fire-brigade in the execution of their duties. They may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

Police and municipal officers and servants to aid the fire-brigade.

363. Any damage occasioned by the fire-brigade in the due execution of their duties, or by any police or municipal officer or servant who aids the fire-brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

Damages done by fire-brigade to be deemed damage by fire.

364. A report of every fire which occurs in the city shall be submitted by the chief or other officer in charge of the fire-brigade, not later than the day following the fire, to the Commissioner, who shall make such further inquiry, if any, as he may deem necessary and shall furnish a weekly return of all fires which occur in the city to the standing committee.

Reports of fires to be submitted.

(Chap. XV.—Sanitary Provisions. Secs. 365-368.)

CHAPTER XV.

SANITARY PROVISIONS.

Scavenging and Cleansing.

Commissioner to provide for cleansing of streets and removal of refuse.

365. For the purpose of securing the efficient scavenging and cleansing of all streets and premises, the Commissioner shall take measures for securing—

- (a) the daily surface-cleansing of all streets in the city and the removal of the sweepings therefrom ;
- (b) the removal of the contents of all receptacles and depôts and of the accumulations at all places provided or appointed by him under section 367 or 368 for the temporary deposit of any of the matters specified in the said sections.

Refuse, etc., to be the property of the corporation.

366. All matters collected by municipal servants or contractors in pursuance of the last preceding section and of section 369 shall be the property of the corporation.

Provision and appointment of receptacles, depôts and places for refuse, etc.

367. (1) The Commissioner shall provide or appoint in proper and convenient situations public receptacles, depôts and places for the temporary deposit or final disposal of—

- (a) dust, ashes, refuse and rubbish ;
- (b) carcasses of dead animals, and excrementitious and polluted matter ;
- (2) Provided that—
- (c) the said matters shall not be finally disposed of in any place or manner in which the same have not heretofore been so disposed of, without the sanction of the corporation or in any place or manner which Government think fit to disallow ;
- (d) any power conferred by this section shall be exercised in such manner as to create the least practicable nuisance.

Duty of occupiers to collect and deposit dust, etc.

368. (1) It shall be incumbent on the occupiers of all premises to cause all dust, ashes, refuse and rubbish to be collected from their respective premises and to be deposited at such times as the Commissioner, by public notice, from time to time prescribes, in the public receptacle, depôt or place provided or appointed under clause (a) of the last preceding section for the temporary deposit thereof :

(2) Provided that the Commissioner may, if he thinks fit, by written notice, require the occupier or owner of any land to cause all dust, ashes, refuse and rubbish to be collected daily, or otherwise periodically, from the said land and from any building standing thereon and deposited temporarily upon

(Chap. XV.—Sanitary Provisions. Secs. 369-372.)

any place forming a part of the said land which the Commissioner appoints in this behalf, and it shall be incumbent on the said occupier to cause the said matters to be collected and deposited accordingly.

369. When the Commissioner has given public notice, under clause (a) of section 142, of his intention to provide, in a certain portion of the city, for the collection, removal and disposal, by municipal agency, of all excrementitious and polluted matter from privies, urinals and cesspools, it shall be lawful for the Commissioner to take measure for the daily collection, removal and disposal of such matter from all premises situate in the said portion of the city.

Provision may be made by Commissioner for collection, etc., of excrementitious and polluted matter.

370. It shall be incumbent on the occupier of any premises situate in any portion of the city for which the Commissioner has not given a public notice under clause (a) of section 142, and in which there is not a water-closet or privy connected with a municipal drain, to cause all excrementitious and polluted matter accumulating upon his premises to be collected and to be conveyed to the nearest receptacle or depôt provided for this purpose under clause (b) of section 367, at such times, in such vehicle or vessel, by such route and with such precautions as the Commissioner by public notice from time to time prescribes.

Collection and removal of excrementitious and polluted matter when to be provided for by occupiers.

371. In any portion of the city in which the Commissioner has given a public notice under clause (a) of section 142, and in any premises, wherever situate, in which there is a water-closet or privy connected with a municipal drain, it shall not be lawful, except with the written permission of the Commissioner, for any person, who is not employed by or on behalf of the Commissioner, to discharge any of the duties of halalkhors.

Halalkhors' duties in certain cases may not be discharged by private individuals without the Commissioner's permission. Prohibition of failure to remove refuse, etc., when bound to do so;

372. No person—

(a) who is bound, under section 368 or section 370, to cause the removal of dust, ashes, refuse and rubbish, or of excrementitious or polluted matter, shall allow the same to accumulate on his premises for more than twenty-four hours, or neglect to cause the same to be removed to the depôt, receptacle or place provided or appointed for the purpose;

(b) shall remove any dust, ashes, refuse or rubbish, or any excrementitious or polluted matter, otherwise than in conformity with the requirements of any public or written notice at the time being in force under section 368, or use for the removal of any excrementitious or polluted matter any vehicle or vessel not having a covering proper

removal of refuse, etc., contrary to orders or without proper precautions;

(Chap. XV.—Sanitary Provisions. Secs. 373-375.)

for preventing the escape of any portion of the contents thereof or of the stench therefrom;

failure to clear away any refuse, etc., which drops during removal;

leaving filth carts, etc., unnecessarily in the streets;

throwing or placing refuse, etc., in any place not assigned for the purpose; allowing filthy matter to flow or soak from any premises, and keeping anything thereupon so as to create a nuisance. Presumption as to offender under clause (e) of section 372.

- (c) shall, whilst engaged in the removal of any dust, ashes, refuse or rubbish, or of any excrementitious or polluted matter, fail forthwith thoroughly to sweep and cleanse the spot in any street upon which, during removal, any portion thereof may fall, and entirely to remove the sweepings;
- (d) shall place or set down in any street any vehicle or vessel for the removal of excrementitious or polluted matter, or suffer the same to remain in any street for any greater length of time than is reasonably necessary;
- (e) shall throw or place any dust, ashes, refuse or rubbish, or any excrementitious or polluted matter, on any street, or in any place not provided or appointed for this purpose under section 367 or 368;
- (f) who is the owner or occupier of any building or land, shall allow any filthy matter to flow, soak or be thrown therefrom, or keep or suffer to be kept therein or thereupon anything so as to be a nuisance to any person, or negligently suffer any privy-receptacle or other receptacle or place for the deposit of filthy matter or rubbish on his premises to be in such a state as to be offensive or injurious to health.

373. If it shall in any case be shown that dust, ashes, refuse or rubbish, or any excrementitious or polluted matter, has or have been thrown or placed on any street or place, in contravention of clause (e) of the last preceding section, from some building or land, it shall be presumed, until the contrary is proved, that the said offence has been committed by the occupier of the said building or land.

Inspection and Sanitary Regulation of Premises.

374. The Commissioner may inspect any building or other premises for the purpose of ascertaining the sanitary condition thereof.

Power to inspect premises for sanitary purposes. Cleansing and lime-washing of any building may be required.

375. If it shall appear to the Commissioner necessary for sanitary reasons so to do, he may, by written notice, require the owner or occupier of any building so inspected to cause the same or some portion thereof to be lime-washed or otherwise cleansed, either externally or internally, or both externally and internally.

(Chap. XV.—Sanitary Provisions. Secs. 376-379.)

376. If any premises, by reason of their being abandoned or unoccupied, become a resort of disorderly persons or, in the opinion of the Commissioner, a nuisance, the Commissioner, after such inquiry as he deems necessary, may give written notice to the owner of such premises, if he be known and resident within the city, or to any person who is known or believed to claim to be the owner, if such person is resident within the city, and shall also affix a copy of the said notice on some conspicuous part of the said premises, requiring all persons having any right of property or interest therein to take such order with the said premises as shall, in the opinion of the Commissioner, be necessary to prevent the same from being resorted to as aforesaid or from continuing to be a nuisance.

Abandoned
or unoc-
cupied
premises.

377. (1) If it shall appear to the Commissioner that any premises are overgrown with rank and noisome vegetation or are otherwise in an unwholesome or filthy condition or, by reason of their not being properly enclosed, are resorted to by the public for purposes of nature, or are otherwise a nuisance to the neighbouring inhabitants, the Commissioner may, by written notice, require the owner or occupier of such premises to cleanse, clear or enclose the same or, with the approval of the standing committee, may require him to take such other order with the same as the Commissioner thinks necessary :

Neglected
premises.

(2) Provided that, in so far as the unwholesome or filthy condition of such premises or such nuisance as above mentioned is caused by the discharge from or by any defect in the municipal drains or appliances connected therewith, it shall be incumbent on the Commissioner to cleanse such premises.

378. (1) If, for any reason, any building intended for or used as a dwelling shall appear to the Commissioner to be unfit for human habitation, he may apply to the Chief Presidency Magistrate to prohibit the further use of such building for such purpose ; and the said Magistrate, after such inquiry as he thinks fit to make, may, by written order, make a prohibition as aforesaid or may pass such other order as he shall deem just and proper.

Buildings
unfit for
human
habitation.

(2) When any such prohibition has been made, no owner or occupier of such building shall use or suffer the same to be used for human habitation until the Commissioner certifies in writing that the causes rendering it unfit for human habitation have been removed to his satisfaction or the Chief Presidency Magistrate, by a written order, withdraws the prohibition aforesaid.

379. (1) If it shall appear to the Commissioner that any building used as a dwelling is so overcrowded as to endanger the health of the inmates thereof, he may apply to the Chief Presidency Magistrate to prevent such overcrowding ; and the said Magistrate, after such inquiry as he thinks fit to

Overcrowd-
ed dwell-
ings.

(Chap. XV.—Sanitary Provisions. Secs. 380-382.)

make, may, by written order, require the owner of the building, within a reasonable time not exceeding six weeks, to be prescribed in the said order, to abate the overcrowding thereof, by reducing the number of lodgers, tenants or other inmates of the said building, or may pass such other order as he shall deem just and proper.

(2) If the owner of the said building shall have sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

(3) It shall be incumbent on every tenant, lodger or other inmate of the building to vacate on being required by the owner so to do in pursuance of any such requisition.

Insanitary
huts and
sheds.

380. If the Commissioner is of opinion that any hut or shed, used either as a dwelling or as a stable or for any other purpose, is likely, by reason of its being built without a plinth or upon a plinth of insufficient height or without proper means of drainage, or on account of the impracticability of scavenging, or owing to the manner in which it and other huts or sheds are crowded together, to cause risk of disease to the inmates thereof or to the inhabitants of the neighbourhood, or is for any reason likely to endanger the public health or safety ;

he may, by written notice, which shall be affixed to some conspicuous part of such hut or shed, require the owner or occupier thereof or the owner of the land on which such hut or shed stands to remove or alter such hut or shed or to take such order for the improvement thereof as the Commissioner shall deem necessary.

Filling in of
pools, etc.,
which are a
nuisance.

381. If, in the opinion of the Commissioner, any pool, ditch, tank, pond, well, quarry-hole, low ground or stagnant water is or is likely to become a nuisance, the Commissioner may, with the approval of the standing committee by notice in writing, require the owner thereof to cleanse, fill up, drain off or remove the same or to take such other order therewith as the Commissioner shall deem necessary.

Dangerous
quarrying
may be
stopped.

382. If, in the opinion of the Commissioner, the working of any quarry or the removal of stone, earth or other material from 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 Commissioner may, with the approval of the standing committee, by written notice, require the owner of the said quarry or place to discontinue working the same or to discontinue removing stone, earth or other material from such place, or to take such order with such quarry or place as he shall deem necessary for the purpose of

(Chap. XV.—Sanitary Provisions. Secs. 383-385.)

preventing danger or of abating the nuisance arising or likely to arise therefrom.

383. (1) If, in the opinion of the Commissioner—

(a) any hedge is at any time insufficiently cut or trimmed, or overgrown with prickly-pear or other rank vegetation ; or

(b) any tree or shrub has fallen or is likely to fall, to the danger of public safety, or overhangs or obstructs any street to the inconvenience or danger of passengers therein ;

Removal and trimming of trees, shrubs and hedges.

the Commissioner may, by written notice, require the owner or occupier of the land on which such hedge, tree or shrub is or has been growing—

(c) to cut down such hedge to a height not exceeding four feet and to a width not exceeding three feet, and to remove any such prickly-pear or other rank vegetation therefrom ; or

(d) to remove, cut, lop or trim such tree or shrub, as the case may be.

(2) In any case falling under clause (b), the Commissioner may, if for the public safety it shall appear to him necessary so to do, cause any tree or shrub to be removed, cut, lopped or trimmed, without previously giving the said owner or occupier notice as aforesaid, and the expenses thereof shall, nevertheless, be paid by the owner or occupier.

Keeping and Destruction of Animals and Disposal of Carcasses.

384. (1) No person shall—

(a) without the written permission of the Commissioner, or otherwise than in conformity with the terms of such permission, keep any swine in any part of the city ;

(b) keep any animal on his premises so as to be a nuisance or dangerous to any person ;

(c) feed any animal, or suffer or permit any animal to be fed, or to feed, with or upon excrementitious matter, dung, stable-refuse or other filthy matter.

Prohibitions as to keeping animals.

(2) Any swine found straying may be forthwith destroyed and the carcass [*] thereof disposed of as the Commissioner shall direct. No claim shall lie for compensation for any swine so destroyed.

385. (1) The occupier of any premises in or upon which any animal shall die or upon which the carcass of any animal shall be found and the person having the charge of any animal which dies in a street or in any open

Removal of carcasses of dead animals.

[*] *Sic.* Read carcasses.

(Chap. XV.—Sanitary Provisions. Secs. 386-388.)

place, shall, within three hours after the death of such animal, or if the death occurs at night, within three hours after sunrise, either—

- (a) remove the carcass of such animal to some receptacle, dépôt or place appointed by the Commissioner under clause (b) of section 367 for the temporary deposit or final disposal of such carcasses, or
- (b) report the death of the animal to an officer of the health department of the division of the city in which the death occurred, with a view to his causing the same to be removed.

(2) When any carcass is so removed by the health department, a fee for the removal of such amount as shall be fixed by the Commissioner shall be paid by the owner of the animal or, if the owner is not known, by the occupier of the premises in or upon which, or by the person in whose charge, the same died.

Regulation of Public Bathing, Washing; etc.

Places for public bathing, etc., to be fixed by the Commissioner.

386. The Commissioner may from time to time set apart portions of the seashore or other suitable places vesting in the corporation for use by the public for bathing, for the washing of animals or for drying clothes, and may from time to time, by public notice, prohibit the use by the public of any portion of the seashore or place not vesting in the corporation for any of the said purposes.

Regulation of use of public bathing-places, etc.

387. (1) The Commissioner may, by public notice, regulate the use by the public—

- (a) of any portion of the seashore or other place vesting in the corporation set apart by him for any purpose under the last preceding section ;
- (b) of any portion of the seashore or other place not vesting in the corporation used, with his acquiescence, for any purpose mentioned in the last preceding section ;
- (c) of any work and of the water in any work assigned and set apart under section 270 for any particular purpose.

(2) In the case of any portion of the seashore or of any place or work set apart, assigned or used as aforesaid for bathing, the Commissioner may, in such notice, prescribe the times and places of bathing for persons of each sex.

Prohibition of bathing, etc., contrary to order or regulation.

388. Except as permitted by any order or regulation made under section 270, 386 or 387, no person shall—

- (a) bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore or other place vesting in the corporation ;

(Chap. XV.—Sanitary Provisions. Secs. 389-391.)

- (b) wash or cause to be washed in or near any such place or work, any animal, clothes or other article;
- (c) throw, put or cause to enter into the water in any such place or work, any animal or other thing;
- (d) cause or suffer to drain into or upon any such place, or work or to be brought thereto or thereupon, anything, or do anything, whereby the water shall be in any degree fouled or corrupted;
- (e) dry clothes in or upon any such place.

And no person shall—

- (f) in contravention of any prohibition made by the Commissioner under section 386, use any portion of the seashore or any place not vesting in the corporation for any purpose mentioned in the said section;
- (g) contravene any regulation made by the Commissioner under section 387 for the use of any such portion of the seashore or place for any such purpose.

389. No person shall—

- (a) steep in any tank, reservoir, stream, well or ditch any animal, vegetable or mineral matter likely to render the water thereof offensive or dangerous to health;
- (b) whilst suffering from any contagious or loathsome disease, bathe in or near any lake, tank, reservoir, fountain, cistern, duct, standpipe, stream or well or on any part of the seashore.

Prohibition or corruption of water by steeping therein animal or other matter, etc.

Regulation of Factories, Trades, etc.

390. (1) No person shall newly establish in any premises any factory, workshop or workplace in which it is intended that steam, water or other mechanical power shall be employed, without the previous written permission of the Commissioner.

Factory, etc., not to be newly established without permission of the Commissioner.

(2) The Commissioner may refuse to give such permission if he shall be of opinion that the establishment of such factory, work-shop or work-place in the proposed position is objectionable by reason of the density of the population in the neighbourhood thereof or will be a nuisance to the inhabitants of the neighbourhood.

391. (1) No person shall—

- (a) use or permit to be used any furnace employed for the purpose of any trade or manufacture which does not, so far as practicable, consume its own smoke; or

Furnaces used in trade or manufacture

(Chap. XV.—Sanitary Provisions. Secs. 392-393.)

to consume
their own
smoke.

(b) so negligently use or permit to be used any such furnace as that it shall not, as far as practicable, consume its own smoke.

(2) Nothing in this section shall be deemed to apply to a locomotive engine used for the purpose of traffic upon any railway or for the repair of streets.

Sanitary
regulation
of factories,
bake-houses,
etc.

392. (1) Whenever it shall appear to the Commissioner that any factory, bake-house, work-shop or work-place or any building or place, in which steam, water or other mechanical power is employed, is not kept in a cleanly state or is not ventilated in such a manner as to render harmless, as far as practicable, any gas, vapour, dust or other impurity generated in the course of the work carried on therein which is a nuisance,

or is so overcrowded while work is carried on as to be dangerous or injurious to the health of the persons employed therein,

or that any engine, mill-gearing, hoist or other machinery therein is so fixed or so insecurely fenced as to be dangerous to life or limb;

the Commissioner may, by written notice, require the owner of such factory, bake-house, work-shop, work-place or other building or place to take such order for putting and maintaining the same in a cleanly state or for ventilating the same, or for preventing the same from being overcrowded, or for preventing danger to life or limb from any engine, mill-gearing, hoist or other machinery therein, as he shall think fit.

(2) Nothing in this section shall be deemed to affect any provision of the Bombay Boiler Inspection Act, 1887 [a], and nothing in this section which relates to the fixing or fencing of any engine, mill-gearing, hoist or other machinery shall apply in any factory to which the provisions of the Indian Factory [b] Act, 1881 [c], are applicable.

Bom. III
of 1887.

XV of 1881

Prohibition
of use of
steam-whistle
or steam-
trumpet
without per-
mission of
the Commis-
sioner.

393. (1) No person shall, without the written permission of the Commissioner, use or employ in any factory or any other place, any steam-whistle or steam-trumpet for the purpose of summoning or dismissing workmen or persons employed.

(2) The Commissioner may at any time revoke any permission which he has given for the use of any such instrument as aforesaid, on giving one month's notice to the person using the same:

(3) Provided that nothing in sub-section (2) shall be deemed to require

[a] Bom. Act III of 1887 is repealed by Bom. Act II of 1891, printed *infra*.

[b] *Sic. Read* Factories.

[c] For Act XV of 1881 see the revised edition, as modified up to 1st April, 1891, published by the Legislative Department.

(Chap. XV.—Sanitary Provisions. Secs. 394-395.)

one month's notice to be given by the Commissioner, if he suspends or revokes any such permission for any reason specified in sub-section (3) of section 479.

394. (1) No person shall use any premises for any of the purposes hereinbelow mentioned, without or otherwise than in conformity with the terms of a license granted by the Commissioner in this behalf, namely:—

Certain trades not to be carried on without a license.

- (a) any of the purposes specified in Schedule M ;
- (b) any purpose which is, in the opinion of the Commissioner, dangerous to life, health or property, or likely to create a nuisance ;
- (c) keeping horses, cattle or other four-footed animals for sale or hire or for sale of the produce thereof ;
- (d) storing for other than domestic use, or selling timber, firewood, charcoal, coal, coke, ashes, hay, grass, straw or any other combustible thing.

(2) Every person to whom a license is granted by the Commissioner to use any premises for any of the purposes mentioned in sub-section (1) shall keep affixed in a conspicuous part of the said premises a board upon which shall be legibly written in English, and also in either Maráthi, Gujaráthi or Urdu, the following particulars, namely:—

- (e) the licensee's name ;
- (f) the purpose for which and the limitations and conditions subject to which the license is granted ;
- (g) any other details relating to the license or the terms thereof, which the Commissioner from time to time thinks fit to require.

(3) Nothing in this section shall be deemed to apply to mills for spinning or weaving cotton, wool, silk or jute.

395. (1) No person engaged in any trade or manufacture specified in Schedule M shall—

Prohibition of corruption of water by chemicals, etc.

- (a) wilfully cause or suffer to be brought or to flow into any lake, tank, reservoir, cistern, well, duct or other place for water belonging to the corporation, or into any drain or pipe communicating therewith, any washing or other substance produced in the course of any such trade or manufacture as aforesaid ;
- (b) wilfully do any act connected with any such trade or manufacture as aforesaid whereby the water in any such lake, tank, reservoir, cistern, well, duct or other place for water is fouled or corrupted.

(2) The Commissioner may, after giving not less than twenty-four hours' previous notice in writing to the owner or to the person who has the

(Chap. XV.—Sanitary Provisions. Secs. 396-397.)

management or control of any works, pipes or conduits connected with any such manufacture or trade as aforesaid, lay open and examine the said works, pipes or conduits ;

and, if, upon such examination, it appears that sub-section (1) has been contravened by reason of anything contained in or proceeding from the said works, pipes or conduits, the expenses of such laying open and examination and of any measure which the Commissioner shall, in his discretion, require to be adopted for the discontinuance of the cause of such contravention, shall be paid by the owner of the said works, pipes or conduits or by the person who has the management or control thereof or through whose neglect or fault the said sub-section has been contravened ;

but, if it appear that there has been no contravention of the said sub-section, the said expenses and compensation for any damage occasioned by the said laying open and examination shall be paid by the Commissioner.

Inspection
of premises
used for
manufactures,
etc.

396. (1) The Commissioner may at any time, by day or by night, without notice, enter into or upon any premises used for any of the purposes mentioned in section 394 and upon any premises in which a furnace is employed for the purpose of any trade or manufacture, and into any bake-house, in order to satisfy himself as to whether any provision of this Act or any bye-law made under this Act at the time in force or any condition of any license granted under this Act is being contravened, and as to whether any nuisance is created upon such premises.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry : Provided that force shall not be used for effecting an entry, unless when there is reason to believe that an offence is being committed against some provision of this Act or some bye-law made under this Act.

Regulation
of washing
of clothes by
washermen.

397. (1) The Commissioner may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as he 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 Commissioner, except for such person himself or for the owner or occupier of such place.

Washing-
places to be
provided by
the Commis-
sioner for
washermen.

(2) The Commissioner 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 the Commissioner, with the approval of the standing committee.

Maintenance and Regulation of Markets and Slaughter-houses.

398. All markets and slaughter-houses which belong to or are maintained by the corporation shall be called "municipal markets" or "municipal slaughter-houses." All other markets and slaughter-houses shall be deemed to be private.

What to be deemed municipal markets and slaughter-houses.

399. (1) The Commissioner, when authorized by the corporation in this behalf, may construct, purchase or take on lease any building or land for the purpose of establishing a new municipal market or a new municipal slaughter-house or of extending or improving any existing municipal market or slaughter-house, and may from time to time build and maintain such municipal markets and slaughter-houses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting, such municipal markets or slaughter-houses, and provide and maintain in such municipal markets such buildings, places, machines, weights, scales and measures for weighing and measuring goods sold therein, as he shall think fit.

Provision of new municipal markets and slaughter-houses.

(2) Municipal slaughter-houses may be situate within or, with the sanction of Government, without the city.

400. The Commissioner may, with the sanction of the corporation and of Government, at any time close any municipal market or slaughter-house; and the premises occupied for any market or slaughter-house so closed may be disposed of as the property of the corporation.

Municipal markets and slaughter-houses may be closed.

401. (1) No person shall, without a license from the Commissioner, sell or expose for sale any animal or article in any municipal market.

Prohibition of sale in a municipal market without license of Commissioner.

(2) Any person contravening this section may be summarily removed by the Commissioner or by any municipal officer or servant.

402. (1) The corporation shall from time to time determine whether the establishment of new private markets shall be permitted in the city or in any specified portion of the city.

Opening of new private markets.

(2) No person shall establish a new private market for the sale of, or for the purpose of exposing for sale, animals intended for human food or any other article of human food, except with the sanction of the Commissioner, who shall be guided in giving such sanction by the decisions of the corporation at the time in force under sub-section (1).

(3) When the establishment of a new private market has been so sanctioned, the Commissioner shall cause a notice of such sanction to be affixed in the

(Chap. XV.—Sanitary Provisions. Secs. 103-405.)

English, Maráthi, Gujaráthi and Urdu languages on some conspicuous spot on or near the building or place where such market is to be held.

Private markets not to be kept open without a license.

403. (1) No person shall, without or otherwise than in conformity with the terms of a license granted by the Commissioner in this behalf—

- (a) keep open a private market ;
- (b) use any place in the city as a slaughter-house or for the slaughtering of any animal intended for human food ;
- (c) use any place without the city, whether as a slaughter house or otherwise, for the slaughtering of any animal intended for human food to be consumed in the city ;

(2) Provided that—

- (d) the Commissioner shall not refuse, cancel or suspend any license for keeping open a private market for any cause other than the failure of the owner thereof to comply with some provision of this Act, or with some regulation framed under section 406 or with some bye-law made under this Act at the time in force ; and shall not cancel or suspend any such license without the approval of the standing committee ;
- (e) nothing in this section shall be deemed to prevent the Commissioner from granting written permission for the slaughter of an animal in any place that he thinks fit, on the occasion of any festival or ceremony or under special circumstances.

(3) When the Commissioner has refused, cancelled or suspended any license to keep open a private market, he shall cause a notice of his having so done to be affixed in the English, Maráthi, Gujaráthi and Urdu languages on some conspicuous spot on or near the building or place where such market has been held.

Prohibition of sale in unauthorised private markets.

404. No person who knows that any private market has been established without the sanction of the Commissioner or is kept open after a license for keeping the same open has been refused, cancelled or suspended by the Commissioner, shall sell or expose for sale therein any animal or article of food.

Provision for requiring private market-buildings and slaughter-houses to be properly

405. The Commissioner may, by written notice, require the owner, farmer or occupier of any private market or slaughter-house to cause—

- (a) the whole or any portion of the floor of the market-building, market-place or slaughter-house to be paved with dressed stone or other suitable material ;

(Chap. XV.—Sanitary Provisions. Secs. 406-408.)

- (b) such drains to be made in or from the market-building, market-place or slaughter-house, of such material, size and description, at such level and with such out-fall, as to the Commissioner may appear necessary. paved and drained.

406. The Commissioner may, with the approval of the standing committee, from time to time, make regulations, not inconsistent with any provision of this Act or of any bye-law made under this Act at the time in force— Regulations to be framed for markets and slaughter-houses.

- (a) for preventing nuisances or obstruction in any market-building, market-place or slaughter-house or in the approaches thereto ;
- (b) fixing the days and the hours on and during which any market or slaughter-house may be held or kept open for use ;
- (c) for keeping every market-building, market-place and slaughter-house in a cleanly and proper state and for removing filth and refuse therefrom ;
- (d) require that any market-building, market-place or slaughter-house be properly ventilated and be provided with a sufficient supply of water ;
- (e) requiring that in market-buildings and market-places passages be provided between the stalls of sufficient width for the convenient use of the public.

407. The Commissioner may—

- (a) charge for the occupation or use of any stall, shop, standing, shed or pen in a municipal market or slaughter-house, and for the right to expose goods for sale in a municipal market, and for weighing and measuring goods sold in any such market, and for the right to slaughter animals in any municipal slaughter-houses, such stallages, rents and fees as shall from time to time be fixed by him, with the approval of the standing committee, in this behalf ; or Levy of stallages, rents and fees in municipal markets and slaughter-houses.
- (b) with the approval of the standing committee, farm the stallages, rents and fees leviable as aforesaid or any portion thereof, for any period not exceeding one year at a time ; or
- (c) put up to public auction, or, with the approval of the standing committee, dispose of, by private sale, the privilege of occupying or using any stall, shop, standing, shed or pen in a municipal market or slaughter-house for such term and on such conditions as he shall think fit.

408. (1) A printed copy of the regulations and of the table of stallages, rents and fees, if any, in force in any market or slaughter-house under Regulations and table of stallage rents.

(Chap. XV.—Sanitary Provisions. Secs. 409-412.)

to be posted up in markets and slaughter-houses.

the two last preceding sections, in the English, Maráthi, Gujaráthi and Urdu languages, shall be affixed in some conspicuous spot in the market-building, market-place or slaughter-house.

(2) No person shall, without authority, destroy, pull down, injure or deface any copy of any regulation or table so affixed.

Power to expel persons contravening byelaws or regulations.

409. The Commissioner may expel from any municipal market or slaughter-house any person who or whose servant has been convicted of contravening any bye-law made under this Act or any regulation made under section 406 at the time in force in such market or slaughter-house, and may prevent such person, by himself or his servants, further carrying on any trade or business in such market or slaughter-house or occupying any stall, shop, standing, shed, pen or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop, standing, shed, pen or place.

Sale of Articles of Food outside of Markets.

Prohibition of sale of animals, etc., except in a market.

410. (1) Except as hereinafter provided, no person shall, without a license from the Commissioner, sell or expose for sale any four-footed animal or any meat or fish intended for human food, in any place other than a municipal or private market :

(2) Provided that nothing in sub-section (1) shall apply to fresh fish sold from, or exposed for sale in, a vessel in which it has been brought direct to the seashore after being caught at sea.

Licensing of Butchers, etc.

Butchers and persons who sell the flesh of animals to be licensed.

411. No person shall, without or otherwise than in conformity with the terms of a license granted by the Commissioner in this behalf—

(a) carry on within the city, or at any municipal slaughter-house, the trade of a butcher ;

(b) use any place in the city for the sale of the flesh of any animal intended for human food, or any place without the city for the sale of such flesh for consumption in the city.

Prohibition of import of cattle, etc., into the city.

412. (1) No person shall, without the written permission of the Commissioner, bring into the city any cattle, sheep, goat or swine intended for human food, or the flesh of any such animal, which has been slaughtered at any slaughter-house or place not maintained or licensed under this Act.

(2) Any animal or flesh brought into the city in contravention of this section may be seized by the Commissioner or by any municipal officer or servant

and be sold or otherwise disposed of as the Commissioner shall direct. The proceeds, if any, shall belong to the corporation.

• (2) Nothing in this section shall be deemed to apply to cured or preserved meat.

Inspection of Places of Sale, etc.

413. (1) If the Commissioner shall have reason to believe that any animal intended for human food is being slaughtered, or that the flesh of any such animal is being sold or exposed for sale, in any place or manner not duly authorized under the provisions of this Act, the Commissioner may at any time, by day or by night, without notice, enter such place for the purpose of satisfying himself as to whether any provision of this Act or of any bye-law made under this Act at the time in force is being contravened thereat.

Commissioner may enter any place where slaughter of animals or sale of flesh contrary to the provisions of this Act is suspected.

(2) No claim shall lie against any person for compensation for any damage necessarily caused by any such entry or by the use of any force necessary for effecting such entry.

414 It shall be the duty of the Commissioner to make provision for the constant and vigilant inspection of animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter and any other article exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale and intended for human food or for medicine, the proof that the same was not exposed or hawked about or deposited or brought for any such purpose or was not intended for human food or for medicine resting with the party charged.

Commissioner to provide for inspection of articles exposed for sale for human food.

415. (1) The Commissioner may at all reasonable times inspect and examine any such animal or article as aforesaid and any utensil or vessel used for preparing, manufacturing or containing the same.

Unwholesome articles, etc., to be seized.

(2) If any such animal or article appears to the Commissioner to be diseased or unsound or unwholesome or unfit for human food or for medicine, as the case may be, or is not what it is represented to be, or if any such utensil or vessel is of such kind or in such state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food or for medicine, as the case may be,

he may seize and carry away such animal, article, utensil or vessel, in order that the same may be dealt with as hereinafter provided.

416. If any meat, fish, vegetable or other article of a perishable nature be seized under the last preceding section and the same is, in the opinion of the Commissioner, diseased, unsound, unwholesome or unfit for human food or for medicine, as the case may be,

Disposal of perishable articles seized under section 416.

(Chap. XV.—Sanitary Provisions. Secs. 417-419.)

the Commissioner shall cause the same to be forthwith destroyed in such manner as to prevent its being again exposed for sale or used for human food or for medicine, and the expenses thereof shall be paid by the person in whose possession such article was at the time of its seizure.

Disposal of animals and articles of a non-perishable nature, seized under section 415.

417. (1) Any animal and any article not of a perishable nature and any utensil or vessel seized under section 415 shall be forthwith taken before a Presidency Magistrate.

(2) If it shall appear to such Magistrate that any such animal or article is diseased, unsound or unwholesome or unfit for human food, or for medicine, as the case may be, or is not what it was represented to be or that such utensil or vessel is of such kind or in such state as aforesaid,

he shall cause the same to be destroyed, at the charge of the person in whose possession it was at the time of its seizure, in such manner as to prevent the same being again exposed or hawked about for sale or used for human food or for medicine, or for the preparation or manufacture of, or for containing, any such article as aforesaid.

Weights and Measures.

Provision of standards of local weights and measures.

418. (1) The Commissioner shall from time to time provide such local standards of measure and weight [a] as he deems requisite for the purpose of verification of weights and measures in use in the city and shall make such arrangement as he shall think fit for the safe keeping of the said standards,

(2) The Commissioner shall also provide from time to time proper means for verifying weights and measures by comparison with the said standards and for stamping the weights and measures so verified.

Verification and stamping of weights and measures by municipal officer.

419. (1) The Commissioner shall from time to time fix the times and places at which some municipal officer appointed by him in this behalf shall attend for the purpose of the verification of weights and measures.

(2) The municipal officer so appointed shall attend, with the local standards in his custody, at each time and place fixed, and shall examine every measure or weight which is of the same denomination as one of such standards and is brought to him for the purpose of verification, and compare the same with that standard and, if he find the same correct, shall stamp it with a stamp of verification in such manner as best to prevent fraud.

(3) The said municipal officer shall enter in a book kept by him minutes of every such verification and give, if required, a certificate under his hand of every such stamping.

[a] It is provided by s. 7 of the Measures of Length Act (II of 1889) that the Municipal Commissioner in the City of Bombay shall keep, under Bombay Act III of 1888, s. 418, such certified measures of the standard yard, standard foot and standard inch as are mentioned in s. 5 of the former Act.

(Chap. XV.—Sanitary Provisions, Secs. 420-425.)

420. There shall be payable to the corporation in respect of the verification and stamping of weights and measures by a municipal officer as aforesaid such fees as the Commissioner, with the approval of the corporation, from time to time fixes in this behalf.

Fees for comparison and stamping.

Prevention of Spread of Dangerous Diseases.

421. Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease in any private or public dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the executive health officer. The said information shall be communicated in such form and with such details as the executive health officer, with the consent of the Commissioner, may from time to time require.

Information to be given of existence of dangerous disease.

422. The Commissioner may at any time, by day or by night, without notice or after giving such notice of his intention as shall, in the circumstances, appear to him to be reasonable, inspect any place in which any dangerous disease is reputed or suspected to exist, and take such measures as he shall think fit to prevent the spread of the said disease beyond such place.

Any place may at any time be inspected for purpose of preventing spread of dangerous disease.

423. (1) If it shall appear to the Commissioner that the water in any well, tank or other place is likely, if used for drinking, to engender or cause the spread of any dangerous disease, he may, by public notice, prohibit the removal or use of the said water for the purpose of drinking.

Prohibition of use for drinking of water likely to cause dangerous disease.

(2) No person shall remove or use for the purpose of drinking any water in respect of which any such public notice has been issued.

424. (1) The Commissioner or any police-officer empowered by him in this behalf may, on a certificate signed by the executive health officer or by any duly qualified medical practitioner, direct or cause the removal of any person who is, in the opinion of such executive health officer or other medical practitioner, without proper lodging or accommodation or who is lodged in a building occupied by more than one family and who is suffering from a dangerous disease, to any hospital or place at which patients suffering from the said disease are received for medical treatment.

Commissioner may order removal of patients to hospital.

(2) The person, if any, who has charge of a person in respect of whom an order is made under sub-section (1) shall obey such order.

425. (1) If the Commissioner is of opinion that the cleansing or disinfecting of a building, or of a part of a building or of any article therein likely to retain infection, would tend to prevent or check the spread of any dangerous disease, he may, by written notice, require the owner or occupier of such building to cleanse or disinfect such building or part thereof or article

Disinfection of buildings, etc.

(Chap. XV.—Sanitary Provisions. Secs. 426-428.)

therein and, if it shall appear to the Commissioner necessary, to vacate the said building for such time as shall be prescribed in the said notice :

(2) Provided that, if, in the opinion of the Commissioner, the owner or occupier is from poverty or other cause unable effectually to comply with such requisition, the Commissioner may cause the building or part of the building or article likely to retain infection to be cleansed or disinfected and defray the cost of so doing.

Destruction of huts and sheds, when necessary.

426. (1) If the Commissioner is of opinion that the destruction of any hut or shed is necessary to prevent the spread of any dangerous disease, he may, after giving to the owner or occupier of such hut or shed such previous notice of his intention as may in the circumstance of the case appear to him reasonable, take measures for having such hut or shed and all the materials thereof destroyed.

(2) Compensation may be paid by the Commissioner, in any case which he thinks fit, to any person who sustains substantial loss by the destruction of any such hut or shed ; but, except as so allowed by the Commissioner, no claim for compensation shall lie for any loss or damage caused by any exercise of the power conferred by this section.

Place for disinfection may be provided ;

427. (1) The Commissioner may provide a place, with all necessary apparatus and attendance, for the disinfection of clothing, bedding or other articles which have become infected and, in his discretion, may have articles, brought to such place for disinfection, disinfected on payment of such fees as he shall from time to time fix, with the approval of the standing committee, in this behalf, or, in any case in which he thinks fit, free of charge.

also for washing infected articles.

(2) The Commissioner may, from time to time, by public notice, appoint a place at which clothing, bedding or other articles which have been exposed to infection from any dangerous disease may be washed ; and no person shall wash any such article at any place not so appointed without having previously disinfected the same.

Infected articles may be destroyed.

(3) The Commissioner may direct the disinfection or destruction of bedding, clothing or other articles likely to retain infection.

(4) The Commissioner may, in his discretion, give compensation for any article destroyed under sub-section (3).

Person suffering from dangerous disease not to enter a public conveyance

428. (1) No person who is suffering from a dangerous disease shall enter a public conveyance without previously notifying to the owner, driver or person in charge of such conveyance that he is so suffering.

(2) Notwithstanding anything contained in any Act relating to public conveyances for the time being in force, no owner or driver or person in charge

(Chap. XV.—Sanitary Provisions. Secs. 429-433.)

of a public conveyance shall be bound to carry any person suffering as aforesaid in such conveyance unless payment or tender of sufficient compensation for the loss and expenses he must incur in disinfecting such conveyance is first of all made to him.

without notifying the same.

429. The Commissioner, with the sanction of the corporation, may provide and maintain suitable conveyances for the free carriage of persons suffering from any dangerous disease ; and when such conveyances have been provided, it shall not be lawful to convey any such person by any other public conveyance.

Provision of carriages for conveyance of patients.

430. (1) No person who is suffering from a dangerous disease shall,—

Provisions as to carriage of persons suffering from dangerous disease in public conveyances.

(a) without proper precautions against spreading such disease, cause or suffer himself to be carried in a public conveyance ;

(b) cause or suffer himself to be carried in a public conveyance contrary to the provision of the last preceding section.

(2) No person shall go in company with, or take charge of, any person suffering as aforesaid, who causes or permits himself to be carried in a public conveyance in contravention of sub-section (1).

(3) No owner or driver or person in charge of a public conveyance shall knowingly carry or permit to be carried in such conveyance any person suffering as aforesaid, in contravention of the said sub-section.

431. The owner, driver or person in charge of a public conveyance in which any person suffering as aforesaid has been carried shall immediately provide for the disinfection of the same.

Public conveyance which has carried a person suffering from dangerous disease to be disinfected.

432. (1) No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of any article which he knows or has reason to know has been exposed to infection from any dangerous disease.

Infected articles not to be transmitted, etc., without previous disinfection.

(2) Nothing in this section shall be deemed to apply to a person who transmits with proper precautions any such article for the purpose of having the same disinfected.

433. (1) No person shall let a building or any part of a building, in which he knows or has reason to know that a person has been suffering from a dangerous disease, without first having such building or part thereof and very article therein likely to retain infection disinfected, to the satisfaction of

Infected building not to be let without being first disinfected.

the executive health officer or of some duly qualified medical practitioner, as testified by such officer's or medical practitioner's certificate.

(2) For the purpose of this section, the keeper of a hotel or inn shall be deemed to let part of his building to any person accommodated in such hotel or inn.

Special Sanitary Measures.

Commis-
sioner may
take special
measures on
outbreak of
any danger-
ous disease.

434. (1) In the event of the city being at any time visited or threatened with an outbreak of any dangerous disease, or in the event of any infectious disease breaking out or being likely to be introduced into the city amongst cattle—including under this expression sheep and goats,—

the Commissioner, if he thinks the ordinary provisions of this Act or of any other law at the time in force are insufficient for the purpose, may, with the sanction of Government,—

(a) take such special measures, and

(b) by public notice prescribe such temporary regulations to be observed by the public or by any person or class of persons,

as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(2) The Commissioner shall forthwith report to the corporation any measures taken and any regulations prescribed by him under sub-section (1).

Disposal of the Dead.

Places for
disposal of
the dead to
be registered.

435. Every owner or person having the control of a place used for burying, burning or otherwise disposing of the dead shall cause the same to be registered in a register which shall be kept by some municipal officer charged by the Commissioner with this duty, and shall deposit in the municipal office at the time of registration a plan of the said place, showing the extent and boundaries thereof, bearing the signature of a licensed surveyor in token of its having been prepared by or under the supervision of such surveyor.

Provision
of new
places for
disposal of
the dead.

436. If the existing places for the disposal of the dead shall at any time appear to be insufficient, or if any such place is closed under the provisions of section 438, the Commissioner shall, with the sanction of the corporation, provide other fit and convenient places for the said purpose, either within or without the city, and shall cause the same to be registered in the register kept under section 435, and shall deposit in the municipal office, at the time of registration of each place so provided, a plan thereof showing the extent and boundaries of the same and bearing the signature of the municipal executive engineer.

(Chap. XV.—Sanitary Provisions. Secs. 437-439.)

437. No place which has never previously been lawfully used as a place for the disposal of the dead and registered as such shall be opened by any person for the said purpose without the written permission of the Commissioner, who, with the approval of the corporation, may grant or withhold such permission.

New places for disposal of the dead not to be opened without permission of Commissioner.

438. (1) If, from information furnished by competent persons and after personal inspection, the Commissioner shall at any time be of opinion—

Governor in Council may direct the closing of any place for the disposal of the dead.

(a) that any place of public worship is or is likely to become injurious to health by reason of the state of the vaults or graves within the walls of or underneath the same, or in any churchyard or burial-ground adjacent thereto, or

(b) that any other 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,

he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to cause to be made, may, by notification published in the Bombay Government Gazette and in the local newspapers, direct that such place of public worship or other place for the disposal of the dead be no longer used for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

(3) On the expiration of two months from the date of any such order of the Governor in Council, the place to which the same relates shall be closed for the disposal of the dead.

(4) A copy of the said notification, with a translation thereof in the Maráthi, Gujaráthi and Urdu languages, shall be affixed on a conspicuous spot on or near the place to which the same relates, unless such place be a place of public worship.

439. (1) If, after personal inspection, the Commissioner shall at any time be of opinion that any place formerly used for the disposal of the dead, which has been closed under the provisions of the last preceding section or under any other law or authority, has, by lapse of time, become no longer injurious to health and may, without risk of danger, be again used for the said purpose, he may submit his said opinion, with the reasons therefor, to the corporation, who shall forward the same, with their opinion, for the consideration of the Governor in Council.

Governor in Council may sanction the re-opening of places which have been closed for the disposal of dead.

(Chap. XV.—Sanitary Provisions. Secs. 440-441.)

(2) Upon receipt of such opinions, the Governor in Council, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification published as aforesaid direct that such place be re-opened for the disposal of the dead. Every order so made shall be noted in the register kept under section 435.

Burials within places of worship and exhumations not to be made without the permission of the Commissioner.

440. (1) No person shall, without the written permission of the Commissioner under sub-section (2),—

- (a) make any vault or grave or interment within any wall, or underneath any passage, porch, portico, plinth or verandah of any place of worship;
- (b) make any interment or otherwise dispose of any corpse in any place which is closed for the disposal of the dead under section 438;
- (c) build, dig or cause to be built or dug, any grave or vault, or in any way dispose of, or suffer or permit to be disposed of, any corpse at any place which is not registered in the register kept under section 435;
- (d) exhume any body except under the provisions of section 176 of the Code of Criminal Procedure, 1882 [*], or of any other law for the time being in force, from any place for the disposal of the dead. X of 1882.

(2) The Commissioner may in special cases grant permission for any of the purposes aforesaid, subject to such general or special orders as the Governor in Council may from time to time make in this behalf.

(3) An offence against this section shall be deemed to be a cognizable offence within the meaning of sections 149, 150 and 151 of the Code of Criminal Procedure, 1882. [*]

Acts prohibited in connection with the disposal of the dead.

441. No person shall—

- (a) retain a corpse on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;
- (b) carry a corpse or part of a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Commissioner may, by public notice, from time to time think fit to require;
- (c) except, when no other route is available, carry a corpse or part of a corpse along any street along which the carrying of corpses is

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

prohibited by a public notice issued by the Commissioner in this behalf;

- (d) remove a corpse or part of a corpse, which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;
- (e) whilst conveying a corpse or part of a corpse, place or leave the same on or near any street without urgent necessity;
- (f) bury or cause to be buried any corpse or part of a corpse in a grave or vault or otherwise, in such manner as that the surface of the coffin or, when no coffin is used, of the corpse or part of a corpse shall be at a less depth than six feet from the surface of the ground;
- (g) build or dig, or cause to be built or dug, any grave or vault in any burial-ground at a less distance than two feet from the margin of any other grave or vault;
- (h) build or dig, or cause to be built or dug, a grave or vault in any burial-ground in any line not marked out for this purpose by or under the order of the Commissioner;
- (i) without the written permission of the Commissioner, re-open for the interment of a corpse, or of any part of a corpse, a grave or vault already occupied;
- (k) after bringing or causing to be brought to a burning-ground any corpse, or part of a corpse, fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;
- (l) when burning or causing to be burnt any corpse, or part of a corpse, permit the same or any portion thereof to remain without being completely reduced to ashes, or permit any cloth or other article used for the conveyance or burning of such corpse, or part of a corpse, to be removed or to remain on or near the place of burning without its being completely reduced to ashes.

CHAPTER XVI.

VITAL STATISTICS.

Registration of Births and Deaths.

442. For the purpose of registering births and deaths, the Commissioner shall divide the city into such and so many districts and sub-districts as he

Appoint-
ment of
Registrars.

(Chap. XVI.—Vital Statistics. Secs. 443-445.)

shall from time to time think fit; and a municipal officer shall be registrar of births and deaths of each such district.

Registrars to reside in their respective districts.

443. (1) Every registrar shall reside within the district of which he is registrar, and shall cause his name, together with the words "Registrar of Births and Deaths for the district of _____," to be affixed in some conspicuous place at or near the outer door of his place of abode.

(2) A list showing the name and place of abode of every registrar in the city shall be kept at the municipal office and shall be open at all reasonable times to public inspection free of charge.

Register-books to be supplied.

444. The Commissioner shall provide and supply to the registrars a sufficient number of register-books of births and of register-books of deaths for the registration of the particulars specified in Schedules N and O, respectively; and the pages of each of the said books shall be numbered progressively from the beginning to the end thereof.

Registrars to inform themselves of all births and deaths.

445. (1) Each registrar shall inform himself carefully of every birth and death which shall happen in his district and of the particulars concerning the same required to be registered according to the forms in the said schedules, and shall, as soon after each such birth or death as conveniently may be, register the same in the book supplied for this purpose by the Commissioner, without making any charge or demanding or receiving any fee or reward for so doing other than his remuneration as a municipal officer.

(2) Other municipal officers, besides the registrars, may be appointed with the duty of informing themselves of every birth or of every death or of every birth and every death in the district to which they are respectively appointed and of the particulars concerning the same required to be registered, and of submitting such information to the registrar of the said district or to such other person as the Commissioner directs.

Information of birth to be given within seven days.

446. (1) It shall be the duty of the father and mother of every child born in the city and, in default of the father and mother, of the occupier of the premises in which to his knowledge the child is born and of each person present at the birth and of the person having charge of the child, to give, to the best of his knowledge and belief, to the registrar or other municipal officer appointed under section 445, within seven days after such birth, information of the particulars required to be registered concerning such birth:

Saving for father of illegitimate child.

(2) Provided that, in the case of an illegitimate child, no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name

of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and such person shall in such case sign the register together with the mother.

447. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the registrar or other municipal officer aforesaid, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

Information respecting finding of new-born child to be given.

448. (1) For every place for the disposal of the dead registered in the register kept under section 435 a municipal officer shall be appointed, whose duty it shall be to receive information of the particulars required to be registered concerning the death of every person whose corpse is disposed of at such place.

Officers to be appointed to receive information of deaths at places for disposal of the dead.

(2) If the Commissioner shall not think fit to require the municipal officer so appointed to be in constant attendance at any place for the disposal of the dead for which he is so appointed, there shall be affixed to a conspicuous part of the entrance to such place a notice specifying the name of the officer so appointed for the said place and the place where he may be found.

449. (1) It shall be the duty of the nearest relatives of any person dying in the city present at the death or in attendance during the last illness of the deceased and, in default of such relatives, of each person present at the death and of the occupier of the premises in which, to his knowledge, the death took place and, in default of the persons hereinbefore in this section mentioned, of each inmate of such premises and of the undertaker or other person causing the corpse of the deceased person to be disposed of, to give, to the best of his knowledge and belief, to the officer appointed under the last preceding section, information of the particulars required to be registered concerning such death.

Information of death to be given at the time when the corpse of the deceased is disposed of

(2) The said information shall be given at or about the time that the corpse of the deceased person is disposed of, and it shall be given in writing, if the informant can write and, otherwise, orally, and the informant shall make known to the officer aforesaid his name, designation and place of abode, and shall attest the correctness of the information which he gives, to the best of his knowledge and belief, by his signature or mark.

450. (1) In the case of a person who has been attended in his last illness by a duly qualified medical practitioner, that practitioner shall sign and forward to the Commissioner a certificate of the cause of such person's death, in the form of Schedule P, or in such other form as shall from time to time be

Medical practitioner who attended a deceased person to

(Chap. XVI.—Vital Statistics. Secs. 451-453.)

certify the
cause of
his death.

prescribed by the Commissioner in this behalf, and the cause of death as stated in such certificate shall be entered in the register, together with the name of the certifying medical practitioner.

(2) The Commissioner shall provide printed forms of the said certificates, and any duly qualified medical practitioner resident in the city shall be supplied, on application, with such forms, free of charge.

Preparation
of register-
books of
deaths and
of mortality
returns, etc.

451. (1) The information concerning deaths received by every officer appointed under section 448 shall be entered by him in a register-sheet, which shall contain the particulars specified in Schedule O, and shall be forwarded, at such intervals as shall be prescribed by the Commissioner, through the registrar of the district, to the municipal office.

(2) From the said register-sheets and from the certificates furnished to him under section 450, the Commissioner shall cause the register-books of deaths to be prepared and shall have prepared and published such tabular returns and statements as shall appear to him to be useful for sanitary or other purposes.

Correction
of errors
in registers
of births
or deaths.

452. (1) Any clerical error which may at any time be discovered in a register of births or in a register of deaths may be corrected by any person authorized in that behalf by the Commissioner.

(2) An error of fact or substance in any such register may be corrected by any person authorized as aforesaid by entry in the margin, without any alteration of the original entry, upon production to the Commissioner by the person requiring such error to be corrected of a declaration on oath setting forth the nature of the error and the true facts of the case, made before a Magistrate by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made or, in default of such persons, by two credible persons having knowledge of the case and certified by such Magistrate to have been made in his presence.

(3) Except as aforesaid, no alteration shall be made in any such register.

Registration
of name of
child or of
alteration
of name.

453. (1) When the birth of any child has been registered and the name, if any, by which it was registered, is altered or, if it was registered without a name, when a name is given to it, the parent or guardian of such child or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the registrar such certificate as hereinafter mentioned, and the registrar, upon the receipt of that certificate, shall, without any erasure of the original entry, forthwith enter in the register-book the name mentioned in the certificate as having been given to the child.

(Chap. XVI.—Vital Statistics. Secs. 454-457.)

(2) The certificate shall be in the form of Schedule Q, or as near thereto as circumstances admit, and, in the case of a Christian, shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or, if the child is not baptized or is not a Christian, shall be signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered.

(3) Every minister or person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of a fee not exceeding one rupee.

Taking of a Census.

454. At such time and in such manner as shall be directed from time to time by the Commissioner, with the sanction of the corporation and of Government, an enumeration shall be made of the persons who at the time of making such enumeration shall be within the city: Provided always that, one clear month previous to such enumeration being commenced, notice of the intention to make the same, with the date or dates upon or within which it is intended to be made, and all other necessary particulars, shall be given by advertisement in the Bombay Government Gazette and in the local newspapers.

Enumeration of inhabitants.

455. The Commissioner shall superintend the taking of such enumeration, and shall appoint such enumerators or other subordinate officers and make such arrangements generally as may seem to him necessary for the purpose of such enumeration.

Commissioner to superintend the enumeration.

456. Each enumerator or other subordinate officer appointed under the last preceding section shall, agreeably to his instructions, leave at each building or place of residence within his district, four days at least before the time appointed for the collection of the completed returns or census, a blank schedule or return, of such form and containing such particulars as Government may approve, to be duly filled up and signed by the owner, tenant or principal occupant of the said building or place of residence.

Delivery of blank schedules and returns.

457. (1) Every person at whose building or place of residence any such blank schedule or return is left shall correctly fill up the same and affix his signature thereto and return it, when called upon so to do, to the enumerator or other subordinate officer aforesaid;

Obligation to fill up blank schedules and returns.

or, if such person is unable to write, he shall furnish to an enumerator, when called upon so to do, the information required for correctly filling up such schedule or return.

(2) Any person who fails to comply with any provision of sub-section (1)

(Chap. XVI.—Vital Statistics. Secs. 458-460. Chap. XVII.—Bye-laws. Sec. 461.)

may be detained in custody until he complies therewith or the requisite information is otherwise obtained.

(3) It shall be the duty of an enumerator, if so required by any person who is unable to write, to fill up any such schedule or return as aforesaid from information supplied by such person.

Occupier to amend returns, if found defective.

458. If any enumerator or other subordinate officer employed in the collection of such schedules or returns shall find any of the same defective or in any respect improperly filled in, he may return the same to the occupant of the building or residence to which the same relates, together with a written notice requiring that the same be duly filled in or amended within a period of forty-eight hours.

Military, naval and police officers and certain others, if required, to act as enumerators.

459. (1) Any military or naval officer or any officer of the Bombay city police, or any master or person in charge of a merchant vessel, or nacoda, or tindal of a vessel or boat, or any person in charge of a lunatic asylum, hospital or prison or of any public or private charitable or scholastic institution, or any keeper of a hotel or lodging-house, shall, if required, act as an enumerator for the purpose of taking account of persons under his command or charge, or abiding in any building in his possession, charge or control, on the night immediately preceding the day to be appointed for the making of such enumeration.

(2) Every person so required to act as an enumerator shall receive and conform to all instructions in writing which may be issued to him by the Commissioner in that behalf.

Returns of houseless persons.

460. The Commissioner shall obtain, by such means as shall appear to him best adapted for the purpose and as shall be sanctioned by Government, returns of the particulars required for the purpose of the census with respect to all houseless persons, and all persons who during the said night preceding the day to be appointed for the making of such enumeration were on out-door night-duty, or for any other reasons were not abiding in any building of which account is to be taken by the enumerators.

CHAPTER XVII.

BYE-LAWS.

Bye-laws for what purposes to be made.

461. The corporation may from time to time make bye-laws, not inconsistent with this Act, with respect to the following matters (namely) :—

(a) regulating, in any particular not specifically provided for in this Act,

(Chap. XVII.—Bye-laws. Sec. 461.)

- the construction, maintenance and control of drains, ventilation-shafts or pipes, cesspools, water-closets, privies, latrines, urinals, drainage-works of every description, whether belonging to the corporation or to other persons, municipal water-works, private communication-pipes and public streets ;
- (b) regulating all matters and things connected with the supply and use of water ;
 - (c) the structure of walls, foundations, roofs and chimneys of new buildings, for securing stability and the prevention of fires and for purposes of health ;
 - (d) the provision and maintenance of sufficient open space, either external or internal, about buildings to secure a free circulation of air and of other means for the adequate ventilation of buildings ;
 - (e) the provision and maintenance of house-gullies ;
 - (f) the control and supervision of all premises used for any of the purposes mentioned in section 394 and of all trades and manufactures carried on therein ;
 - (g) 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 ;
 - (h) securing the cleanliness of milk-stores, milk-shops and milk-vessels used by such persons for containing milk ;
 - (i) requiring notice to be given whenever any milch-animal is affected with any contagious disease and prescribing precautions to be taken for protecting milch-cattle and milk against infection or contamination ;
 - (k) securing the efficient inspection of markets and slaughter-houses and of shops in which articles intended for human food are kept or sold ;
 - (l) the control and supervision of butchers carrying on business within the city or at a municipal slaughter-house without the city ;
 - (m) regulating the use of any municipal market-building, market-place or slaughter-house or any part thereof ;
 - (n) controlling and regulating the sanitary condition of markets and slaughter-houses, and preventing the exercise of cruelty therein ;
 - (o) preventing the use in any market of false or defective weights, scales or measures and publishing a price-current ;

(Chap. XVII.—Bye-laws. Secs. 462-465.)

- (p) 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 several classes of the community ;
- (q) facilitating and securing complete and accurate registration of births and deaths ;
- (r) the registration of marriages ;
- (s) facilitating, when requisite, the taking of a census and securing accurate returns ;
- (t) regulating the delegation of the powers and duties of the standing committees to sub-committees ;
- (u) assigning the functions of the joint schools committee under sub-section (10) of section 39, regulating the exercise by the said committee of its functions so assigned and of the functions assigned to it under sub-section (9) of the said section, and regulating the administration by the said committee of the school-fund under sub-section (7) of the said section ;
- (v) determining the constitution, powers and duties of any committee which the corporation may appoint under section 40 or 41 ;
- (w) carrying out generally the provisions and intentions of this Act.

Punishment may be imposed for breach of bye-laws.

462. In making a bye-law under the last preceding section the corporation may provide that a breach of it shall be punishable with fine which may extend to twenty rupees and, in the case of a continuing breach, with fine which may extend to ten rupees for every day, after conviction for the first breach or after receipt of written notice from the Commissioner to discontinue the breach, during which the breach continues.

Bye-laws to be confirmed by Government. Commissioner to lay draft bye-laws before the corporation for their consideration.

463. No bye-law made under either of the two last preceding sections shall have any validity unless and until it is confirmed by Government.

464. It shall be the duty of the Commissioner from time to time to lay before the corporation for their consideration a draft of any bye-law which he shall think necessary or desirable for the furtherance of any purpose of this Act.

Hearing by corporation of objections to proposed bye-laws.

465. (1) No bye-law shall be finally approved by the corporation unless notice of the intention of the corporation to take the same into their consideration has been given by advertisement in the Bombay Government Gazette and

(Chap. XVII.—Bye-laws. Secs. 466-469.)

in the local newspapers six weeks at least before the day of the meeting at which the corporation finally consider such bye-law.

(2) The corporation shall, before approving the bye-law, receive and consider any objection or suggestion which may be made in writing by any person with respect thereto before the day of the said meeting; and any person desiring to object to a bye-law, on giving written notice to the president of the corporation, not less than ten days before the day of the said meeting, of the nature of his said objection, may, by himself or his counsel, attorney or agent, be heard by the corporation thereon at the said meeting; but not so as that more than one person be heard on the same matter of objection.

466. (1) For one month at least before the day of the meeting at which the corporation finally consider a bye-law, a printed copy of such bye-law shall be kept at the chief municipal office for public inspection, and every person shall be permitted at any reasonable time to peruse the same, free of charge.

Proposed bye-law to be open to public inspection.

(2) Printed copies of the proposed bye-law shall also be delivered to any person requiring the same on payment of such fee, not exceeding one rupee for each copy, as shall be prescribed by the Commissioner.

467. When any bye-law has been confirmed by Government, it shall be published in the Bombay Government Gazette, and thereupon shall have the force of law.

Bye-laws confirmed by Government to be published in the Bombay Government Gazette.

468. (1) The Commissioner shall cause all bye-laws from time to time in force to be printed, and shall cause printed copies thereof to be delivered to any person requiring the same, on payment of a fee of two annas for each copy.

Printed copies of bye-laws to be kept on sale.

(2) Notice of the fact of copies of the bye-laws being obtainable at the said price and of the place where and the person from whom the same are obtainable shall be given by the Commissioner from time to time by advertisement in the local newspapers.

(3) Boards, with the bye-laws printed thereon or with printed copies of the bye-laws affixed thereto, shall be hung or affixed in some conspicuous part of the municipal office and in such places of public resort, markets, slaughter-houses and other works or places affected thereby, as the Commissioner thinks fit, and the said boards shall from time to time be renewed by the Commissioner.

469. (1) No municipal officer or servant shall at any reasonable time prevent the inspection of any board provided by the Commissioner under the last preceding section by any person desiring to inspect the same.

Boards for exhibiting bye-laws to be open to

(Chap. XVII.—Bye-laws. Sec. 470. Chap. XVIII.—Penalties. Sec. 471.)

inspection and not to be injured.

Government may repeal bye-laws.

(2) No person shall, without lawful authority, destroy, pull down, injure or deface any such board.

470. (1) If it shall at any time appear to the Governor in Council that any bye-law should be repealed either wholly or in part, he shall cause his reasons for such opinion to be communicated to the corporation and prescribe a reasonable period within which the corporation may make any representation with regard thereto which they shall think fit.

(2) After receipt and consideration of any such representation or, if in the meantime no such representation is received, after the expiry of the prescribed period, the Governor in Council may at any time, by notification in the Bombay Government Gazette, repeal such bye-law either wholly or in part: Provided that no bye-law shall be repealed by the Governor in Council in part only, if, within the period aforesaid, the corporation have objected to a partial repeal thereof.

(3) The repeal of a bye-law under sub-section (2) shall take effect from such date as the Governor in Council shall in the said notification direct or, if no such date is specified, from the date of the publication of the said notification in the Bombay Government Gazette, except as to anything done or suffered or omitted to be done before such date.

(4) The said notification shall also be published in the local newspapers.

CHAPTER XVIII.

PENALTIES.

Certain offences punishable with fine.

471. Whoever contravenes any provision of any of the sections, sub-sections and clauses of this Act herein below in this section mentioned or of any regulation made thereunder, or fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be punished, for each such offence, with fine which may extend to the amount hereinbelow in this section specified as the maximum amount of fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of fine that may be inflicted.
349, 368, 371, 385, sub-section (1), 388, clauses (e), (f) and (g), 408, sub-section (2), 469, sub-section (2)	Ten rupees.

(Chap. XVIII.—Penalties. Sec. 472.)

Sections.	Maximum amount of fine that may be inflicted.
270, sub-section (2), 280, 311, 316, sub-section (1), 327, sub-section (2), 328, 356, 357, 358, 370, 394, sub-section (2), 397, sub-section (1)	Twenty rupees.
149, 150, 152, 188, 226, sub-section (2), 231, 232, 233, clause (b), 236, 243, sub-section (2), 248, sub-section (1), 250, sub-section (1), 251, 257, sub-section (1), 269, sub-section (3), 274, 278, sub-section (2), 319, sub-section (2), 321, sub-section (2), 322, sub-section (2), 323, 324, sub-section (1), 326, 329, sub-section (1), 334, sub-section (1), 372, 375, 377, 380, 381, 383, sub-section (1), 384, sub-section (1), 393, sub-section (1), 401, sub-section (1), 403, clause (a), 404, 406, 410, sub-section (1), 428, [*] sub-section (1), 457, sub-sections (1) and (3), 469, sub-section (1), 479, sub-section (5)	Fifty rupees.
136, sub-section (2), 138, 223, sub-section (1), 229, 235, 258, 268, sub-section (1), 275, 281, 282, 283, sub-section (1), 284, 305, 312, sub-section (1), 313, sub-section (1), 315, 331, 335, sub-section (1), 411, 412, sub-section (1), 421, 424, sub-section (2), 425, sub-section (1), 427, sub-sections (2) and (3), 435, 441, 446, sub-section (1), 447, 449, 450, sub-section (1), 459	One hundred rupees.
240, 241, 247, 249, 273, 308, sub-sections (1) and (2), 309, sub-section (1), 325, 379, sub-sections (1) and (3), 392, sub-section (1), 403, sub-section (1), 405, 423, sub-section (2), 458, 507, sub-section (3)	Two hundred rupees.
234, 304, sub-section (1), 354, 378, sub-section (2), 382, 394, sub-section (1), 430, 431, 432, sub-section (1), 433, sub-section (1), 437, 440, sub-section (1)	Five hundred rupees.
333, sub-sections (1), (2) and (3), 347, sub-section (1), 353, 390, sub-section (1), 395, sub-section (1), 402, sub-section (1)	One thousand rupees.

472. Whoever, after having been convicted of contravening any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, or of failing to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, continues to contravene the said provision or to neglect to comply with the said requisition, as the case may be, shall be punished, for each day that he continues so to offend, with fine which may extend to the amount hereinbelow in this section specified as the maximum

Continuing offences to be punished after a first conviction with a daily fine.

[*] The figures 428 were substituted for the original figures by Act XVI of 1895.

amount of daily fine to be inflicted in respect of offences against the said sections, sub-sections and clauses, respectively, namely:—

Sections.	Maximum amount of daily fine that may be inflicted.
226, sub-section (2), 231, 232, 233, clause (b), 236, 243, sub-section (2), 248, sub-section (1), 250, sub-section (1), 251, 257, sub-section (1), 329, sub-section (1), 349, 375, 377, 380, 381, 383, sub-section (1), 384, sub-section (1), 394, sub-section (2), 397, sub-section (1).	Five rupees.
223, sub-section (1), 229, 268, sub-section (1), 305, 312, sub-section (1), 313, sub-section (1), 315, 324, sub-section (1), 334, sub-section (1), 335, sub-section (1), 372, clause (f), 411, 425, sub-section (1), 479, sub-section (5)	Ten rupees.
249, 326, 379, sub-sections (1) and (3)	Twenty rupees.
322, sub-section (1), 323, 394, sub-section (1), 403, sub-section (1), 405, 507, sub-section (3)	Fifty rupees.
354, 382, 392, sub-section (1)	One hundred rupees.
395, sub-section (1)	Five hundred rupees.

Offences punishable under the Penal Code.

473. Whoever contravenes any provision of any of the sections, sub-sections or clauses of this Act hereinbelow in this section mentioned, or of any regulation made thereunder, and whoever fails to comply with any requisition lawfully made upon him under any of the said sections, sub-sections or clauses, shall be deemed to have committed an offence punishable under the section of the Indian Penal Code [a] hereinbelow in this section respectively specified as the section of the said code under which such person shall be punishable, namely:—

XLV of 1

Sections of this Act.	Sections of the Indian Penal Code under which offenders are punishable.
28, clause (j)	177.
155, sub-sections (1) and (2), 187	176 or 177, as the case may be.
388, clauses (a), (b), (c), and (d), 389	277.
434, sub-section (1)	188.

Punishment for acquiring share or interest in

474. Any councillor who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the corpora-

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(Chap. XVIII.—Penalties. Secs. 475-478.)

tion, not being a share or interest such as, under section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, and any Commissioner, Deputy Commissioner, municipal officer or servant who knowingly acquires, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the corporation, not being a share or interest such as, under clauses (h) and (k) of section 16, it is permissible for a councillor to have, without being thereby disqualified for being a councillor, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code [a].

contract,
etc., with
the corpora-
tion.

XLV of 1860.

475. (1) Whoever contravenes any provision of sub-section (1) of section 267 shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Punishment
of offences
against
section 267.

(2) When any person is convicted under sub-section (1), the Magistrate who convicts him may order the immediate removal of any building or the immediate discontinuance of the operation or use of the land in respect of which such conviction has been held.

(3) If any order made under sub-section (2) is disobeyed or the execution thereof resisted, the offender shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

476. Whoever contravenes any provision of section 391, whether the person so offending be the owner or occupier of the premises in which a furnace is situated or the agent or some person employed by the owner or occupier for managing the same, shall be punished with fine which may extend, on a first conviction, to one hundred rupees and, on a second or subsequent conviction, to a sum equal to double the amount to which it might have extended on the last preceding conviction.

Punishment
of offences
against
section 391.

477. No person, who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3, shall be liable to any penalty under this Act for omitting to do any act as the owner of such premises, if he shall prove that his default was caused by his not having funds of, or due to, the owner sufficient to defray the cost of doing the act required.

Extent of
penal
responsibility
of agents
and trustees
of owners.

478. The law for the time being in force for the punishment of offences relating to the levy or payment of customs-duties and the grant of drawbacks

Punishment
of offences
relating to
town-duties.

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

in connection therewith and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the levy, payment and refund of town-duties, and any omission or mis-description in passing for export any goods in respect of which refund of town-duties may be claimable shall be punishable as if such omission or mis-description had been made in passing the said goods for import.

CHAPTER XIX.

PROCEDURE.

Licenses.

Licenses and written permissions to specify conditions, etc., on which they are granted.

479. (1) Whenever it is provided in this Act that a license or a written permission may be given for any purpose, such license or written permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted, and shall be given under the signature of the Commissioner or of a municipal officer empowered under section 68 to grant the same.

Fees to be chargeable.

(2) For every such license or written permission a fee may be charged at such rate as shall from time to time be fixed by the Commissioner, with the sanction of the corporation.

Licenses and written permissions may be revoked, etc.

(3) Subject to the provisions of clause (d) of section 403, any license or written permission granted under this Act may at any time be suspended or revoked by the Commissioner, if any of its restrictions or conditions is infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Act or of any regulation or bye-law made hereunder in any matter to which such license or permission relates.

When license or written permission is revoked, etc., grantees to be deemed to be without a license or written permission.

(4) 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 Commissioner's order for suspending or revoking the license or written permission is cancelled by him, or until the license or written permission is renewed, as the case may be.

Grantees to be bound to produce license or written permission.

(5) Every person to whom any such license or written permission has been granted shall at all reasonable times, while such written permission or license remains in force, if so required by the Commissioner, produce such license or written permission.

Public Notices and Advertisements.

480. Whenever it is provided by this Act that public notice shall or may be given of anything, such public notice shall be in writing under the signature of the Commissioner or of a municipal officer empowered under section 68 to give the same, and shall be widely made known in the locality to be affected thereby, by affixing copies thereof in conspicuous public places within the said locality, or by publishing the same by beat of *batáki*, or by advertisement in the local newspapers, or by any two or more of these means and by any other means that he shall think fit.

Public notices how to be made known.

481. Whenever it is provided by this Act that notice shall be given by advertisement in the local newspapers, or that a notification or any information shall be published in the local newspapers, such notice, notification or information shall be inserted, if practicable, in at least two English newspapers, one Maráthi newspaper and one Gujaráthi newspaper published in the city.

Advertisements how to be made.

482. 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 or of a Deputy Commissioner or any municipal officer, a written document signed by the Commissioner or by such Deputy Commissioner or municipal officer, purporting to convey or set forth his consent, approval, declaration, opinion or satisfaction shall be sufficient evidence of such consent, approval, declaration, opinion or satisfaction.

Consent, etc., of Commissioner may be proved by written document under his signature.

Service of Notices, etc.

483. Notices, bills, schedules, summonses and other such documents required by this Act or by any regulation or bye-law made under this Act to be served upon or issued or presented or given to any person, shall be so served, issued or presented or given by municipal officers or servants or by other persons authorized by the Commissioner in this behalf.

Notices, etc., by whom to be served or presented.

484. When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or bye-law made under this Act, to be served upon or issued or presented to any person, such service, issue or presentation shall, except in the cases otherwise expressly provided for in section 485, be effected—

Service how to be effected on owners of premises and other persons.

(a) by giving or tendering to such person the said notice, bill, schedule, summons or other document; or

(Chap. XIX.—Procedure. Secs. 485-487.)

- (b) if such person is not found, by leaving the said notice, bill, schedule, summons or other document at his last known place of abode in the city, or by giving or tendering the same to some adult male member or servant of his family ; or
- (c) if such person does not reside in the city and his address elsewhere is known to the Commissioner, by forwarding the said notice, bill, schedule, summons or other document to him by post under cover bearing the said address ; or
- (d) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land, if any, to which the same relates.

Service on
" owner or
occupier " of premises
how to be
effected.

485. When any notice, bill, schedule, summons or other such document is required by this Act, or by any regulation or bye-law made under this Act, to be served upon or issued or presented to the owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service, issue or presentation thereof shall be effected, not in accordance with the provisions of the last preceding section, but as follows, namely :—

- (a) by giving or tendering the said notice, bill, schedule, summons or other document to the owner or occupier, or if there be more than one owner or occupier, to any one of the owners or occupiers of such building or land ; or
- (b) if the owner or occupier or no one of the owners or occupiers is found, by giving or tendering the said notice, bill, schedule, summons or other document to some adult male member or servant of the family of the owner or occupier or of any one of the owners or occupiers ; or
- (c) if none of the means aforesaid be available, by causing the said notice, bill, schedule, summons or other document to be affixed on some conspicuous part of the building or land to which the same relates.

The three
last sections
inapplicable
to Magis-
trates' sum-
monses.
Signature
on notices,
etc., may be
stamped.

486. Nothing in the three last preceding sections applies to any summons issued under this Act by a Magistrate.

487. (1) Every license, written permission, notice, bill, schedule, summons or other such document required by this Act or by any regulation or bye-law framed under this Act to bear the signature of the Commissioner or of any municipal officer shall be deemed to be properly signed if it bears a facsimile

of the signature of the Commissioner or of such municipal officer, as the case may be, stamped thereupon.

(2) Nothing in this section shall be deemed to apply to a cheque drawn upon the municipal fund under section 113.

Power of Entry.

488. The Commissioner may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or survey or to execute any work which is authorized by this Act or by any regulation or bye-law framed under this Act to be made or executed, or which it is necessary for any of the purposes, or in pursuance of any of the provisions, of this Act or of any such regulation or bye-law, to make or execute :

Commissioner, etc., may enter any premises for purposes of inspection, survey or execution of necessary work.

Provided that—

- (a) except when it is in this Act otherwise expressly provided, no such entry shall be made between sunset and sunrise ;
- (b) except when it is in this Act otherwise expressly provided, no building which is used as a human dwelling shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier not less than twenty-four hours' previous written notice of the intention to make such entry, and unless for any sufficient reason it shall be deemed inexpedient to furnish such information of the purpose thereof ;
- (c) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed ;
- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Enforcement of Orders to execute Works, etc.

489. (1) When any requisition or order is made, by written notice, by the Commissioner or by any municipal officer empowered under section 68 in this behalf, under any section, sub-section or clause of this Act mentioned in sub-section (2), a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect, and if, within the period so prescribed, such requisition or order or any portion of such requisition or order is not complied

Works, etc., which any person is required to execute may in certain cases be executed by the Commissioner at such person's cost.

with, the Commissioner may take such measures or cause such work to be executed or such thing to be done as shall, in his opinion, be necessary for giving due effect to the requisition or order so made, and, unless it is in this Act otherwise expressly provided, the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(2) The sections, sub-sections and clauses of this Act referred to in sub-section (1) are the following, (namely) :—

Section 226, sub-section (2) „ 230, „ (5) „ 231 „ „ 232 „ „ 233, clause (b) „ 243 „ (2) „ 248 „ (1) „ 257 „ (1) „ 271 „ (2) „ 278 „ (2) „ 305 „ „ 308, sub-section (2) „ 309 „ (1) „ 311 „ „ 315 „ „ 325 „ „ 326, sub-section (3)		Section 329, sub-section (1) „ 334 „ (1) „ 349 „ (2) „ 352 „ „ 353 „ „ 354 „ „ 368, sub-section (2) „ 375 „ „ 376 „ „ 377 „ „ 380 „ „ 381 „ „ 382 „ „ 383, sub-section (1) „ 392 „ (1) „ 405 „ „ 425, sub-section (1)
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(3) The Commissioner may take any measure, execute any work or cause anything to be done under this section, whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

Recovery of expenses of removals by the Commissioner under sections 314, 315, 354 and 380.

490. (1) The expenses incurred by the Commissioner in effecting any removal under section 314, or, in the event of a written notice issued under sub-section (1) of section 315 or section 354 or 380 not being complied with, under section 489, shall be recoverable by sale of the materials removed, and, if the proceeds of such sale do not suffice, the balance shall be paid by the owner of the said materials.

(2) But, if the expenses of removal are in any case paid before the materials are sold, the Commissioner shall restore the materials to the owner thereof on his claiming the same at any time before they are sold or otherwise disposed of, and on his paying all other expenses, if any, incurred by the Commissioner in respect thereof or in respect of the intended sale or disposal thereof.

(3) If the materials are not claimed by the owner thereof, they shall be sold by auction or otherwise disposed of as the Commissioner thinks fit, as soon as conveniently may be after one month from the date of their removal,

whether the expenses of the removal have in the meantime been paid or not; and the proceeds, if any, of the sale or other disposal, shall, after defraying therefrom the costs of the sale or other disposal, and, if necessary, of the removal, be paid to the credit of the municipal fund, and shall be the property of the corporation.

Recovery of Expenses by the Commissioner.

491. (1) Whenever under this Act, or any regulation or bye-law made under this Act, the expenses of any work executed or of any measure taken or thing done by or under the order of the Commissioner or of any municipal officer empowered under section 68 in this behalf are payable by any person, the same shall be payable on demand.

Expenses recoverable under this Act to be payable on demand; and

(2) If not paid on demand, the said expenses shall be recoverable by the Commissioner, subject to the provisions of sub-section (2) of section 503, by distress and sale of the goods and chattels of the defaulter, as if the amount thereof were a property-tax due by the said defaulter.

if not paid on demand, may be recovered as an arrear of property-tax.

492. (1) If the said expenses are due in respect of some work executed or thing done to, upon or in connection with some building or land or of some measure taken with respect to some building or land, and the defaulter is the owner of such building or land, the amount thereof may be demanded from any person who at any time, before the said expenses have been paid, occupies the said building or land under the said owner; and, in the event of the said person failing to pay the same, they may be recovered, by distress and sale of the goods and chattels of the said person, as if the amount thereof were a property-tax due by him :

If the defaulter is the owner of premises in respect of which expenses are payable, the occupier to be also liable for payment thereof.

(2) Provided as follows, namely :—

- (a) unless the said person neglects or refuses, at the request of the Commissioner, truly to disclose the amount of the rent payable by him in respect of the said land or building and the name and address of the person to whom the same is payable, the said person shall not be liable to pay on account of the said expenses any larger sum than, up to the time of demand, is payable by him to the owner on account of rent of the said land or building; but it shall rest upon the said person to prove that the amount of the expenses demanded of him is in excess of the sum payable by him to the owner;
- (b) the said person shall be entitled to credit in account with the owner for any sum paid by or recovered from him on account of the said expenses;

(Chap. XIX.—Procedure. Secs. 493-496.)

- (c) nothing in this section shall affect any agreement made between the said person and the owner of the building or land in his occupation respecting the payment of the expenses of any such work, thing or measure as aforesaid.

Commissioner may agree to receive payment of expenses in instalments.

493. Instead of recovering any such expenses as aforesaid in any manner hereinbefore provided, the Commissioner may, if he thinks fit and with the approval of the standing committee, take an agreement from the person liable for the payment thereof, to pay the same in instalments of such amounts and at such intervals as will secure the payment of the whole amount due, with interest thereon at the rate of nine per centum per annum, within a period of not more than five years.

What expenses may be declared to be improvement expenses.

494. If the expenses to be recovered have been incurred in respect of any work mentioned in any of the sections 227, clause (c), 230, 231, 233, clause (b), 248, sub-section (1), 257, 272, 274, sub-section (1), 305, 352, sub-section (1), 376, 381 and 405, the Commissioner may, if he thinks fit and with the approval of the corporation, declare such expenses to be improvement expenses.

Improvement expenses by whom payable.

495. (1) Improvement expenses shall be a charge on the premises in respect of which or for the benefit of which the same have been incurred and shall be recoverable in instalments of such amounts not being less for any premises than twelve rupees per annum, and at such intervals as will suffice to discharge such expenses, together with interest thereon at the rate of six per centum per annum, within such period not exceeding thirty years as the Commissioner, with the approval of the corporation, may in each case determine.

(2) The said instalments shall be payable by the occupier of the premises on which the expenses are so charged or, in the event of the said premises becoming unoccupied at any time before the expiration of the period fixed for the payment of such expenses or before the same, with interest as aforesaid, are fully paid off, by the owner for the time being of the said premises, so long as the same continue to be unoccupied.

Proportion of improvement expenses may be deducted from rent.

496. (1) Where the occupier by whom any improvement expenses are paid holds the premises, on which the expenses are charged, at a rent not less than the rack-rent, he shall be entitled to deduct three-fourths of the amount paid by him on account of such expenses from the rent payable by him to his landlord, and, if he hold at a rent less than the rack-rent, he shall be entitled to deduct from the rent so payable by him such proportion of three-fourths of the amount paid by him on account of such expenses as his rent bears to the rack-rent.

(2) And if the landlord from whose rent any deduction is so made is himself liable to the payment of rent for the premises in respect of which the deduction is made and holds the same for a term of which less than twenty years is unexpired (but not otherwise), he may deduct from the rent so payable by him such proportion of the sum deducted from the rent payable to him as the rent payable by him bears to the rent payable to him, and so in succession with respect to every landlord (holding for a term of which less than twenty years is unexpired) of the same premises both receiving and liable to pay rent in respect thereof :

(3) Provided that nothing in this section shall be construed to entitle any person to deduct from the rent payable by him more than the whole sum deducted from the rent payable to him.

497. At any time before the expiration of the period for the payment of any improvement expenses, the owner or occupier of the premises on which they are charged may redeem such charge by paying to the Commissioner such part of the said expenses as may not have been defrayed by sums already levied in respect of the same.

Redemption of charge for improvement expenses.

498. Any instalment payable under section 493 or section 495, which is not paid when the same becomes due, may be recovered by the Commissioner by distress and sale of the goods and chattels of the person by whom it is due as if it were a property-tax due by the said person.

Recovery of instalments due under sections 493 and 495.

499. Whenever the owner of any building or land fails to execute any work which he is required to execute under this Act or under any regulation or bye-law made under this Act, the occupier, if any, of such building or land may, with the approval of the Commissioner, execute the said work, and he shall be entitled to recover the reasonable expenses incurred by him in so doing from the owner and may deduct the amount thereof from the rent which from time to time becomes due by him to the owner.

In default of owner the occupier of any premises may execute required work and recover expenses from the owner.

500. No person who receives the rent of any premises in any capacity described in sub-clauses (i), (ii) and (iii) of clause (m) of section 3 shall be liable to do anything which is by this Act required to be done by the owner, unless he have sufficient funds of or due to the owner to pay for the same.

Limitation of liability of agent or trustee of owner.

Payment of Compensation.

501. In any case not otherwise expressly provided for in this Act, the Commissioner may, with the approval of the standing committee, pay compensation to any person who sustains damage by reason of the exercise of

Compensation for damages may be paid by the Commissioner.

(Chap. XIX.—Procedure. Secs. 502-505.)

any of the powers vested by this Act in the Commissioner or in any municipal officer or servant.

Compensation to be paid by offenders against this Act for any damage caused by them.

502. (1) If, on account of any act or omission, any person has been convicted of an offence against this Act or against any regulation or bye-law made under this Act, and, by reason of the same act or omission of the said person, damage has occurred to any property of the corporation, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the Magistrate before whom he was convicted of the said offence, and on non-payment of the amount of compensation so determined the same shall be recovered under a warrant from the said magistrate as if it were a fine inflicted by him on the person liable therefor.

Recovery of Expenses or Compensation in case of dispute.

In cases falling under section 491, disputes to be determined by the Chief Judge of the Small Cause Court.

[^a] **503. (1)** If, when the Commissioner demands payment of any expenses under section 491, his right to demand the same or the amount of the demand is disputed, or if, in the case of expenses incurred by the Commissioner in taking temporary measures under sub-section (2) of section 329, the necessity for such temporary measures is disputed, the Commissioner shall refer the case for the determination of the Chief Judge of the Small Cause Court.

(2) Pending the Chief Judge's decision, the Commissioner shall defer further proceedings for the recovery of the sum claimed by him and, after the decision, shall proceed to recover only such amount, if any, as shall be thereby ascertained to be due.

Amount of expenses or compensation to be determined in all cases of dispute by the Chief Judge of the Small Cause Court.

[^a] **504.** If, in any case not falling under section 491, any person is required by the Act or by any regulation or bye-law framed under this Act, to pay any expenses or any compensation, the amount to be so paid and, if necessary, the apportionment of the same, shall, in case of dispute, be determined, except as is otherwise provided in sections 502 and 515, by the Chief Judge of the Small Cause Court, on application being made to him for this purpose at any time within one year from the date when such expenses or compensation first became claimable.

Expenses or compensation awarded by Chief Judge of the Small

505. If the amount of any expenses or compensation ascertained in accord-

[^a] As to appeal to High Court from decision under s. 503 or s. 504, see Act XII of 1888, s. 3, printed in Vol. I of this Code, p. 264. As to period of limitation for such appeals, see *ib.*, s. 5.

ance with the last preceding section is not paid by the person liable to pay on demand, it shall be recoverable as if the same were due under a decree of the Small Cause Court.

Cause Court to be recovered, if necessary, as if they were due under a decree of the Court.

506. Instead of proceeding in any manner aforesaid for the recovery of any expenses or compensation of which the amount due has been ascertained as hereinbefore provided, or after such proceedings have been taken unsuccessfully or with only partial success, the sum due, or the balance of the sum due, as the case may be, may be recovered by a suit brought against the person liable for the same in any Court of competent jurisdiction.

Persons liable for expenses or compensation may be sued for recovery thereof.

Proceedings before the Chief Judge of the Small Cause Court.

507. (1) If the owner of any building or land is prevented by the occupier thereof from complying with any provision of this Act or of any regulation or bye-law made under this Act or with any requisition made under this Act or under any such regulation or bye-law, in respect of such building or land, the owner may apply to the Chief Judge of the Small Cause Court.

Remedy of owner of building or land against occupier who prevents his complying with any provision of this Act.

(2) The said Chief Judge, on receipt of any such application, may make a written order requiring the occupier of the building or land to afford all reasonable facilities to the owner for complying with the said provision or requisition, and may also, if he thinks fit, direct that the costs of such application and order be paid by the occupier.

(3) After eight days from the date of any such order, it shall be incumbent on the said occupier to afford all such reasonable facilities to the owner for the purpose aforesaid as shall be prescribed in the said order; and in the event of his continued refusal so to do, the owner shall be discharged, during the continuance of such refusal, from any liability which he would otherwise incur by reason of his failure to comply with the said provision or requisition.

508. (1) For the purposes of any inquiry or proceeding under this Act, the Chief Judge of the Small Cause Court 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 is possible, in the same manner as is provided in the case of the Small Cause Court by the Presidency Small Cause Courts Act, 1882 [*]; and in all matters relating to

Power to summon witnesses and compel production of documents.

[*] For Act XV of 1882 see the revised edition, as modified up to 1st February, 1895, published by the Legislative Department.

(Chap. XIX.—Procedure. Secs. 509-511.)

any such inquiry or proceeding the said Chief Judge shall be guided generally by the provisions of the said Act so far as the same are applicable.

(2) If, in any such inquiry or proceeding, the person against whom the complaint or application has been made fails to appear, notwithstanding that he has been duly summoned for this purpose, the said Chief Judge may hear and determine the case in his absence.

(3) The costs of every such inquiry or proceeding, as determined by the said Chief Judge shall be payable by such parties and in such proportions as the said Chief Judge shall direct, and the amount thereof shall, if necessary, be recoverable as if the same were due under a decree of the Small Cause Court.

Fees in proceedings before the Chief Judge of the Small Cause Court.

509. (1) The Governor in Council may, from time to time, by notification in the Bombay Government Gazette, prescribe what fee, if any, shall be paid

(a) on any application, appeal or reference made under this Act to the Chief Judge of the Small Cause Court; and

(b) previous to the issue, in any inquiry or proceeding of the said Chief Judge under this Act, of any summons or other process :

Provided that the fees, if any, prescribed under clause (a) shall not, in cases in which the value of the claim or subject-matter is capable of being estimated in money, exceed the fees at the time being levied, under the provisions of the Presidency Small Cause Courts Act, 1882^[a], in cases in which the value of the claim or subject-matter is of like amount. XV of 1882.

(2) The Governor in Council may from time to time by a like notification determine by what person any fee prescribed under clause (a) shall be payable.

(3) No application, appeal or reference shall be received by the said Chief Judge, until the fee, if any, prescribed therefor under clause (2) has been paid.

Exemption of poor persons from fees.

510. The Chief Judge of the Small Cause Court may, whenever he thinks fit, receive an application, appeal or reference made under this Act by or on behalf of a poor person, and may issue process on behalf of any such person without payment or on a part payment of the fees prescribed under section 509.

Re-payment of half fees on settlement before hearing.

511. Whenever any application, appeal or reference made to the Chief Judge of the Small Cause Court under this Act is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that

[^a] For Act XV of 1882, see the revised edition, as modified up to 1st February, 1895, published by the Legislative Department.

time shall be repaid by the said Chief Judge to the parties by whom the same have been respectively paid.

512. The Chief Judge of the Small Cause Court may—

- (a) delegate, either generally or specially to any other Judge of the said Court, power to receive applications, appeals and references under this Act and to discharge any other duty in connection with such applications, appeals and references, except the hearing and adjudication thereof;
- (b) if, for any reason, it shall be necessary so to do in order to secure the disposal of any application made to him under section 20 within the limited period prescribed in the said section, delegate to any other Judge of the said Court the hearing and adjudication of the said application;
- (c) from time to time, with the approval of Government, make rules, not inconsistent with this Act, providing for any matter connected with the exercise of the jurisdiction conferred upon him by this Act which is not herein specifically provided for.

Authority to the Chief Judge of the Small Cause Court to delegate certain powers and to make rules.

Proceedings before Magistrates.

513. All offences against this Act, or against any regulation or bye-law made under this Act, whether committed within or without the city, shall be cognizable by a Presidency Magistrate; and no such Magistrate shall be deemed to be incapable of taking cognizance of any such offence or of any offence against any enactment hereby repealed, by reason only of his being liable to pay any municipal tax or of his being benefited by the municipal fund to the credit of which any fine inflicted by him will be payable.

Cognizance of offences.

514. No person shall be liable to punishment for any offence made punishable by this Act, unless complaint of such offence is made before a Presidency Magistrate within three months, or, if the offence be against the provisions of section 155, within six months, next after the commission of such offence.

Limitation of time within which complaints of offences punishable under this Act shall be entertained. Complaints concerning nuisances.

[*] 515. (1) Any person who resides in the city may complain to a Presidency Magistrate of the existence of any nuisance, or that, in the exercise of any power conferred by sections 224, 244, 245, 246 or 367, more than the least practicable nuisance has been created.

[*] As to appeal to High Court from orders under s. 515, see Act XII of 1888, s. 4, printed in Vol. I of this Code, p. 264. As to period of limitation for such appeals, see *ib.*, s. 5.

(Chap. XIX.—Procedure. Secs. 516-517.)

(2) Upon receipt of any such complaint, the Magistrate, after making such inquiry as he thinks necessary, may, if he sees fit, direct the Commissioner—

(a) to put in force any of the provisions of this Act or to take such measures as to such Magistrate shall seem practicable and reasonable for preventing, abating, diminishing or remedying such nuisance ;

(b) to pay to the complainant such reasonable costs of, and relating to, the said complaint and order as the said Magistrate shall determine, inclusive of compensation for the complainant's loss of time in prosecuting such complaint.

(3) It shall be incumbent on the Commissioner to obey every such order.

(4) Nothing in this Act contained shall interfere with the right of any person who may suffer injury or whose property may be injuriously affected by any act done in the exercise of any power conferred by sections 224, 244, 245, 246 or 367 to recover damages for the same.

Arrest of Offenders.

Offenders against this Act may in certain cases be arrested by Police-officers.

516. (1) Any Police-officer may arrest any person who commits in his view any offence against this Act or against any regulation or bye-law made under this Act, if the name and address of such person be unknown to him, and if such person, on demand, declines to give his name and address or gives a name and address which such officer has reason to believe to be false.

(2) No person so arrested shall be detained in custody after his true name and address are ascertained or, without the order of a Magistrate, for any longer time, not exceeding at the most forty hours from the arrest, than is necessary for bringing him before a Magistrate competent to take cognizance of his offence.

Legal Proceedings.

517. (1) The Commissioner may—

(a) take, or withdraw from, proceedings against any person who is charged with—

(i) any offence against this Act ;

(ii) any offence which affects or is likely to affect any property or interest of the corporation or the due administration of this Act ;

(iii) committing any nuisance whatsoever ;

(b) compound any offence against this Act which under the law at the time in force may legally be compounded ;

(c) defend any election petition brought under section 33 ;

Provisions respecting institution, etc., of civil and criminal actions and obtaining legal advice.

- (d) defend, admit or compromise any appeal against a rateable value or tax brought under section 217 ;
 - (e) take, withdraw from, or compromise, proceedings, under sections 502, sub-section (2), 503, 504 and 505, for the recovery of expenses or compensation claimed to be due to the corporation ;
 - (f) withdraw or compromise any claim for a sum not exceeding five hundred rupees against any person in respect of a penalty payable under a contract entered into with such person by the Commissioner, or, with the approval of the standing committee, any such claim for any sum exceeding five hundred rupees ;
 - (g) defend any suit or other legal proceeding brought against the corporation or against the Commissioner or a Deputy Commissioner or a municipal officer or servant, in respect of anything done or omitted to be done by them, respectively, in their official capacity ;
 - (h) with the approval of the standing committee, admit or compromise any claim, suit or legal proceeding brought against the corporation or against the Commissioner or a Deputy Commissioner or a municipal officer or servant, in respect of anything done or omitted to be done as aforesaid ;
 - (j) with the like approval, institute and prosecute any suit or withdraw from or compromise any suit or any claim, other than a claim of the description specified in clause (f), which has been instituted or made in the name of the corporation or of the Commissioner ;
 - (k) obtain such legal advice and assistance as he may from time to time think it necessary or expedient to obtain, or as he may be desired by the corporation or the standing committee to obtain, for any of the purposes mentioned in the foregoing clauses of this section or for securing the lawful exercise or discharge of any power or duty vesting in or imposed upon any municipal authority or any municipal officer or servant :
- (2) Provided that the Commissioner shall not defend any suit or legal proceeding under clause (g) without first of all taking legal advice with regard thereto, and shall institute and prosecute any suit which the corporation shall determine to have instituted and prosecuted.

CHAPTER XX.

CONTROL

518. (1) If, upon complaint being made to him and after such inquiry Power to

(Chap. XX.—Control. Secs. 519-520.)

Government to provide for performance of duties in default of any municipal authority.

as he thinks fit to make, it shall at any time appear to the Governor in Council that any of the provisions of sections 61, 62, 134, 225, 434 and 438 have not been or are not being duly carried out or enforced, the Governor in Council may make an order prescribing a period within which such provision shall be carried out or enforced :

(2) Provided that, except in any case which appears to the Governor in Council to be one of emergency, no such order shall be made until after the expiry of one month from the date of service of a written notice on the corporation, and, if the Governor in Council shall think fit on the Commissioner, requiring cause to be shown why such order should not be made, nor until the cause, if any, so shown has been considered by the Governor in Council.

(3) If, within the period prescribed in an order made under sub-section (1), the provision is not carried out or enforced, the Governor in Council may appoint some person to carry out or enforce the same, and may direct that the expense of carrying out or enforcing such provision, together with such reasonable remuneration to the person carrying out or enforcing the same as the Governor in Council shall determine, and the costs of the proceedings under this section shall be paid out of the municipal fund.

Power to Government to enforce, repair, etc., of Vehar water-works.

519. (1) If, from the report of any person appointed by Government under section 264 to inspect the Vehar water-works, it shall appear to Government that any portion of the said water-works is not in a sound and effective condition, Government may, by notice under the signature of a secretary to Government, require that the said portion of the said works be repaired, improved or otherwise rendered sound and effective, within a reasonable time to be prescribed in the notice.

(2) The said notice shall be addressed to the corporation and to the Commissioner, and it shall be incumbent on the corporation and on the Commissioner, within the limits of their respective powers, to give effect thereto. If effect be not given thereto, Government may cause the required work to be done and may direct that the expenses thereof shall be paid by the Commissioner.

Expenses of measures enforced under sections 518 and 519 how to be recovered.

520. (1) When any such order as is mentioned in sub-section (3) of section 518 or in sub-section (2) of section 519 shall have been made, the corporation shall cause to be paid to Government the sum or sums of money of which payment shall from time to time be required, in pursuance of the said order, in any requisition signed by a secretary to Government.

(Chap. XXI.—Supplemental Provisions. Secs. 521-523.)

(2) And, if, within fourteen days from the delivery of any such requisition, the same is not complied with, Government may, by a written order signed by one of their secretaries, authorize and direct some person to receive from the bank in which the municipal fund is lodged the sum or sums mentioned in the said order.

(3) The said bank shall, upon production of the said written order, forthwith pay the said sum or sums to the person therein authorized to receive the same, and the said written order shall be a sufficient discharge to the said bank from all liability to the corporation in respect of any sum or sums so paid by it out of the municipal fund.

CHAPTER XXI.

SUPPLEMENTAL PROVISIONS.

521. The Commissioner and Deputy Commissioner and every councillor and every municipal officer or servant appointed under this Act, and every contractor or agent for the collection of any municipal tax, and every servant or other person employed by any such contractor or agent, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code [a].

Councillors, etc., to be deemed to be public servants.

522. (1) The Police Commissioner shall, as far as may be, co-operate, by himself and through his subordinates, with the Commissioner for carrying into effect and enforcing the provisions of this Act and for the maintenance of good order in the city.

Co-operation of police.

(2) It shall be the duty of every Police-officer in the city to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation or bye-law made under this Act, and to assist the Commissioner or any municipal officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Commissioner or in such municipal officer or servant under this Act.

523. (1) In computing any limited time before or from or after any date or event which is appointed or allowed by or under this Act for the doing of any act or the taking of any proceeding, such time shall be taken as exclusive of the day of that date or of the happening of that event, and as ending or commencing, as the case may be, at the end of the last preceding day, or the beginning of the next following day.

Computation of time.

(2) Where the limited time is to be computed from or after any date or event, the act or proceeding shall be done or taken at the latest on the last day

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(Chap. XXI.—Supplemental Provisions. Secs. 524-527.)

of the limited time computed as aforesaid, unless the last day is a Sunday or a public holiday or unless, in the case of a proceeding to be taken before the Chief Judge of the Small Cause Court, the said Court is closed on such last day, in which events any act or proceeding shall be deemed to be done or taken in due time if it is done or taken on the next day after such Sunday, or after the close of such public holiday, or on the first day when such Court re-opens, as the case may be.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day, and such day happens to be a Sunday or a public holiday, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day after such Sunday, or after the close of such public holiday.

Measurement of distances.

524. The distances mentioned in this Act shall be measured in a straight line on a horizontal plane.

Informalities and errors in assessments, etc., not to be deemed to invalidate such assessments, etc.

525. (1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or in any notice, bill, schedule, summons or other document issued under this Act, or under any regulation or bye-law made under this Act, may at any time, as far as possible, be rectified.

(2) No such informality, clerical error, omission or other defect shall be deemed to render the assessment, distress, notice, bill, schedule, summons or other document invalid or illegal, if the provisions of this Act and of the regulations and bye-laws made hereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover compensation for the same by suit in a Court of competent jurisdiction.

Power to Government to call for extracts from proceedings, etc.

526. The Governor in Council may at any time call upon the corporation to furnish him with any extract from any proceedings of the corporation or standing committee or of any committee constituted under this Act, or from any record under the control of the corporation and with any statistics concerning or connected with the administration of this Act; and the corporation shall furnish the same without unreasonable delay.

Protection of persons acting under this Act against suits.

527. (1) No suit shall be instituted against the corporation or against the Commissioner or a Deputy Commissioner, or against any municipal officer or servant, in respect of any act done in pursuance or execution or intended execution of this Act, or in respect of any alleged neglect or default in the execution of this Act—

(a) until the expiration of one month next after notice in writing has been, in the case of the corporation, left at the chief municipal office

(Chap. XXI.—Supplemental Provisions. Sec. 528. Sch. A.—Enactments repealed.)

and, in the case of the Commissioner or of a Deputy Municipal Commissioner, or of a municipal officer or servant, delivered to him or left at his office or place of abode, stating with reasonable particularity the cause of action and the name and place of abode of the intending plaintiff and of his attorney or agent, if any, for the purpose of such suit; nor

(b) unless it is commenced within six months next after the accrual of the cause of action.

(2) At the trial of any such suit—

(c) the plaintiff shall not be permitted to go into evidence of any cause of action except such as is set forth in the notice delivered or left by him as aforesaid;

(d) the claim, if it be for damages, shall be dismissed if tender of sufficient amends shall have been made before the suit was instituted or if, after the institution of the suit, a sufficient sum of money is paid into Court with costs.

(3) Where the defendant in any such suit is a municipal officer or servant, payment of the sum or of any part of any sum payable by him in or in consequence of the suit, whether in respect of costs, charges, expenses, compensation for damages or otherwise, may be made, with the sanction of the standing committee, from the municipal fund.

528. The provisions contained in Schedule R for regulating the constitution of the corporation and other matters until this Act is brought fully into operation shall be of the same effect as if they were enacted in the body of this Act.

Effect of the transitory provisions in Schedule R.

SCHEDULE A.

(See section 2.)

ENACTMENTS REPEALED.

No. and year of Act.	Title or subject.	Extent of repeal.
<i>Act of the Governor General in Council.</i>		
[*] XLVIII of 1860	An Act to amend Act XIII of 1856 . . .	Section 17, as amended by Bombay Act IV of 1882 and clause (16) of section 19.

[*] Printed in Vol. I of this Code, p. 108.

SCHEDULE A—*continued.*

No. and year of Act.	Title or subject.	Extent of repeal.
<i>Acts of the Governor of Bombay.</i>		
[*]VI of 1863	An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.	In section 7, the words "by the Commissioner of Police to the credit of the Municipal Commissioners of Bombay, and".
III of 1870	An Act to secure the payment to Government of certain sums of money by the Corporation of the Justices of the Peace for the City of Bombay.	The whole.
III of 1872	The Bombay Municipal Act of 1872 . . .	The whole.
IV of 1878	The Bombay Municipal Act Amendment and Continuance Act, 1878.	The whole.
VI of 1878	An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.	The whole.
II of 1880	The Bombay Municipality's Consolidated Loan Act, 1880.	The whole.
II of 1881	An Act to confirm the jurisdiction of Presidency Magistrates in municipal cases.	The whole.
VI of 1882	An Act to amend the Bombay Municipal Acts of 1872 and 1878.	The whole.
II of 1885	An Act to empower the Municipal Corporation of the City of Bombay to subscribe to the Guarantee Funds of the Bombay International Exhibition, and for other purposes.	So much as has not already been repealed.
III of 1885	An Act to provide for the occasional appointment of a Deputy Municipal Commissioner for the City of Bombay.	The whole.
I of 1886	An Act to remove certain doubts in the construction of section 9B of the Bombay Municipal Acts of 1872 and 1878.	The whole.
II of 1886	An Act to enable the Municipal Corporation of the City of Bombay to raise increased revenue from town-duties.	The whole.

SCHEDULE B.
(See section 24.)
DIVISION OF THE CITY INTO WARDS.

Consecutive Number.	Name of Ward.	BOUNDARIES.				Number of members of the Corporation to be elected for each Ward.
		On the North.	On the South.	On the East.	On the West.	
1	Fort and Harbour Ward (includes the southern portion of the island within the boundaries here specified and the entire harbour).	A line starting from the harbour and extending along the north wharf of Carnac Basin, the south side of Carnac Road and of First Marine Street, and continuing thence to Back Bay.	The sea	The harbour	Back Bay	Six.
2	Mandvi Ward .	A line starting from the harbour and extending along the south wharf of Clerk Busin, the south side of Wari Bandar Road, and the east side of Hancock Bridge and of Mazgaon Road to the junction of the latter with Babula Tank Road, thence along the south side of Babula Tank Road to Bhendy Bázár, Parel Road.	A line starting from the harbour and extending along the north wharf of Carnac Basin, and the north side of Carnac Road as far as Abdul Rahman Street.	The harbour from the south wharf of Clerk Basin to the north wharf of Carnac Basin.	A line starting from Babula Tank Road and extending along the east side of Bhendy Bázár, Parel Road, and the east side of Abdul Rahman Street as far as Carnac Road.	Eight.
3	Bhuleswar Ward .	A line starting from the west side of Bhendy Bázár, Parel Road, and extending along the south side of Grant Road as far as the north-west corner of Northbrook Garden.	The north side of Carnac Road from Abdul Rahman Street, and the north side of First Marine Street and a line continuing thence to Back Bay.	The west side of Bhendy Bázár, Parel Road, and of Abdul Rahman Street as far as Carnac Road.	A line starting from the north-west corner of Northbrook Garden, Grant Road, and extending along the east side of Trimbak Parashram Street, Ardesir Dady	Eight.

Bom. Act III.]
City of Bombay Municipality.
(Sch. B.—Division of the City into Wards.)

SCHEDULE B—continued.

Consecutive Number.	Name of Ward.	BOUNDARIES.				Number of members of the Corporation to be elected for each Ward.
		On the North.	On the South.	On the East.	On the West.	
4	Girgaon Ward	A line starting from the north-west corner of Trimbak Parashram Street and extending along the south side of Grant Road as far as the B., B. & C. I. Railway, and again from the B., B. & C. I. Railway level crossing on Clerk Road along the south side of Clerk Road as far as the south end of Hornby Vellard.	Back Bay from a point opposite to Thakurdwar Street to Malabar Point.	A line starting from Back Bay at a point opposite Thakurdwar Street, and extending along the north side of Thakurdwar Street; south-west side of part of Bhuleshwar Street as far as the southern end of Ardesir Dady Street; thence along the west side of the latter and Trimbak Parashram Street as far as Grant Road; again from the Grant Road Railway Bridge along the west side of the B., B. & C. I. Railway Line as far as the Clerk Road level crossing.	Street, passing thence along the north-east side of part of Bhuleshwar Street to the junction of that street, and Thakurdwar Street and extending along the south side of the latter as far as Queen's Road, and continuing thence to Back Bay. The sea from Malabar Point to the south end of Hornby Vellard.	Five.

City of Bombay Municipality.
(Sch. B.—Division of the City into Wards.)

5	Byculla Ward .	A line starting from the harbour and extending along the south wharf of Bellair Basin, the south side of Siwri Road and the south side of Kala Choki Road as far as the Chinchpokli Station level crossing on Arthur Road.	A line starting from the harbour and extending along the north wharf of Clerk Basin, the north side of Wari Bandar Road, the west side of Hancock Bridge and of Mazgaon Road to the junction of the latter with Babula Tank Road, thence along the north side of Babula Tank Road and Grant Road as far as the east side of the B., B. & C. I. Railway Line.	The harbour from the north wharf of Clerk Basin to the south wharf of Bellair Basin.	A line starting from the Grant Road Railway Bridge and extending along the east side of the B., B. & C. I. Railway Line as far as the Clerk Road level crossing, thence along the south side of Clerk Road and the east side of Arthur Road as far as the Chinchpokli Station level crossing.	Five.
6	Parel Ward	The northern boundary of the city from the east side of the G. I. P. Railway Line as far as the harbour.	A line starting from the harbour and extending along the north wharf of Bellair Basin, the north side of Siwri Road and the north side of Kala Choki Road as far as the Chinchpokli Station level crossing on Arthur Road.	The harbour from the north wharf of the Bellair Basin as far as the northern boundary of the city.	The east side of the G. I. P. Railway Line from the Chinchpokli Station level crossing as far as the northern boundary of the city.	Two.
7	Máhim Ward	The northern boundary of the city from the west side of the G. I. P. Railway Line as far as Máhim Causeway.	The north side of Arthur Road and Clerk Road from the Chinchpokli Station level crossing to the south end of Hornby Vellard.	The west side of the G. I. P. Railway Line from the Chinchpokli Station level crossing as far as the northern boundary of the city.	The sea from the south end of Hornby Vellard as far as Máhim Causeway.	Two.

SCHEDULE C.

(See section 110.)

FORM OF DEBENTURE.

No. for Rs.

By virtue of the City of Bombay Municipal Act, 1888, we, the Municipal Corporation of the City of Bombay, in consideration of the sum of _____ paid to us by *A. B.* of _____ for the purposes of the said Act, promise to pay to the said *A. B.*, his heirs, executors, administrators and assigns, the said sum of _____, together with interest at the rate of _____ per centum per annum, payable half-yearly on the _____ day of _____ and the _____ day of _____.

And, by way of security for the said payment, we do hereby grant and assign unto the said *A. B.*, his heirs, executors, administrators and assigns such proportion of the moneys arising or accruing by virtue of the said Act from the (*taxes mortgaged*) as the sum aforesaid doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said (*taxes*), to hold to the said *A. B.*, his heirs, executors, administrators and assigns, from the day of the date hereof until the sum aforesaid with interest for the same at the rate aforesaid shall be fully paid and satisfied ;

And it is hereby declared that the said principal sum shall be repaid on the _____ day of _____ 18 _____ at (*place of payment*).

Dated this _____ day of _____ 18 _____.

(To be sealed with the
common seal of the Corporation.)

(Signed)

*Municipal Commissioner on behalf of the
Corporation.*

This debenture has been sealed with
the common seal of the Municipal Corporation
of the City of Bombay in our presence :

(Signed)

1 _____ }
2 _____ }

Members of the Standing Committee.

(Sch. D.—Form of Endorsement for Transfer of Debenture. Sch. E.—Form of Notice of Transfer to be given when the Transfer has been effected by Instrument.)

SCHEDULE D.

(See section 110.)

FORM OF ENDORSEMENT FOR TRANSFER OF DEBENTURE.

I, *A. B.*, in consideration of the sum of _____ paid to me by *C. D.*, of _____, do hereby transfer to the said *C. D.*, his heirs, executors, administrators and assigns, the within security, and all my right, estate and interest in and to the money thereby secured and in and to the (taxes) thereby assigned.

Dated this _____ day of _____ 18 .
 (Signed) *A. B.*

SCHEDULE E.

(See section 150.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To the Municipal Commissioner for the City of Bombay.

I, *A. B.*, hereby give notice, as required by section 149 of the City of Bombay Municipal Act of 1888, of the following transfer of property :—

Date of Notice.	Date of Instrument.	Name of Vendor or Assignor.	Name of Purchaser or Assignee.	Amount of consideration.	Of what it consists.	DESCRIPTION OF THE PROPERTY.					If Instrument has been registered, the date of Registration.	REMARKS.
						Situation.	No. in Assessment Book.	Collector's No.	Dimensions of Land.	Boundaries.		

(Signed) *A. B.*

(Sch. F.—Form of Notice of Transfer to be given when the Transfer has taken place otherwise than by Instrument. Sch. G.—Tax on Vehicles and Animals.)

SCHEDULE F.

(See section 150.)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To the Municipal Commissioner for the City of Bombay.

I, *A. B.*, hereby give notice, as required by section 149 of the City of Bombay Municipal Act of 1888, of the following transfer of property :—

Date of Notice.	Name in which the Property is at present entered in the Commissioner's Records.	To whose name it is to be transferred.	DESCRIPTION OF THE PROPERTY.					REMARKS.
			Of what it consists.	Situation.	No. in Assessment Book.	Collector's No.	Dimensions of Land.		Boundaries.

(Signed) *A. B.*

SCHEDULE G.

(See section 180.)

TAX ON VEHICLES AND ANIMALS.

Description of Vehicle or Animal.	Maximum Amount of Tax per Quarter.
	Rs. a. p.
Each four-wheeled vehicle, drawn or impelled by horses, ponies, mules, donkeys, bullocks or machinery	5 0 0
Each two-wheeled vehicle, drawn or impelled by horses, ponies, mules, donkeys, bullocks or machinery	3 0 0
Each vehicle drawn or impelled otherwise than by horses, ponies, mules, donkeys, bullocks or machinery	2 0 0
Each horse, pony or mule of a height of 12 hands or upwards	6 0 0
Each horse, pony or mule of a height of less than 12 hands	2 0 0
Each bullock or buffalo kept for draft or pack purposes	1 0 0
Each donkey kept for draft or pack purposes or for riding	1 0 0

(Sch. H.—Articles liable to Payment of Town-duties. Sch. I.—Form of Notice of Demand.)

SCHEDULE H.

(See section 192.)

ARTICLES LIABLE TO PAYMENT OF TOWN-DUTIES.

Articles.	Maximum Rates of Town-duties leviable.
Grain of all sorts	6 annas per khandi.
Flour of all sorts	75 per centum of the rate at the time being levied on the grain from which the flour is prepared.
Wines and spirits	4 annas per imperial gallon.
Beer	6 pies per do.
[*]	
Sugar, molasses and gúr	8 annas per cwt.
Ghi	10 annas per Bombay maund.
Timber, exclusive of railway sleepers	2½ per cent. of its market-value.
Firewood	2 annas per khandi.

SCHEDULE I.

(See section 202.)

FORM OF NOTICE OF DEMAND.

To

A. B.

residing at

Take notice that the Municipal Commissioner for the City of Bombay demands from (you) the sum of _____ due from (you) on account of (*here describe the premises, vehicle or animal on account of which the tax is leviable*) for the half-year (or quarter) commencing (or ending) on the _____ day of _____ 18 ; and that if the said sum is not paid into the municipal office at _____, or if sufficient cause for non-payment of the sum is not shown to the satisfaction of the Commissioner within fifteen days from the service of this notice, a warrant of distress will be issued for the recovery of the same, with costs.

Dated this _____ day of _____ 18 .

(Signed)

Municipal Commissioner for
the City of Bombay.

[*] Portion repealed by Bom. Act IV of 1888, s. 7, is omitted.

SCHEDULE J.

(See section 203.)

FORM OF DISTRESS WARRANT.

To (*here insert the name of the Officer charged with the execution of the Warrant*).

Whereas *A. B.*, of _____, has not paid, or shown sufficient cause, to my satisfaction, for the non-payment of the sum of _____ due for the tax* mentioned in the margin for the half-year (*or quarter*) commencing (*or terminating*) on the _____ day of _____ 18 _____, although the said sum has been duly demanded in writing from the said *A. B.* and fifteen days have elapsed since the service of the notice of demand ;

*Here describe the tax.

This is to command you to distrain the goods and chattels of the said *A. B.* (*or, as the case may be, any goods and chattels found on the premises in respect of which the said tax is due*) to the amount of the said sum of _____, and such further sum as may be sufficient to defray the costs of recovering the said amounts ; and if within five days next after such distress the said sum shall not be paid, together with such further sum as shall be sufficient to defray the said costs, to sell the said goods and chattels : and having paid and deducted out of the proceeds of the sale the said sum of _____, and the costs of recovering the same, to return the surplus, if any, and if the same be demanded within one year from the date of the sale, to the person whom you shall find in possession of the said goods and chattels.

If sufficient distress cannot be found of the goods and chattels of the said *A. B.* (*or on the said premises, as the case may be*), you are to certify the same to me together with this warrant.

Dated this . _____ day of _____ 18 .

(Signed)

Municipal Commissioner
for the City of Bombay.

(Sch. K.—Form of Inventory and Notice. Sch. L.—Table of Fees payable in Distraints.)

SCHEDULE K.

(See section 205.)

FORM OF INVENTORY AND NOTICE.

To

A. B.

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the sum of _____ due for the tax mentioned in the margin* for the half-year (or quarter) commencing (or terminating) on the _____ day of _____ 18 ; and that unless you pay into the municipal office at _____ the amount due, together with the costs of recovery, within five days from the day of the date of this notice, the goods and chattels will be sold.

* Here describe the tax.

Dated this _____ day of _____ 18 .

(Signature of the Officer executing the warrant.)

INVENTORY.

(Here state particulars of the goods and chattels seized.)

SCHEDULE L.

(See section 207.)

TABLE OF FEES PAYABLE IN DISTRAINTS.

Sum distrained for.		Fee.
Under 5 rupees	• • • • •	0 4
Rupees 5 and under 10 rupees	• • • • •	0 8
" 10 " 15	• • • • •	0 12
" 15 " 20	• • • • •	1 0
" 20 " 25	• • • • •	1 4
" 25 " 30	• • • • •	1 8
" 30 " 35	• • • • •	1 12
" 35 " 40	• • • • •	2 0
" 40 " 45	• • • • •	2 4
" 45 " 50	• • • • •	2 8
" 50 " 60	• • • • •	3 0
" 60 " 80	• • • • •	3 12
" 80 " 100	• • • • •	4 8
Above 100 rupees	• • • • •	5 0

The above fees are to include all expenses except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each peon so employed.

(Sch. M.—Purposes for which Premises shall not be used without a License.)

SCHEDULE M.

(See sections 394 and 395.)

PURPOSES FOR WHICH PREMISES SHALL NOT BE USED WITHOUT A LICENSE.

- (1) Casting metals ;
- (2) Manufacturing bricks or tiles ;
- (3) Packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, *viz.*—

Cloths in indigo or other colours.	Pottery.
Paper.	Silk.

- (4) Storing, packing, pressing, cleansing, preparing or manufacturing, by any process whatever, any of the following articles, *viz.*—

Blood.	Kerosine oil.
Bones.	Lime.
Candles.	Matches for lighting.
Catgut.	Manure.
Chemical preparations.	Meat.
China grass.	Nitro-glycerine.
Cocanut fibre.	Oil.
*Cotton and cotton refuse or seed.	Oil-cloth.
Dammer.	Offal.
Dynamite.	Petroleum oil.
Fat.	Paraffin oil.
Fins.	Rags.
Fish.	Rosin.
Fireworks.	Rangoon or Burma oil.
Flax.	Soap.
Fulminate of mercury.	Sulphur.
Gas.	Saltpetre.
Gun-cotton.	Spirits.
Gunpowder or blasting powder.	Skins.
Hemp.	Tallow.
Hides.	Tar or pitch.
Horns.	Tow.
Hoofs.	Turpentine.
Hair.	Wool.
Jute.	

* The storing of pressed bales of cotton is excepted.

(Sch. N.—Particulars to be specified in the Register of Births. Sch. O.—
Particulars to be specified in the Register of Deaths.)

SCHEDULE N.

(See section 444.)

PARTICULARS TO BE SPECIFIED IN THE REGISTER OF BIRTHS.

Serial number.

Date of Birth.

Place of birth . . . { Districts.
Sub-district.
Ward-No. of house (*i.e.*, its distinguishing number under
cl. (a) of s. 156).
Street or wádi.
No. of house in street or wádi.

Parents . . . { Names (and surnames, if any).
Occupation or profession.
Place of birth.
Duration of residence in Bombay . . . { Years.
Months.
Days.

Mother being . . . { Only wife now alive.
One of two wives, both now alive.
One of three or more wives, all now alive.

Mother being unmarried.

Child . . . { Born alive.
Still-born.
Sex.
Race, caste or nationality.
Name, if any.

NOTE.—In the case of the birth of a Hindú, the particular sub-division of his caste should be given. Christians should be separated into those of pure European parentage; those of mixed blood, *viz.*, Indo-Europeans; and those of pure Asiatic parentage, *viz.*, Native Christians. Negro-Africans or Siddis should be registered as such, and not as Mussulmans. In the case of Europeans, their religion should be specified.

SCHEDULE O.

(See section 444.)

PARTICULARS TO BE SPECIFIED IN THE REGISTER OF DEATHS.

Serial number.

Date of death.

Abode . . . { District.
Sub-district.
Ward-No. of house (*i.e.*, its distinguishing number under
cl. (a) of s. 156).
Street or wádi.
No. of house in street or wádi.

(Sch. P.—Certificate of Cause of Death.)

Duration of residence in Bombay. { Years.
Months.
Days.

If a stranger to Bombay, or lately arrived, wherefrom . . . { Village.
Táluqá.
District.

Name (and surname, if any).

Sex.

Race, caste or nationality.

Age . . . { Years.
Months.
Days.
Still-born.

Occupation or profession of deceased or of his or her family.

Place of birth . { If in Bombay . . . { District,
Street or wádi.
No. of house.
If out of Bombay . . . { Village.
Táluqá.
District.

Country to which family belongs.

Cause of death.

Duration of disease. { Years.
Months.
Days.
Hours.

Name and residence of medical attendant.

Place of disposal of dead, No. { Buried.
Burnt.
Exposed.

SCHEDULE P.

(See section 450.)

CERTIFICATE OF CAUSE OF DEATH.

I do hereby certify that I attended the deceased during his last illness, and that the cause of his death was, to the best of my belief, (*here state particulars*).

Date . . .

(Signed)

Medical Designation or Diploma.

(Sch. Q.—Form certifying Name given in Baptism. Sch. R.—Transitory Provisions.)

SCHEDULE Q.

(See section 453.)

FORM CERTIFYING NAME GIVEN IN BAPTISM.

I, _____, of _____, do hereby certify that on the _____ 18 _____ I baptized by the name of _____ a male child produced to me by _____ as the _____ of _____, and declared by the said _____ to have been born at _____ on the _____ 18 _____.

(Signed by Officiating Minister.)

Date _____

Form certifying Name given not in Baptism.

I, _____, do hereby certify that the _____ male child born on the _____ 18 _____, at _____, to _____ and _____ his wife, and registered in the district of _____ on the _____ 18 _____, has received the name of _____.

(Signed by father or mother, etc.)

Date _____

SCHEDULE R.

(See section 528.)

TRANSITORY PROVISIONS.

[1, 2, 3, 4, 5 and 6.] Repealed by Act XVI of 1895.

7. The standing committee may, with the approval of the corporation, grant to the municipal secretary, in addition to his maximum monthly salary of one thousand rupees, a personal allowance not exceeding two hundred rupees monthly in consideration of such secretary's long and approved service, so long as the office is held by the same person who on the day when the Bombay Municipal Acts Amendment Act, 1882, [2] came into force was secretary of the town council and clerk of the municipal corporation.

Personal allowance to present municipal secretary.

[8, 9, 10, 11, 12 and 13.] Repealed by Act XVI of 1895.

[2] Bom. Act. VI of 1882 is repealed by s. 2 of this Act.

BOMBAY ACT No. IV OF 1888.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th December, 1888.*)

An Act to amend the City of Bombay Municipal Act, 1888.

Bom. III
of 1888.

[NOTE.—The amendments made by ss. 2 to 6 of this Act are incorporated in Bom. Act III of 1888 as printed on pp. 192 *et seq. supra.* S. 7 is repealed, and s. 8 superseded, by Act XVI of 1895.]

 THE ADEN PORT TRUST ACT, 1888.

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(I.—Preliminary. Secs. 1-2.)

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SCHEDULE A.—PROPERTY VESTED IN THE BOARD.

SCHEDULE B.—RECEIPT FOR GOODS BY THE PORT TRUST, ADEN.

BOMBAY ACT No. V OF 1888.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 19th January, 1889.)

An Act to vest the Port of Aden in a Trust.

WHEREAS it is expedient to vest the port of Aden in a trust and to provide for the management of the affairs of the said port by trustees; It is enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called the Aden Port Trust Act, 1888.

Short title.

2. In this Act, unless there be something repugnant in the subject or context,—

Definitions.

(a) "port" means the port of Aden as defined for the purposes of this Act:

(b) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year:

(c) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year:

(d) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to any thing attached to the earth:

(e) "master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel:

(f) the word "goods" includes wares and merchandise of every description:

(g) "owner," when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and, when used in relation to any vessel, includes any part owner, charterer, consignee or mortgagee in possession thereof.

(I.—Preliminary. Sec. 3. II.—Of the Board of Trustees. Secs. 4-8.)

Power to define and alter limits of port.

3. (1) The Governor in Council may, by notification in the Bombay Government Gazette, define the limits of the port for the purpose of this Act, and may from time to time by a like notification alter such limits.

(2) Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port, whether within or without high-water mark, and, subject to any rights of property therein, any portion of the shore within fifty yards of high-water mark.

 II.—OF THE BOARD OF TRUSTEES.

Constitution of Board.

Act to be carried out by trustees.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board to be called "the Trustees of the Port of Aden;" and such Board, hereinafter referred to as "the Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Number of trustees.

5. The Board shall consist of such number of trustees as shall from time to time be fixed by Government, the same being not less than six.

Appointment of *ex officio* trustees and chairman.

6. The First Assistant Resident at Aden, the Executive Engineer, Aden, the Port Surgeon, Aden, and the senior officer of the Royal Engineers for the time being stationed at Aden, or, in the absence of any of the abovementioned officers, the officer acting for him, shall be *ex officio* trustees, and the First Assistant Resident at Aden, or, in his absence, the officer acting for him, shall be *ex officio* chairman of the Board.

Appointment of other trustees.

7. The rest of the trustees shall be appointed by Government, and of these such number as shall from time to time be fixed by Government shall not be public officers.

Publication of names of non-official trustees in the official Gazette.

8. The names of all trustees other than the *ex officio* trustees shall be published in the Bombay Government Gazette.

9. [*Term of office of first trustees when to commence.*] Repealed by Act XVI of 1895.

(II.—Of the Board of Trustees. Secs. 10-13.)

10. Every trustee, other than the *ex officio* trustees, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

Length of term of office of non-official trustees.

11. (1) In the event of the death, resignation or disqualification of a trustee other than an *ex officio* trustee, or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the appointment of a person thereto, who shall hold office so long only as the trustee in whose place he is appointed would have held it if the vacancy had not occurred.

Filling up of casual vacancies.

(2) If a trustee other than an *ex officio* trustee departs from Aden with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Aden for such period, a person shall be appointed to act for such trustee during his absence, or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Acting trustees.

12. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 13, be again eligible at any time for appointment.

Re-eligibility of trustees.

Disqualifications of Trustees.

13. (1) No person shall be qualified to be a trustee—

- (a) who under any law for the time being in force is an uncertificated bankrupt or an undischarged insolvent, or
- (b) who, unless he is an *ex officio* trustee, holds any office or place of profit under the Board, or
- (c) who, unless as aforesaid, has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of the Board; or
- (d) who has been sentenced by a Criminal Court to imprisonment or to 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, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit in this behalf;

Disqualifications for office of trustee.

and any trustee who—

- (e) becomes disqualified for any of the aforesaid reasons, or
- (f) is absent from the meetings of the Board for a period exceeding six consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board,

Trustee who becomes disqualified to cease to be a trustee.

shall cease to be a trustee, and his office shall thereupon become vacant :

(II.—Of the Board of Trustees. Secs. 14-15.)

Proviso.

(2) Provided always that no trustee shall vacate his office by reason only of his—

- (g) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board, or
- (h) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or
- (i) being interested in any loan of money to the Board.

Remuneration of Trustees.

Fee payable to trustees.

[^a]14. Every trustee shall be entitled to a fee of such amount not exceeding thirty rupees as shall from time to time be prescribed by Government, for each meeting of the Board at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof: Provided that, if more than one such meeting is held in any one week, no more than one fee shall be paid to any trustee for his attendance at all or any of such meetings during that one week.

Proceedings of Board.

Provisions concerning the Board's proceedings.
Vacancy not to affect Board's proceedings.
Meetings of Board.

15. The following provisions shall be observed with respect to the proceedings of the Board, namely:—

- (1) During any vacancy in the Board the continuing trustees may act as if no vacancy had occurred.
- (2) The Board shall meet together, and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely:—

Two ordinary meetings in each month.

- (a) that two ordinary meetings at least shall be held in every month;

Special meetings.

- (b) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting;

Quorum.

- (c) that no business shall be transacted at any meeting unless at least three trustees are present from the beginning to the end of such meeting;

[^a] This section was substituted for the original s. 14 by Bom. Act I of 1895, s. 1.

(II.—Of the Board of Trustees, Sec. 15.)

(d) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same, and, if he is absent, by such one of the trustees present as may be chosen by the meeting;

Meetings to be presided over by the chairman.

(e) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes;

Questions to be decided by a majority of votes.

(f) that, if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president;

Votes to be recorded if a poll is demanded.

(g) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours.

Minutes of proceedings.

(3) The Board may delegate any of their powers to committees consisting of such trustees as they think fit. Any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed.

Board may delegate powers to committees.

(4) A committee may elect a chairman of their meetings, and, if no such chairman is elected, or, if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

Committees' meetings to be presided over by a chairman.

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

Committees when to meet.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

Questions how to be decided at committees' meetings.

(7) No act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the

Acts of Board, etc., not to be

(II.—Of the Board of Trustees. Secs. 16-18.)

invalidated
by informa-
lities.

appointment of such Board, committee or trustee, or on the ground that they or any of them were disqualified for the office of trustee.

Mode of
executing
contracts.

16. (1) The chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the Board.

(2) No contract or agreement not executed as aforesaid shall be binding on the Board :

Proviso.

(3) Provided that the signatures of the chairman and two other trustees may be engraved, lithographed or impressed by any mechanical process, on coupons attached to debentures which the Board is at any time authorized to issue under the Local Authorities Loan Act, 1879 [a], or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees.

The Board
may com-
pound for
claims
against
them.

17. The Board may compound or compromise for or in respect of any claim or demand made against them for such sum of money or other compensation as they shall deem sufficient.

The Chairman.

Duties of
chairman.

18. The chairman shall—

- (a) attend every meeting of the Board, unless prevented by sickness or other reasonable cause ;
- (b) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and in matters concerning the accounts and records of the Board ; and, subject to the regulations at the time being in force framed by the Board under section 20, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances ;
- (c) furnish to Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

(III.—Of the Officers and Servants of the Board. Secs. 19-20.)

III.—OF THE OFFICERS AND SERVANTS OF THE BOARD.

Strength of Staff.

19. (1) The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant.

Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board. Provisos.

(2), (3) [*Existing staff.*] Repealed by Act XVI of 1895.

(4) Provided—

(a) that artisans, porters and labourers, and mukaddams of porters and labourers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section or of section 20, clauses (a) to (d), both inclusive, or of section 21;

(b) that, if an officer is lent to the Board by Government, the Board shall make such contributions, if any, on account of his pension and leave allowances as may be required by the rules in this behalf from time to time in force, and shall not, except with the consent of Government, dispense with his further services at any time, without giving to Government six months' previous notice;

(c) that every officer and servant, if any, maintained by Government on the [a] 31st March, 1889, [a] at the cost of the provincial revenues, for employment in connection with the Aden harbour, shall, if he is entitled as a Government servant to pension and leave allowances, be deemed to be lent to the Board on and from the [b] 1st April, 1889 [b].

20. The Board shall from time to time frame regulations—

Board to frame regulations—

(a) for regulating the grant of leave to the officers and servants of the Board;

for regulating leave;

(b) for authorizing the payment of allowances of the said officers and servants, or to certain of them, whilst absent on leave;

for settling absentee allowances;

(c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

for fixing acting allowances;

(d) for regulating the period of service of all such officers and servants;

for regulating length of service;

(e) for determining whether any of the said officers and servants, and if so which of them, shall on retirement receive pensions, gratuities

for fixing pensions, etc.;

[a.] These figures and words were substituted for the original words by Act XVI of 1895.

[b.] These figures and words were substituted for the original words and figures by Act XVI of 1895.

(III.—Of the Officers and Servants of the Board. Sec. 21.)

or compassionate allowances, and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are killed in the execution of their duty, and if so to which of them, and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same;

for authorizing contributions to provident fund.

(f) for authorizing the payment of contributions at certain prescribed rates, and subject to certain prescribed conditions, to any provident fund which may be established by the Board for the benefit of their officers and servants, or which, with their approval, may be established by their officers and servants themselves :

Proviso.

Provided that—

- (a) no regulation framed by the Board under clause (e) shall have validity unless or until the same has been sanctioned by Government;
- (b) any pension or leave allowance payable to any officer or servant of Government employed in connection with the Aden harbour prior to the [a] 1st April, 1889 [a] shall, in so far as the same has been earned during such employment, be a charge on the port fund and shall be defrayed thereout, on the requisition of Government, by the Board.

Powers of Appointment, etc.

Appointments, etc., by whom to be made.

21. (1) Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 19, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case by the Board.

(2) An appointment so made by the Board shall not be held to be a contract or agreement within the meaning of section 16.

(3) The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

[*.*] These figures and word were substituted for the original words and figure by Act XVI of 1895.

(III.—Of the Officers and Servants of the Board. Sec. 22. IV.—Of the Property and Liabilities of the Board. Secs. 23-25.)

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the Board.

22. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Political Resident at Aden when necessary.

IV.—OF THE PROPERTY AND LIABILITIES OF THE BOARD.

General Powers as to Property.

23. (1) The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the port or settlement of Aden; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them :

(2) Provided that no sale of immoveable property, and no lease of any such property for a term exceeding twenty-one years, shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

24. (1) When the Board are unable to acquire by agreement any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1894 [a].

(2) The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

25. (1) The property specified in Schedule A shall [b] vest in the Board :

(2) Provided that—

(a) if any question arises between the Government and the Board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect to such boundaries shall be final ;

[a] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

[b] Portion repealed by Act XVI of 1895 is omitted.

(IV.—Of the Property and Liabilities of the Board. Secs. 25 A.-26.)

(b) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government without claim to compensation on the part of the Board except for buildings or other permanent structures erected by the Board thereon;

(c) any work which the Governor General in Council may consider necessary in the public interests may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the Board, except for buildings or other permanent structures erected by the Board which it shall be necessary to clear away for the purposes of such work.

[*](3) Notwithstanding anything contained in or done under this section, the crane on the Post Office pier entered as No. 23 in the said schedule shall, whenever and so long as the use thereof may be required by or on behalf of Government, be rendered by the Board available for such use, free of charge.

[*](4) The property specified in Schedule C shall, on and after such date as shall be notified in this behalf by the Governor in Council, vest in the Board.

Saving of
right of Her
Majesty to
the bed of the
sea.

[^b]25A. Nothing in this Act or in any other enactment of the Governor of Bombay in Council shall be deemed to affect the proprietary right of Her Majesty to the bed of the sea facing lands on the shore, which are vested in Her Majesty, or the right of Her Majesty to reclaim any part of the bed of the sea; but the Board shall have, on and along the outer boundary wall or line and to seaward of any such reclamation of a part of the bed of the sea, the same rights, if any, as it would have under this Act or any such enactment as aforesaid on or along the strand or foreshore or to seaward of the same, if no such reclamation had been made.

Transfer to
the Board of
the Aden
port fund's
liabilities
and claims.

26. All debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Political Resident on behalf of the Aden port fund shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

and all sums of money due to the said Aden port fund shall be deemed to be due to the Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might but for the passing of this Act have been instituted, by or against the said Political Resident as manager of the Aden port fund, may be continued or instituted by or against the Board.

[*] Sub-sections (3) and (4) were added to s. 25 by Bom. Act I of 1895, s. 2.

[^b] S. 25A was inserted by Bom. Act I of 1895, s. 3.

(V.—Of the Powers and Duties of the Board. Sec. 27.)

V.—OF THE POWERS AND DUTIES OF THE BOARD.

Works.

27. (1) The works to be constructed and carried out by the Board may include the following:— Works to be constructed.

- (a) cleaning, deepening and improving any portion of the port, and the construction, procuring and application of dredges and other machinery for that purpose;
- (b) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways and approaches;
- (c) tramways, warehouses, sheds, engines and other appliances for conveying, receiving and storing goods landed, or to be shipped, or otherwise;
- (d) light-houses, light-ships, beacons, pilot-boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;
- (e) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;
- (f) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board;
- (g) procuring and employing steam-vessels for towing vessels into, out of, or within the port;
- (h) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary or desirable for carrying out the purposes of this Act:

(2) Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, or which forms part of a projected work, the whole of which is estimated or is likely to cost more than fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

But no new work to be commenced without a plan and estimate if its cost shall exceed one thousand rupees; nor without the sanction of Government to such plan and estimate if the cost shall exceed fifty thousand rupees.

(V.—Of the Powers and Duties of the Board. Secs. 28-32.)

Free landing-places to be provided.

28. The Board shall provide such number of public landing-places as shall in the opinion of the Political Resident at Aden, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Removal of bathing and landing-places. Proviso.

29. The Board may occupy, or remove, or alter any public bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same: Provided that the Board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Political Resident at Aden may direct.

Landing and Shipping of Goods.

Declaration that wharves, etc., are ready for receiving, landing and shipping goods.

30. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in sea-going vessels, the Board may, with the previous sanction of the Political Resident at Aden, by a notification published in three consecutive numbers of the Bombay Government Gazette, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in sea-going vessels.

If accommodation sufficient, all sea-going vessels compelled to use wharves, etc.

31. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of Government, by an order published in three consecutive numbers of the Bombay Government Gazette, direct that no goods, or that no goods other than a particular class or classes of goods, shall be landed or shipped from or in any sea-going vessel within the port, save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that no order shall be made under this section in respect of the landing or shipping of coals.

Proviso.

Inland vessels compelled to use wharves, etc.

32. (1) When any wharf, quay, stage, jetty or pier for receiving, landing or shipping goods from or in vessels, not being sea-going vessels, has been made and completed by the Board, with sufficient warehouses, sheds and appliances in that behalf, the Board may, with the sanction of the Political Resident at Aden, by an order published in three consecutive numbers of the Bombay Government Gazette, declare—

- (a) that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping goods from or in vessels, not being sea-going vessels; and
- (b) that, within certain prescribed limits within the port to be specified in such order, it shall not be lawful to land or ship any goods from or

(V.—Of the Powers and Duties of the Board. Secs. 33-34.)

in any vessel not being a sea-going vessel of any class specified in such order, except at such wharf, quay, stage, jetty or pier, nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of low-water mark without the consent of the Board.

(2) If after such publication any such vessel, while within such limits, so anchors, fastens or lies, the Board may cause the same to be removed out of the said limits.

(3) The Board may in like manner, and with the like sanction, alter, vary or revoke any such order.

33. (1) Notwithstanding anything contained in sections 31 and 32—

(a) the Political Resident at Aden may, by notification in the Bombay Government Gazette, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port, in such manner, during such period, subject to such payments, and on such conditions, as he may think fit, and otherwise grant exemption from the provisions of the said sections ;

Exemptions from obligation to use wharves, etc.

(b) military or naval munitions or stores may be landed or shipped at any time and at any place within the limits of the port which the Political Resident at Aden may deem convenient.

(2) The Political Resident at Aden may, by like notification, cancel or modify any notification made by him under clause (a) of sub-section (1).

(3) The Political Resident at Aden may also at any time require that troops and their baggage, and military or naval munitions or stores, be landed or shipped with the least practicable delay, in preference to all other passengers or goods at the time awaiting landing or shipping ; and it shall be incumbent on the Board to give effect to any such requisition.

34. (1) Whenever any goods are landed by the Board from any vessel, the Board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in Schedule B, and may in any such receipt include all goods landed from such vessel during one day.

Discharge of liability on goods landed.

(2) No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

*(V.—Of the Powers and Duties of the Board. Secs. 35-39.)**Customs-wharves, etc.*

Accommodation to be provided for Customs-officers on wharves, etc., appointed under Sea Customs Act.

35. When Government appoint under the provisions of any Act^[a] for VIII of 18 the levy of sea-customs duties any wharf, quay, stage, jetty or pier to be a wharf or place for the landing and shipping of goods within the meaning of such Act, the Board shall set apart, maintain and secure on or in such wharf, quay, stage, jetty or pier, such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf.

Dues at Customs-wharves, etc.

36. Notwithstanding that any wharf, quay, stage, jetty or pier, or portion thereof, has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the Board or to such persons as they may appoint to receive the same.

Erection of Wharves, etc., by Private Persons.

Private wharves, etc., prohibited.

37. (1) Save as hereinafter provided, no person except the Board shall [b] make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier erection or mooring.

(2) Any matter or thing so made, erected or fixed may be removed by the Board, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Board in removing such matter or thing.

Power to permit erection of private wharves, etc., within the port subject to conditions.

38. The Board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier erection or mooring.

Wharves, etc., beyond port limits.

39. In case any wharf, dock, quay, stage, jetty, pier erection or mooring is, [b] without the consent in writing of the Governor in Council, made,

[a] See Act VIII of 1878, a revised edition of which, as modified up to 1st July, 1891, has been published by the Legislative Department.

[b] Words repealed by Act XVI of 1895 are omitted.

(*V.—Of the Powers and Duties of the Board. Sec. 40.*)

erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier erection or mooring has been made, erected or fixed, the Board may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier erection or mooring without making any compensation therefor.

Rates.

40. (1) The Board shall frame, and may from time to time alter—
- (a) a scale of tolls on the landing and shipping of goods from and in sea-going vessels and vessels not being sea-going vessels, respectively, at any place within the port;
 - (b) a scale of rates for the use of the moorings, wharves, quays, stages, jetties and piers belonging to the Board, and for the storing and keeping of any goods stored in any premises belonging to the Board;
 - (c) a scale of charges for the landing and shipping of goods by the servants of the Board, and for the removal of goods, and for any services to be performed by the Board or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Board.

Scale of tolls, rates and charges to be framed with the approval of Government.

(2) Such scales or altered scales shall be submitted, through the Political Resident at Aden, to Government, and, after approval or modification by Government, shall be published in the Bombay Government Gazette, and shall thereupon have the force of law: Provided that no such scale or altered scale shall be approved or modified by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the Bombay Government Gazette and in such other manner as Government from time to time prescribe.

(3) Nothing in sub-section (1) or (2) shall be deemed to authorize—

- (a) the inclusion in any scale framed or approved thereunder of any toll, rate or charge in respect of military or naval munitions or stores, or, for such time as a vessel is landing or shipping any such munitions or stores, in respect of any such vessel;
- (b) the levy from officers and soldiers of Her Majesty's regular forces on duty or on the march of any duties or tolls from which they are exempted by section 143 of the Army Act [*].

[*] Figures repealed by Act XVI of 1895 are omitted. The Army Act is printed in the Supplement to the Collection of Statutes relating to India, Ed. 1881, p. 86.

(*V.—Of the Powers and Duties of the Board. Secs. 41-45.*)

(4) [*Repealed by Act XVI of 1895.*]

Tolls, rates and charges may be remitted in special cases.

41. Government may, in special cases, remit the whole or any portion of any toll, rate or charge leviable under the last preceding section.

Agency for collection of tolls on landing and shipping of goods.

42. Tolls on the landing and shipping of goods may be collected by officers and servants appointed by the Board in this behalf, or by any person whom the Board appoint to be their agent for this purpose, or may be farmed or compounded for, either wholly or in part, by the Board for any period not exceeding one year at a time.

Board's lien on goods for tolls and charges.

43. (1) For the amount of all tolls, rates and charges leviable under this Act in respect of any goods, the Board shall have a lien on such goods, which may be seized and detained until such tolls, rates and charges are fully paid.

(2) Tolls, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Board or to be shipped for export, shall be payable before the goods are removed or shipped or taken on board a lighter for the purpose of being shipped.

(3) The lien for such tolls, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, or for lighterage, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Prior lien on goods for freight, etc.

44. (1) If, at or before the time of landing from any vessel of any goods at any wharf, quay, stage, jetty or pier belonging to the Board, the master or owner of such vessel, or the person by whom the goods are landed, gives to the Board notice in writing that such goods are to remain subject to a lien for freight, primage or general average, or for lighterage, as the case may be, of an amount to be mentioned in such notice, such goods shall continue liable, after the landing thereof, to such lien.

(2) Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Political Resident at Aden, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of lien for freight, etc.

45. Upon the production to any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of any lien to which any goods are liable under the last preceding

(*V.—Of the Powers and Duties of the Board. Secs. 46-47.*)

section, executed by the person by or on whose behalf notice of such lien has been given, the Board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

46. (1) Whenever goods which have been landed have, without any default on the part of the Board, been left for five clear days on or in any wharf or shed belonging to the Board, the Board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Political Resident at Aden, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

Goods may be removed to warehouse.

(2) Whenever any goods are so removed, the Board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

Liability of consignee.

(3) If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Board and shall be subject to the power of sale hereinafter given.

47. (1) If the tolls, rates and charges payable to the Board under this Act in respect of any goods are not paid, or if the lien for freight, primage, general average or lighterage, where such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage, general average or lighterage shall, at the expiration of four months from the time when the goods were seized or placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Recovery of tolls, rates, and charges by sale of goods.

(2) Before making such sale, at least ten days' notice of the same shall be given by publication thereof by beat of tom-tom, and by posting notices at the public landing-places within the settlement of Aden.

Notice of sale to be given.

(3) If the address of the owner of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be

(V.—Of the Powers and Duties of the Board. Secs 48-49.)

given to the owner of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Proviso.

(4) Provided that, if such goods are of so perishable a nature as in the opinion of the officer appointed by the Board in that behalf to render early or immediate sale necessary or advisable, the Board may, within such period, being not less than twenty-four hours after the landing of the goods as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the owner of the goods or his agent as the urgency of the case admits of.

Applica-
tion of sale-
proceeds.

48. (1) The proceeds of every such sale shall be applied as follows:—

(a) in payment of the expenses of the sale;

(b) in payment, according to their respective priorities, of the liens and claims excepted in section 43 from the priority of the lien of the Board;

(c) in payment of the tolls, rates and charges due to the Board in respect of the goods.

(2) The surplus, if any, shall be paid to the owner of the goods, or to his agent, on his applying for the same: Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made, and, in case such application shall not be so made nor reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

Proviso.

Power to
distrain
vessels for
the non-
payment of
rates, etc.,

49. (1) If the master of any vessel, in respect of which any tolls, rates, charges or penalties shall be payable under this Act, or any bye-law made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest of their own authority such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid.

and sell
them.

(2) And in case any part of the said tolls, rates, charges or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy such tolls, rates, charges or penalties, and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

(V.—Of the Powers and Duties of the Board. Secs. 50-53.)

50. If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of tolls, rates, charges or penalties chargeable under this Act, or any bye-law or order made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Port-clearance not to be granted till rates, etc., are paid.

X of 1889. 51. The surplus, if any, of the moneys credited under section 36 of the Indian Ports Act, 1889 [a], to the account of the port fund of Aden after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board.

Surplus of port-dues to be paid to the Board.

Control of Pilots.

52. (1) The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1889 [b], to pilot vessels.

Trustees to be vested with the right and privilege of maintaining pilots;

X of 1889.

(2) The Board may also, from time to time, make such bye-laws and regulations as they shall think fit—

and to make bye-laws with the approval of Government.

(a) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(b) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise, as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 54.

Bye-laws.

53. (1) The Board may from time to time make bye-laws, consistent with this Act and with the Indian Ports Act, 1889 [b],—

Trustees empowered to make bye-laws.

X of 1889.

[a] The reference to s. 47 of Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

[b] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2.

(V.—Of the Powers and Duties of the Board. Secs. 54-55.)

- (a) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port ;
- (b) for the safe and convenient use of such wharves, quays, stages, jetties, piers, and of landing-places, tramways, warehouses, sheds and other works in and adjoining the same ;
- (c) for regulating the reception and removal of goods within and from the premises of the board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged ;
- (d) for settling the mode of payment of tolls, charges and rates levied under this Act ;
- (e) for licensing and regulating water-boats and lighters within the port ;
- (f) for the removal of wrecks from the port, and keeping clean the port, the foreshore, and the works of the board, and for preventing filth or rubbish being thrown therein or thereon ;
- (g) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

(2) The Board may also from time to time alter or revoke any bye-laws so made by them.

Approval and publication of bye-laws.

54. (1) No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the Bombay Government Gazette ; and no bye-law, or alteration or revocation of a bye-law, shall be approved by Government, until a draft of the same, and a notice specifying a date at or after which the draft will be submitted to Government, shall have been published in the Bombay Government Gazette, and in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Political Resident at Aden.

Cancellation by Government.

(2) It shall be lawful for Government at any time, by notification in the Bombay Government Gazette, to cancel any bye-law or regulation made and published under the provisions of this and of the two last preceding sections.

Penalties for infringement of bye-laws.

55. The Board may, in the bye-laws made under section 53, prescribe such penalties as they shall deem fit for the infringement of the same : Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty

Proviso.

(V.—Of the Powers and Duties of the Board. Sec. 56. VI.—Of Revenue and Expenditure. Secs. 57-58.)

exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

56. The Board shall cause the said bye-laws, and every scale of tolls, rates and charges leviable by the Board, to be printed in the English, Gujarati and Arabic languages, and to be kept hung up in some conspicuous place at each of the several wharves, quays, stages, jetties, piers, warehouses and sheds belonging to the Board.

Bye-laws and scales of rates and charges to be exhibited.

VI.—OF REVENUE AND EXPENDITURE.

Management of Funds.

57. (1) All moneys raised by or paid to the Board under this Act shall be kept in the Government Treasury at Aden [a] or in the Bank which is at the time appointed to conduct the business of Her Majesty's treasury there. [a]

Moneys where to be kept.

(2) No disbursement of such moneys or any part thereof shall be made except upon a cheque signed by the chairman and one other trustee.

How to be disbursed.

(3) Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees, if it relate to any other department, shall be made by the Board by means of a cheque signed as aforesaid and not in any other way.

(4) Payments of sums not exceeding five hundred rupees each may be made on behalf of the Board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

(5) In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the Board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favour of such officer to cover such payments.

58. The moneys belonging to the Board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely):—

Moneys on what purposes to be expended.

- (a) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys, due to the trustees, and to the officers and servants appointed under this Act, or lent to the Board by Government, and the contribution, if any, payable to Government on

[*.] These words were added by Bom. Act I of 1895, s. 4.

(VI.—Of Revenue and Expenditure. Secs. 59-60.)

account of the pension and leave allowances of any officer lent to the Board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;

- (b) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;
- [*] (c) such sums as Government may from time to time require the Board to contribute on account of expenses in connection with the harbour-police and police employed in guarding the docks, warehouses and other property of the Board and on account of medical services supplied in the port, in lieu of, or in addition to, any expenditure which Government may direct to be made from the funds or hospital port-dues, the control or application of which is, by sections 36 and 50 of the Indian Ports Act, 1889, [b] X of 1889, vested in Government;
- (d) the interest and instalments of capital due in respect of any loan that may have been raised by the Board or for which it is liable;
- (e) any charges for which the Board may be liable under section 76 or section 77;
- (f) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;
- (g) any other charge which may be specially sanctioned by Government on the application of the Board, or for which the Board may be legally liable.

Annual Estimates.

59. (1) The chairman shall, at a special meeting to be held in the month of January in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing, in such detail and form as the Board shall from time to time direct.

(2) Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

60. The Board shall consider the estimate so submitted to them, and shall sanction the same, either unaltered, or subject to such alterations as they shall think fit.

Chairman to submit an annual estimate of income and expenditure to the Board.

Board to revise and sanction the estimate.

[*] This clause was substituted for the original cl. (c) by Dom. Act I of 1895, s. 5.

[b] For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.

(VI.—Of Revenue and Expenditure. Secs. 61-65.)

61. The estimate, as sanctioned by the Board, shall be submitted, through the Political Resident at Aden, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall resubmit the estimate so amended, through the Political Resident at Aden, to the Government.

Estimate to be submitted to Governor in Council.

62. Together with the said estimate, the Board shall submit, through the Political Resident at Aden, to the Government, a list of the works which the Board propose to execute during the year to which the estimate relates, showing the order in which the said works are to be executed, and the date within which each of them will probably be completed, or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

List of works to accompany estimate.

63. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board, and submitted to the Government in the same manner as if it were an original annual estimate.

Supplementary estimates may be made when necessary.

64. (1) Save in cases of pressing emergency, no sum exceeding three thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

No expenditure above three thousand rupees to be incurred unless sanctioned in an estimate; if incurred, to be reported to Government.

(2) If any sum exceeding three thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Political Resident at Aden, to Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Audit of Accounts.

65. (1) The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

Accounts to be audited and examined.

(2) For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear

Auditors to have power to call for books, etc.

(VI.—Of Revenue and Expenditure. Sec. 66. VII.—Penalties. Secs. 67-68.)

before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Their remuneration to be fixed by Government. Their report to be published.

(3) The auditors shall be paid by the Board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have been completed, the auditors shall forward a report upon the accounts for such half-year to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the Bombay Government Gazette.

Disposal of Balances.

Balances may be invested by the Board in public securities.

66. (1) The Board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities, or credit the same to the general funds of the Board.

Amounts which may be so invested to be limited by Government.

(2) But the money so invested by the Board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government.

(3) In this section "public securities" means securities of the Government of India, and debentures or other securities issued by the Board.

VII.—PENALTIES.

For being interested in contracts with the Board.

67. (1) Any person who, being a trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code^[a]:

XLV of 1860

Proviso.

(2) Provided that nothing in this section shall apply to any person by reason only of his—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted; or
- (c) being interested in any loan of money to the Board.

For obtaining illegal gratification.

68. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code^[a], who shall accept or obtain, or agree to accept or attempt to obtain, from any person for

XLV of 1860

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(VII.—Penalties. Secs. 69-73.)

himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code [] in the case of the like offence committed by a public servant.

XLV of 1860.

69. Whoever infringes any orders issued under section 31 or 32, or any condition prescribed under section 33 or 38, shall be punished with fine which may extend to one hundred rupees, and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order is infringed.

Infringement of sections 31, 32, 33 or 38.

70. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration, when duly required so to do by any auditor of accounts under section 65, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

For refusing or neglecting to appear before an auditor of accounts, etc.

71. If it be found, when goods are imported at, or exported from, any wharf, quay, stage, jetty or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the Board, intentionally understated in any document presented to any officer of the Board for the purpose of enabling him to determine the tolls, rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper tolls, rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall, on the application of the Board, be recoverable under the warrant of a Magistrate of any class as if it were a fine inflicted by such Magistrate.

For understating quantity or weight of goods, etc.

72. Any person who removes, or attempts to remove, or abets, within the meaning of the Indian Penal Code[*], the removal of any goods, vessel, animal or vehicle with the intention of evading payments of the tolls, rates or charges lawfully payable in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

XLV of 1860.

For evading rates, etc.

73. (1) In case any damage or mischief is done to any wharf, dock, quay,

Compensation for

[*] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(VII.—Penalties. Secs. 74-75. VIII.—Control. Sec. 76.)

damage to property of board may be awarded by Magistrate after enquiry.

jetty, stage, pier or work constructed or acquired by the Board under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Board, any Magistrate of the first class having jurisdiction at Aden may, on the application of the Board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

(2) If, at the time appointed in the summons, and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Board out of the proceeds of the distress :

Proviso.

(3) Provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service, or to the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section, [a] unless such damage or mischief is in no way attributable to the order, act or improper omission of such officer [a].

Cognizance of offences.

74. (1) Except as is otherwise provided in sections 71 and 73, all offences against this Act, or against a bye-law made under section 53, shall be cognizable by a Magistrate of any class.

Disposal of fines.

(2) All fines and damages recovered from any offender or by any distress under section 73 shall be paid to the board.

Prosecutions.

75. Prosecutions under this Act may be instituted by the Board, or by any person authorized by them in this behalf, and not otherwise.

VIII.—CONTROL.

Government may order survey.

76. The Governor in Council may at any time order a survey and examination of any work of the board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the Board.

[a.] These words were added by Bom. Act I of 1895, s. 6.

(VIII.—Control. Secs. 77-80.)

77. If the Board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them, or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of the Governor in Council, Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Board.

Government may carry out neglected works.

78. (1) If, in the opinion of the Governor in Council, the execution of any order or resolution of the Board or the doing of anything which is being done, or is about to be done, by or on behalf of the Board, injuriously affects or is likely to affect the defensibility of Aden against Her Majesty's enemies, or the security or sanitary condition of the garrison, he may, by an order in writing, prohibit the execution or doing thereof.

Governor in Council may prohibit execution of orders, etc., affecting the defensibility of Aden or the security or sanitary condition of the garrison.

(2) Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the Board which appears to him, for any of the reasons aforesaid, to be open to objection.

Pending orders of Governor in Council, Political Resident may act.

79. (1) If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, the Governor in Council may require the Board, by an order in writing, to increase, subject to his sanction and to the provisions of section 40, to such extent and for such period as shall appear necessary, the tolls, rates and charges, or any of them, for the time being in force under the said section.

In default, the Governor in Council may require the Board to increase the rates, etc.,

(2) If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the Bombay Government Gazette, increase the said tolls, rates, charges or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned and published under section 40.

and, on the Board's failing to do so, may himself increase them.

80. (1) If at any time the Governor in Council is satisfied that the purposes intended to be accomplished under this Act have not been, and are not likely to be, properly accomplished by the board, the Governor in Council may, by notification in the Bombay Government Gazette, give notice that, unless within six months the Board take measures to the satisfaction of the Governor in Council for properly accomplishing such purposes, the powers by this Act

Governor in Council may revoke powers of Board.

(IX.—Miscellaneous. Secs. 82-85.)

conferred on the Board will, at the end of such period, be withdrawn and revoked.

(2) On the expiration of the period aforesaid, the Governor in Council may, if no such measures to his satisfaction have been taken by the Board, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Board shall thereupon vest in Government.

IX.—MISCELLANEOUS.

81. [*Saving of previous port regulations.*] *Repealed by Act XVI of 1895.*

Recovery of
dues as fines
under the
Code of
Criminal
Procedure.

82. All fees and sums due on account of property for the time being vested in the Board, and all arrears of tolls, charges and rates imposed under this Act, may be recovered, in addition to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the Code of Criminal Procedure, 1882 [*], for the recovery of fines.

X of 1862.

Trustees not
personally
liable.

83. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for, and chargeable with, all contracts made in manner provided in this Act.

Trustees
liable for
breach of
trust.

84. Every trustee shall be liable for any mis-application of money entrusted to the Board to which he has been a party, or which happens through, or is facilitated by, the neglect of his duty.

Limitation
of suits.

{5. (1) No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit.

Effect of
tender of
amends in
suit for
damages.

(2) And in the case of a suit for damages, if tender of sufficient amends shall have been made before the suit 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.

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888 published by the Legislative Department.

(IX.—Miscellaneous. Sec. 86. Sch. A.—Property vested in the Board.)

X of 1889.

86. (1) The Board shall not be responsible for any misfeasance, mal-feasance or non-feasance of any officer or servant appointed under this Act;

Board not responsible for certain acts of their officers and servants.

nor if they should be appointed by Government, under the Indian Ports Act, 1889 [*], Conservators of the Port, for any misfeasance, mal-feasance, or non-feasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under the authority or direction of, or in subordination to, any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board, which may be used by such vessel.

(2) Provided that nothing in this section shall protect the Board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody. Proviso.

SCHEDULE A.

(See section 25)

PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, piers, embankment, light-house, signal-stations, jetty and quay (namely):—

Consecutive Number.	Name of Property.	Heretofore in charge of—	Boundaries and general description.
1	Pilot bandar	The Political Resident at Aden.	Below Ras Morbut Fort at Steamer Point; a stone pier.
2	Port fund boat-slips.	Do . .	Adjoining the Peninsular and Oriental Company's slip at Steamer Point, consisting of stone sheds, slips and rails.
3	Post Office pier	Do . .	Opposite Post Office at Steamer Point; partly constructed of stone, and partly of screw iron piles.
4	Port fund store-rooms.	Do . .	On Government ground near the Post Office at Steamer Point; stone building.
5	Ditto	Do . .	Ditto.
6	Port magazine	Do . .	A magazine in the solid rock near the saluting battery near Ras Morbut.
7	Lascars' lines (Khalasi lines).	Do . .	In Post Office Bay.
8	Port Surgeon's jetty.	Do . .	Opposite Government tanks at Steamer Point; stone pier.

[*] The reference to Act XII of 1875 is altered in accordance with Act X of 1889, s. 2. (For Act X of 1889 see the revised edition, as modified up to 1st June, 1894, published by the Legislative Department.)

(Sch. A.—Property vested in the Board.)

Consecutive Number.	Name of Property.	Heretofore in charge of—	Boundaries and general description.
9	Government landing pier (Prince of Wales' pier).	The Political Resident at Aden.	Reclamation and iron shed, west of Government buildings at Steamer Point.
10	Boat Inspector's office and quarters.	Do . .	Under the hill opposite Prince of Wales' Pier at Steamer Point; stone house.
11	Abkârf pier and adjoining reclamation.	Do . .	Reclamation east of Government buildings at Steamer Point.
12	Government jetty.	Do . .	Near Hotel de l' Universe at Steamer Point, a small rubble stone jetty.
13	Maala pier . . .	Do . .	At Maala village; stone pier.
14	Office and godowns attached to the Maala pier.	Do . .	Adjoining Maala pier; stone buildings.
15	Marshag signal-station.	Do . .	On Ras Marshag.
16	Marshag light-house, lascars' quarters and stone rooms.	Do . .	On Ras Marshag. First order dioptric light on a stone light-house, with stone buildings attached.
17	Shum Shum signal-station.	Do . .	On Jebel Shum Shum; a flagstaff and sheds.
18	The station signal staff.	Do . .	On hillock above the Protestant Church at Steamer Point; a flagstaff.
19	Port Officer's quarters and out-houses.	Do . .	Adjoining the property of the Messageries Maritimes and the Peninsular and Oriental Company, near Steamer Point barracks; a partly stone building.
20	Pilot's quarters and out-houses.	Do . .	On Ras Morbut; kutchas houses.
21	Pier of Obstruction with a 15-ton iron crane.	Military Department.	A stone pier adjoining the Tower or Western Gate.
[*] 22	Pilots' and lascars' quarters.	Port Officer	Quarters in Pilots' Bay.
[*] 23	Crane on the Post Office pier.	Executive Engineer.	On the Post Office pier.
[*] 24	Registration of Trade House.	Registration of Trade Department.	On the Isthmus Road.
[*] 25	Look-out Station .	Port Officer .	On Ras Tarshyne.
[*] 26	The right, title and interest of the Secretary of State for India in Council in the following properties on the foreshore of the inner harbour of Aden:— (1.) In the occupation of the Peninsular and Oriental Steam Navigation Company— (a) Ground near Ras Morbut used as work yards, boatshed, etc.	The Political Resident at Aden.	At Steamer Point; bounded on the north and west by the sea; on the east by the Port Department Workshop; and on the south by the public road.

[*] These entries Nos. 22 to 26 were substituted for the original entry No. 22 by Bom. Act I of 1895, and are to be deemed always to have been so substituted—see s. 7 (i) of that Act.

(Sch. A.—Property vested in the Board.)

Consecutive Number.	Name of Property.	Heretofore in charge of—	Boundaries and general description.
No. 26— <i>contd.</i>	(b) Coal ground adjoining what was formerly the Government Coal ground.	The Political Resident at Aden.	(1) Bounded on the north and east by the sea; on the west partly by the sea and partly by Government ground; and on the south by the public road. (2) On the north by the public road, and on the east, south and west by Government ground.
	(c) Coal ground formerly in the occupation of the European and Australian Mail Company.	Do.	(1) Bounded on the north, west and south by the sea; and on the east by the public road. (2) On the west by the public road; on the south and east by Government ground; and on the north by the British India Steam Navigation Company's coal dépôt.
	(2.) In the occupation of British India Steam Navigation Company—		
	(a) Coal depôt opposite Flint Island.	Do.	(1) Bounded on the north, west and south by the sea; and on the east by the public road. (2) Bounded on the west by the public road, and on the south, east and north by Government ground.
	(3.) In the occupation of the Messageries Maritimes Company—		
	(a) Coal ground .	Do.	(1) Bounded on the south by the public road; and on the west, north and east by the sea. (2) On the north by the public road; and on the west, south and east by Government ground.
	(b) Boat-slip .	Do.	Bounded on the east by Government ground; on the west by the sea; on the south by Cowasji Dinshaw and Brothers' boat-slip; and on the north by the premises of Messrs. Luke, Thomas & Co.'s Mechanics' house.
	(4.) In the occupation of Messrs. Luke, Thomas and Company, Limited—		
	(a) Coal ground, formerly in the occupation of Mr. Edulji Maneckji.	Do.	(1) Bounded on the north, east and west by the sea; and on the south by Government ground. (2) On all sides by Government ground.

(Sch. A.—Property vested in the Board.)

Consecutive Number.	Name of Property.	Heretofore in charge of—	Boundaries and general description.
No. 26— <i>concl'd.</i>	(b) Ground used for buildings for mechanics.	The Political Resident at Aden.	Bounded on the east and south by Government ground; on the west by the Messageries Maritimes Company's boat-slip; and on the north by Mr. Cowasji Dinshaw's landing-place.
	(c) Coal depôt, Condensers and Ice Factory.	Do.	Bounded on the north and west by the sea; on the south by Mr. Cowasji Dinshaw's landing-place; and on the east by Government ground.
	(5.) In the occupation of Messrs. Hajibhoy Lalji— Coal ground	Do.	(1) Bounded on the north and east and west by the sea; and on the south by Government ground. (2) On all sides by Government ground.
	(6.) In the occupation of Messrs. Cowasji Dinshaw and Brothers— Boat-slip at Hedjuff.	Do.	Bounded on the east by the Messageries Company's boat-slip; on the south by Government ground; and on the west and north by the sea.
	(7.) In the occupation of Mr. Cowasji Dinshaw— Ground used for the landing and shipping of goods.	Do.	Bounded on the south by Messrs. Luke, Thomas and Company's Mechanics' house on the sea; on the north by Messrs. Luke, Thomas and Company's coal depôt; and on the east by Government ground.
	(8.) In the occupation of the Aden Coal Company, Limited— Coal ground	Do.	Bounded on the south by Government ground; on the west by Messrs. Luke, Thomas and Company's coal depôt; on the north by the sea; and on the east by the premises of the Aden Water Company.
	(9.) In the occupation of the Aden Water Company, Limited— Ground used for condensers.	Do.	Bounded on the west by the premises of the Aden Coal Company; on the south and east by Government ground; and on the north by the sea.
	(10.) Storage Salt Wharf.	Do.	Bounded on the west by the premises of the Aden Water Company at the Hedjuff; on the north by the sea; on the east and south by Government ground.

(Sch. A.—Property vested in the Board. Sch. B.—Receipt for Goods by the Port Trust, Aden. Sch. C.)

II.—The following vessels and boats (namely) :—

Consecutive Number.	Names, descriptions and numbers.	Heretofore in charge of—
1	Light-ship 1	The Political Resident, Aden.
2	Steam-launch <i>Rose</i> 1	Ditto.
3	No. O lighter 1	Ditto.
4	Hopper barge 1	Ditto.
5	Mud punt 1	Ditto.
6	Diver's boat 1	Ditto.
7	Cutters 2	Ditto.
8	Whale boats of sizes 4	Ditto.
9	Jollies 5	Ditto.
10	Punts 5	Ditto.
11	Canoes 2	Ditto.
12	Launch, whale, 40 feet 1	Ditto.

III.—All other lands, buildings, machinery, plant, tools and other property whatsoever, not hereinbefore particularly described, heretofore in the charge of the Port Engineer of Aden, the Master Attendant of Aden, or the Political Resident on behalf of the Aden Port Fund.

SCHEDULE B.

(See section 34.)

RECEIPT FOR GOODS BY THE PORT TRUST, ADEN.

Landed, during the day of from the , by the Port Trust, Aden, the noted in the margin; contents and state of the contents unknown.

NOTE.—(If there be any apparent injury, this is to be stated.)

For the Board,

(Signed) A. B.

The ADEN, }
 day of }

SCHEDULE C. [*]

(See section 25 (4).)

That portion of the roadway known as the Marshág Road which, commencing in Holkat Bay at a point 1,945 feet in a direct line south by west from the centre of the arch on the east side of the south Pass Gate or Draw-bridge, extends thence to a total length of 5,100 feet to the Marshág Light-house.

[*] Schedule C was added by Bom. Act I of 1895, s. 7 (2).

THE GUJARÁT TÁLUQDÁRS ACT, 1888.

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BOMBAY ACT No. VI OF 1888.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 25th March, 1889.)

An Act to provide for the Revenue Administration of Estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Páñch Maháls, and to limit the further operation of Bombay Act VI of 1862^[a].

WHEREAS it is expedient to remove doubts as to the applicability of certain portions of the Bombay Land-revenue Code, 1879 ^{Bom, V} ^{1879.} [b], to estates held by certain superior landholders in the districts of Ahmedabad, Kaira, Broach and the Páñch Maháls, and to make special provision for the revenue administration of the said estates and for the partition thereof; It is enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. (1) This Act may be cited as the Gujarát Táluqdárs' Act, 1888.
(2) It extends only to the districts of Ahmedabad, Kaira, Broach and the Páñch Maháls.

[^a] Printed in Vol. II of this Code, p. 8.

[^b] Printed in Vol. II of this Code, p. 303.

(Part I.—Preliminary. Secs. 2-3. Part II.—Survey and Settlement. Secs. 4-5.)

2. (1) In this Act, unless there be something repugnant in the subject or context,— Definitions.

(a) “tāluqdār” includes a thākur, mehwasī, kāsbatī and naik :

(b) “registered tāluqdār” means a sole tāluqdār, or the eldest or principal of several co-sharers of a tāluqdārī estate, whose name is authorizedly entered in the Government records as holding such estate, or as the representative of the several co-sharers holding the same :

(c) “jāmā” means land-revenue payable by a tāluqdār to Government ;

(d) “alienation” means a transfer of ownership and “alienee” means a person to whom ownership is transferred :

(e) “incumbrance” includes a mortgage, charge, usufructuary grant and any interest other than that of an ordinary tenant or of an alienee or tāluqdār, and “incumbrancer” means a person in whom an incumbrance vests :

(f) any word or expression which is defined in the Bombay Land-revenue Code, 1879[^a], and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Expression defined in the Bombay Land-revenue Code.

Bom. V
of 1879.

(2) In Part II, unless there be something repugnant in the subject or context, “tāluqdār” includes any class of holders of unalienated estates, upon which the land-revenue is fixed by a lump assessment, to whom the Governor in Council deems fit from time to time, by notification in the Bombay Government Gazette, to extend the provisions of the said Part. Meaning of “tāluqdār” in Part II.

3. [Repeal of part of s. 114, Bombay Act V of 1879.] Repealed by Act XVI of 1895.

PART II.

SURVEY AND SETTLEMENT.

Revenue Survey.

4. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct a revenue-survey or a revised revenue-survey of any tāluqdārī estate, under the provisions of the Bombay Land-revenue Code, 1879[^a], applicable to such surveys. Government may direct survey of a tāluqdārī estate.

Settlement Register.

5. The Settlement Register prepared by the Survey-officer under section 108 of the said Code on the occasion of making any such survey shall, unless Settlement register of a tāluq.

Bom V
of 1879.

[^a] Printed in Vol. II of the Code, p. 303.

(Part II.—Survey and Settlement. Sec. 6.)

dárf estate
what to
contain.

Government otherwise direct, contain, in lieu of the particulars specified in the said section, the following particulars (namely) :—

- (a) the area and assessment of each survey-number ;
- (b) the name of the registered tálúqdár, and, if there are co-sharers, the name of each co-sharer and the extent of each one's interest in the estate ;
- (c) if the estate is undivided,—
 - (i) the manner in which the profits derived from sources common to the co-sharers are to be distributed amongst them ;
 - (ii) the share to be contributed by each co-sharer of the jámá, of police charges, of the cost of erecting and maintaining boundary-marks, and of any other charge to which under any law for the time being in force the co-sharers are liable in common ;
 - (iii) the manner in which the co-sharers are to collect from the tenants ;
- (d) if a partition of the estate has been effected and the co-sharers hold their respective shares in severalty—
 - (i) the extent and limits of each separate share ;
 - (ii) the same particulars in respect of the several sub-sharers, if any, of each such share, as are required to be given concerning all the co-sharers when an estate is undivided ;
- (e) the name and description and the nature and extent of the interest of every alienee and of every incumbrancer of the estate or any portion thereof, together with a specification of—
 - (i) the aggregate area over which such interest extends ;
 - (ii) the amount and nature of rent, or land-revenue, if any, payable or receivable by each alienee and incumbrancer ;
 - (iii) the basis of such interest, whether grant, contract, custom or other ;
 - (iv) the conditions of service or other conditions on which such interest depends ;
 - (v) any other particulars which Government shall from time to time direct.

Determination of Disputes.

6. (1) If it appears to the Survey-officer who frames the said register that there exists any dispute as to any matter which he is bound under this Act to record therein, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the register accordingly :

Disputes
concerning
matters
which have
to be record-
ed under
section 5 to

(Part II.—Survey and Settlement: Secs. 7-9. Part III.—Partition.
Sec. 10.)

(2) Provided that, when any such dispute shall appear to the Survey-officer to have been already finally decided by a Court of competent jurisdiction, the entry in the said register shall be made in conformity with such decision.

be determined by Survey-officer.

Custody and Amendment of Records.

7. (1) When the survey-settlement of a tāluqdārī estate is completed, the said register and the other records thereof shall be kept by the Collector, and every registered tāluqdār shall be entitled to receive one copy of the register free of any charge except the cost of copying.

Settlement-records by whom to be kept; and

(2) So long as the said register and other records are in the charge of the Survey-officer, the said officer, and afterwards the Collector, shall cause to be entered therein all changes that occur, and every thing that affects any of the rights or interests therein recorded; and shall at any time correct or cause to be corrected any clerical error therein and also any other error which all the parties interested admit to have been made in the same.

to be from time to time corrected.

8. (1) No suit shall lie against Government or against any officer of Government to set aside any decision or order of a Survey-officer or of a Collector under section 6 or 7.

Bar of suits against Government, etc. to set aside decisions under section 6 or 7; but effect to be given to decrees obtained by parties *inter se*.

(2) But the said register and other records shall from time to time be amended by the Survey-officer, or, when the survey-settlement is completed, by the Collector, in accordance with any final decree of a Court of competent jurisdiction which the parties may obtain *inter se*, on an application accompanied by a certified copy of such decree, being duly made to the Survey-officer or Collector for that purpose.

(3) In any suit in a Civil Court between the parties or persons claiming under them, a decision or order of a Survey-officer or Collector under section 6 or 7 shall not be held to be conclusive as to any matter therein decided.

9. Every change in the said register and other records shall be communicated without delay by the officer making it to each of the parties affected thereby.

Changes in records to be communicated to parties affected thereby.

PART III.

PARTITION.

10. (1) Every person who has obtained a final decree of a Court of competent jurisdiction declaring him to be entitled to a share of a tāluqdārī

Persons entitled to partition.

(Part III.--Partition. Secs. 11-15.)

estate and every co-sharer whose name is recorded, as such, in the settlement-register prepared in accordance with section 5 and, pending the preparation of the said register, every person whose title to any such share as aforesaid is not disputed by any other person claiming a share in the same estate, shall be entitled to have his share divided from the rest of the estate and to hold the same as a separate estate.

(2) Any two or more such co-sharers or persons shall be entitled to have their shares divided from the rest of the estate and to hold the same jointly as a separate estate.

Applica-
tions for
partition to
whom to be
made.

11. Applications for partition shall be made to the Tálúqdári Settlement-officer or to such other officer as the Governor in Council appoints in this behalf.

Notification
of applica-
tion.

12. (1) The Tálúqdári Settlement-officer, or other officer aforesaid, on receiving an application for partition, shall, if the application be not open to objection on the face of it, publish a notification of the same in the office of the Mámílatdár of the tálúqá and at some conspicuous place in the village in which the estate to which the application relates is situate or in each of the villages comprised in the said estate, as the case may be.

Notice to
co-sharers
not joining
in the appli-
cation.

(2) He shall also serve a notice on each of the known co-sharers who has not joined in the application, requiring any of them who objects to the partition to appear before him to state his objection either in person or by a duly authorized agent, on a day to be specified in the notice, not less than thirty or more than sixty days from the date on which such notice is issued.

Procedure
where
notice can-
not be per-
sonally
served on
co-sharer.

13. Where, from any cause, notice cannot be personally served on any co-sharer, the Tálúqdári Settlement-officer or other officer aforesaid shall order the same to be served by affixing a copy thereof upon some conspicuous part of the house, if any, in which such co-sharer is known to have last resided, or in such other manner as the Tálúqdári Settlement-officer or other officer aforesaid thinks fit.

Power to
refuse par-
tition when
objection is
admitted.

14. If, on or before the day specified, any objection is made to the partition by any sharer, and the Tálúqdári Settlement-officer or other officer aforesaid, on a consideration of such objection, is of opinion that there is any good and sufficient reason why the partition should be disallowed, he may refuse the application, recording the grounds of his refusal.

Procedure
if question
of title is
raised.

15. (1) If the objection raises any question as to the right of the applicant to partition or any other question of title which has not been already determined by a Court of competent jurisdiction, the Tálúqdári Settlement-officer or other officer aforesaid may either decline to grant the application

(Part III.—Partition. Secs. 16-17.)

until the question in dispute has been determined by a competent Court, or, if no suit is at the time pending in any such Court in which the question is likely to be determined, may proceed to inquire into the merits of the objection.

(2) In the latter case, the Tāluqdārī Settlement-officer or other officer aforesaid, after making the necessary inquiry and taking such evidence as may be adduced, shall pass a decision declaring the nature and extent of the interests of the party or parties applying for the partition and of the other co-sharers of the estate, if any, and directing by whom and in what proportion the costs of the inquiry and of the partition (which shall be recoverable as an arrear of land-revenue) are to be paid.

Decision when and how to be made by Tāluqdārī Settlement-officer or officer appointed by Government.

XIV of 1882.

(3) The procedure to be observed by the Tāluqdārī Settlement-officer or other officer aforesaid in any such inquiry shall be that laid down by the Code of Civil Procedure, 1882[*], for the trial of original suits, and the provisions of Chapter XLVII of that Code, in so far as they apply to a review of judgment in an original suit, shall be applicable to the decision of the Tāluqdārī Settlement-officer or other officer aforesaid. The Tāluqdārī Settlement-officer or other officer aforesaid may, with the consent of the parties, refer any question arising in such inquiry to arbitration, and the provisions of the same Code relative to arbitrators shall apply to such references.

Procedure previous to decision.

16. (1) An appeal shall lie from any decision, or from any part of a decision, passed under the last preceding section by the Tāluqdārī Settlement-officer or other officer aforesaid, to the District Court, as if such decision were a decree of a Court from whose decisions the District Court is authorized to hear appeals.

District Court may hear appeal from Tāluqdārī Settlement-officer's or other officer's decision,

(2) Upon such appeal being made, the District Court may issue a precept to the Tāluqdārī Settlement-officer or other officer aforesaid, requiring him to stay the partition pending the decision of the appeal.

and may stay partition.

17. (1) When it has been decided to make a partition, the Tāluqdārī Settlement-officer or other officer aforesaid shall give the parties the option of making the partition themselves; in the event of their not agreeing or of their failing to make the partition, within a period prescribed by the Tāluqdārī Settlement-officer or the officer aforesaid in this behalf, the Tāluqdārī Settlement-officer or other officer aforesaid shall either make it himself or, if he thinks fit, shall entrust it to arbitrators appointed for this purpose by the parties.

Partition how to be effected.

[*] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1898, published by the Legislative Department.

(Part III.—Partition. Secs. 18-20.)

(2) In making the partition, the Tálúqdári Settlement-officer or other officer aforesaid and any person acting under his orders shall have the same powers to enter on the estate under partition, for marking out the boundaries, surveying the land and other purposes as are conferred on Survey-officers by the Bombay Land-revenue Code, 1879[*].

Bom. V
of 1879.

When partition is complete, order to be made confirming it. Notification of order.

18. (1) When a partition is completed the Tálúqdári Settlement-officer or other officer aforesaid shall make an order confirming it.

Partition when to take effect.

(2) On making such order the Tálúqdári Settlement-officer or other officer aforesaid shall publish a notification of the fact in the office of the Mámldár of the tálúqá and at some conspicuous place in the village in which the estate which has been divided is situate, or in each of the villages comprised in the said estate, as the case may be; and the partition shall take effect on and from the first day of June next after the date of such notification, or such other date next after the date of such notification between the first day of June and the first day of October as the Tálúqdári Settlement-officer or other officer aforesaid, having regard to the usual season of cultivation in the said estate, shall fix in this behalf.

Delivery of possession.

19. (1) If necessary, the Tálúqdári Settlement-officer or other officer aforesaid may, at any time after the date aforesaid, order delivery of the share, or any portion of the share, allotted to any co-sharer to be made to him in the manner in which delivery of the same might be ordered by a Civil Court, under the Code of Civil Procedure, 1882[b], in execution of a decree.

XIV of 1882

Resistance or obstruction how to be dealt with.

(2) If, in executing the order of the Tálúqdári Settlement-officer or other officer aforesaid, the officer charged with the execution thereof is resisted or obstructed by any person, or if a co-sharer is resisted or obstructed in obtaining possession of the share or of any portion of the share allotted to him, the Tálúqdári Settlement-officer or other officer aforesaid shall proceed in the manner in which, by section 202 of the Bombay Land-revenue Code, 1879[*], a Collector is authorized to proceed for the purpose of inquiring into the reasonableness of any resistance or obstruction to the execution of an order made under that section and of preventing the continuance thereof.

Bom. V
of 1879.

Appeals against order confirming partition to the Commissioner.

20. An appeal against the decision of the Tálúqdári Settlement-officer or other officer aforesaid confirming a partition shall lie to the Commissioner within one year from the date of the order confirming such partition.

[*] Printed in Vol. II of this Code, p. 303.

[b] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

(Part III.—Partition. Sec. 21. Part IV.—Revenue Administration. Secs. 22-24.)

21. No Civil Court shall entertain any suit or application for partition of a tálúqdári estate: Provided that nothing in this section shall be deemed to affect the jurisdiction of Her Majesty's High Court of Judicature at Bombay.

Civil Courts barred from entertaining suits or applications for partition.

PART IV.

REVENUE ADMINISTRATION.

The Tálúqdár's Jámá.

22. (1) If a tálúqdár's estate, or any portion thereof, is not wholly or partially exempt from land-revenue and its liability to payment of land-revenue is not subject to special conditions or restrictions, the jámá payable to Government in respect of such estate or portion thereof shall, if a survey-settlement has been extended thereto, be the aggregate of the survey-assessments of the lands composing such estate or such portion thereof, minus such deduction, if any, as Government shall in each case direct.

Tálúqdár's jámá how to be calculated.

(2) The Governor in Council may declare the amount of jámá so ascertained fixed for any term not exceeding thirty years.

23. (1) Nothing in this Act shall be deemed to affect the validity of any agreement heretofore entered into by or with a tálúqdár and still in force as to the amount of his jámá, nor of any settlement of the amount of jámá made by or under the orders of Government for a term of years and still in force.

Saving of existing agreements and settlements as to amount of jámá.

(2) Every such agreement and settlement shall have effect as if this Act had not been passed.

24. (1) The registered tálúqdár shall be primarily responsible to Government for the jámá of his village, and, if there are sharers, all the co-sharers shall be jointly and severally responsible therefor.

Responsibility for jámá.

(2) If the registered tálúqdár fails to pay the jámá according to the rules legally prescribed in that behalf, it may be recovered from his co-sharers, if any, or to the extent to which it is due in respect of the holding of any mortgagee in possession, inferior holder or person in actual occupation of the estate or of any portion thereof, from such mortgagee in possession, inferior holder or person.

Liability of other persons if tálúqdár makes default.

(3) When jámá is recovered from any such co-sharer, mortgagee in possession, inferior holder or other person, he shall be allowed credit for all payments which he may have made to the tálúqdár at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the tálúqdár for the amount recovered from him.

Credit to be allowed for recoveries made from other persons.

(Part IV.—Revenue Administration. Secs. 25-28.)

Distribu-
tion of jámá
in case of
partition.

25. (1) When a partition has taken place and a tálúqdári estate is held in severalty, the jámá payable in respect of each separate portion into which the same has been divided shall be determined by the Collector, and thereupon each such portion shall for the purposes of the last preceding section be deemed to be a distinct estate :

(2) Provided that the aggregate jámá payable in respect of the several portions into which the estate has been divided shall not exceed the jámá which would be leviable from the entire estate if still undivided.

Management of Tálúqdárs' Estates by Government Officers.

Manage-
ment of
tálúqdári
estate may
be assumed
by Collec-
tor in cer-
tain contin-
gencies.

26. (1) If owing to disputes among the sharers in any tálúqdári estate, or for other cause, the Governor in Council shall deem that there is reason to apprehend danger to the peace of the country or injury to the well-being of the inferior holders, he may direct the Collector to cause such estate to be attached and taken under the management of himself or any agent whom he appoints for this purpose ; and, on the application of any registered tálúqdár or co-sharer, the Collector shall furnish him with a copy of the reasons on which the orders of Government were passed.

(2) When any estate is so attached and taken under management, the sharers, or any one or more of the sharers therein, may at any time apply to the District Magistrate to restore the management thereof ; and, if the applicants shall prove to the satisfaction of the District Magistrate that no reason for any such apprehension as aforesaid any longer exists, the District Magistrate may order restoration of the management to the made to the tálúqdár.

Power to
take up
manage-
ment of
estate
pending
partition.

27. (1) With the sanction of the Commissioner, the Tálúqdári Settlement-officer or other officer appointed by Government may hold the estate in which partition is being effected under his own management, pending the completion of the partition :

(2) Provided that, before applying to the Commissioner for sanction under this section, the Tálúqdári Settlement-officer or other officer aforesaid shall give to the parties reasonable notice of his intention so to do, and shall forward, with his application, for the Commissioner's consideration, any written statement of objection thereto which any of the parties shall present to him for this purpose.

Power to
take up
manage-
ment of

28. With the sanction of Government, the Tálúqdári Settlement-officer or any other officer appointed by Government for this purpose may, upon the written application of a tálúqdár in this behalf, take charge of such tálúqdárs'

(Part IV.—Revenue Administration. Secs. 29-50.)

estate and keep the same under his management for such period as may be agreed upon between the tāluqdār and the Tāluqdārī Settlement-officer or other officer aforesaid : Provided that no such application shall be entertained in respect of an undivided share of a tāluqdārī estate nor, except with the consent of all the co-sharers, in respect of an estate which is held by co-sharers.

estate at tāluqdār's request.

29. (1) When any tāluqdārī estate is taken under management by Government officers under any of the three last preceding sections, the provisions of section 160 of the Bombay Land-revenue Code, 1879 [*], shall be applicable thereto :

Applicability of section 160 of Bombay Act V of 1879 when an estate is taken under management by a Government officer.

(2) Provided that no sale of occupancy-rights or agreement entered into by a Government officer managing an estate under section 26, in respect of any land in such estate, shall be for a period exceeding five years from the date thereof, and that no such sale of occupancy-rights or agreement by a Government officer managing an estate under section 27 shall have effect beyond the end of the revenue-year in which such officer's management determines, unless the same is ratified by the co-sharer to whose share the said land is finally allotted when the partition of the estate is completed.

(3) All surplus receipts, if any, which accrue during such management, after defraying the costs of the management, including the payment of the current land-revenue and of all arrears thereof, and the cost of the extension to the estate of a revenue-survey, if the Governor in Council directs, or has before directed, the extension of a revenue-survey thereto under section 4, shall be divided amongst the co-sharers in proportion to their respective shares, at such periods as the Tāluqdārī Settlement-officer or other officer aforesaid shall see fit.

Disposal of surplus receipts.

Police-officers and Establishment.

30. (1) The Governor in Council may from time to time determine —

Government to fix the number and remuneration of police.

- (a) what Police-officers and establishment are requisite in each village in a tāluqdārī estate ;
- (b) by whom and under what conditions the Police-officers and establishment shall be appointed, punished and dismissed ;
- (c) what remuneration shall be paid to each Police-officer and member of the police-establishment.

(2) Charges on account of police shall be defrayed by the tāluqdār at such times as shall from time to time be determined by Government, and in

Police-charges how recoverable.

[*] Printed in Vol. II of this Code, p. 303.

Bom. V of 1879.

(Part V.—Miscellaneous. Secs. 31-32)

the event of failure by the tāluqdār to pay, at the time when the same becomes due, any sum so payable, the said sum shall be recoverable from him, in addition to the jāmá, as if the same were a part of the jāmá.

(3) If a partition has taken place and the estate is held in severalty, the said charges shall be payable by and recoverable from the holders of the various portions into which the estate has been divided in proportion to their respective shares in the estate.

PART V.

MISCELLANEOUS.

31. (1) No incumbrance on a tāluqdār's estate, or on any portion thereof, made by the tāluqdār after this Act comes into force, shall be valid as to any time beyond such tāluqdār's natural life, unless such incumbrance is made with the previous written consent of the Tāluqdārí Settlement-officer, or of some other officer appointed by the Governor in Council in this behalf.

Bar of incumbrances on a tāluqdār's estates beyond tāluqdār's own life, except with consent of the Tāluqdārí Settlement-officer ;

and of all alienations, except with consent of Governor in Council.

(2) No alienation of a tāluqdār's estate or of any portion thereof, or of any share or interest therein, made after this Act comes into force, shall be valid, unless such alienation is made with the previous sanction of the Governor in Council, which sanction shall not be given except upon the condition that the entire responsibility for the portion of the jāmá and of the village expenses and police-charges due in respect of the alienated area shall thenceforward vest in the alienee and not in the tāluqdār.

Saving of rights of Government under section 3, Bombay Act VII of 1863.

32. (1) No consent or sanction given under the last preceding section shall be deemed to affect any right of Government under section 3 of Bombay Act VII of 1863 [a] (*an Act for the Summary Settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of Act XI of 1852 of the Council of India*).

Saving of sections 28 and 24 of Act XXI of 1881.

(2) And nothing in the last preceding section shall apply to the property of any thákur to which section 28 of the Broach and Kaira Encumbered Estates Act, 1881 [b], is applicable, or be deemed to affect the power of XXI of 1881.

[a] Printed in Vol. II of this Code, p. 65.

[b] Printed in Vol. I of this Code, p. 220.

the manager of any thákur's immoveable property under section 24 of the said Act.

33. (1) Nothing in sections 38 to 40, both inclusive, 44, 60 to 67, both inclusive, 76, 82, 85, 109, 110, 116, 127 to 136, both inclusive, 163, 216 and 217 of the Bombay Land-revenue Code, 1879 [*], shall be deemed to apply to any estate to which this Act extends.

Applicability of the Land-revenue Code to tálúqdárs' estates.

Bom. V of 1879.

(2) The provisions of the said Code when applied to any such estate shall be subject to the following modifications (namely) :—

- (a) in section 3, clause (1), the words "the Tálúqdári Settlement-officer and every officer appointed by the Governor in Council to exercise any power or perform any duty under the Gujarát Tálúqdárs Act, 1888, and" shall be inserted after the word "means";
- (b) in section 54, the words "or under the Gujarát Tálúqdárs Act, 1888," shall be inserted after the figures "136";
- (c) in sections 46, 88, 89 and 94, the word "tálúqdár" shall be substituted for the words "holder of alienated lands" and the word "holder" wherever they occur;
- (d) in section 88, the clauses (c) to (f) and the proviso shall be omitted;
- (e) for section 111 the following section shall be deemed to be substituted,

viz. :—

"111. In the event of any tálúqdár's estate coming under the temporary management of Government officers, it shall be lawful for the Collector, Tálúqdári Settlement-officer, or other officer appointed by Government in this behalf, subject, in any case to which it applies, to the proviso to section 29 of the Gujarát Tálúqdárs Act, 1888, to let out the lands thereof at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands not comprised within a tálúqdár's estate, so far as such rules may be applicable and for so long as the said estate shall be under the management of Government officers :

Revenue management of tálúqdári estates which may be temporarily under Government management.

[*] Printed in Vol. II of this Code, p. 303.

Provided, however, that any written agreements relating to the land made by the tálúqdár of such estate shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land; and provided also that, when the estate ceases to be under the management of Government officers, the possession and enjoyment thereof shall, except as is otherwise provided in section 29 of the Gujarát Tálúqdárs Act, 1888, revert to the tálúqdár, subject to the leases and occupancy-rights, if any, granted under this section”;

- (f) in section 113, clause (3) shall be omitted;
- (g) in section 147, the words “or under the Gujarát Tálúqdárs Act, 1888,” shall be inserted after the word “section”;
- (h) in section 150, clause (f), the word “alienated” shall be omitted;
- (j) in section 160, the word “be” shall be substituted for the words “revert to Government”;
- (k) in section 162, the words “at any time within twelve years from the first day of August next after the attachment” shall be omitted;
- (l) in section 214, clause (f) shall be omitted;
- (m) generally, the word “tálúqdár” shall be substituted for the word “occupant”; the words “registered tálúqdár” for the words “registered occupant”; and the words “tálúqdár’s holding,” or such words to that effect as may be required by the context, for the word “occupancy”.

And whereas it is also expedient to limit the period within which fresh estates may be subjected to the operation of Bombay Act VI of 1862 [a] (*an Act for the amelioration of the condition of Tálúqdárs in the Ahmedabad Collectorate and for their relief from debt*); It is further enacted as follows:—

34. No new declaration shall be made under section 1 of the said Bombay Act VI of 1862 [a] at any time after six months from the date on which this Act comes into force.

THE BOMBAY VILLAGE SANITATION ACT, 1889.

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(Part I.—Preliminary. Secs. 1-5.)

BOMBAY ACT No. I OF 1889.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 23rd May, 1890.)

The Bombay Village Sanitation Act, 1889.

WHEREAS, for the purpose of improving the sanitary condition of villages in the Presidency of Bombay, it is expedient to provide for the constitution of Sanitary Committees and Boards having authority over such villages; It is enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the Bombay Village Sanitation Act, 1889. Short title.
2. It is applicable to the whole of the Presidency of Bombay, except the City of Bombay, Aden and its dependencies, Perim, and the scheduled district of the Mehwassí Chiefs' villages, as defined in the Scheduled Districts Act, 1874 [a]. Extent.
3. During such time as Part II or Part III and the rules made thereunder shall be in force in any village, the enactments mentioned in the schedule shall, to the extent specified in the third column of the schedule, cease to have any operation in the said village. Repeal of enactments.
4. In this Act, unless there be something repugnant in the subject or context— Definitions.
 - (a) "village" means the site of a village or town, determined for the time being as under section 126 of the Bombay Land-revenue Code, 1879 [b], together with the area included within a distance of a quarter of a mile from any part of such site, in so far as such site or area is not included within a permanent municipal district or a military cantonment;
 - (b) "prescribed" means prescribed by a rule made under this Act;
 - (c) "chávdí" means, in any village in which there is no chávdí, such place as the Collector directs shall be deemed to be the chávdí for the purposes of this Act.
5. (1) Part II shall come into force in any village to which the Collector extends the same, under the power hereinafter conferred upon him in this Operation of Parts II, III and IV.

XIV of 1874.

Bom. V of 1879.

[a] For Act XIV of 1874 see the revised edition, as modified up to 1st October, 1895, published by the Legislative Department.

[b] Printed in Vol. II of this Code, p. 803.

(Part I.—Preliminary. Sec. 6.)

behalf, from such date as the Collector shall direct, and shall continue in force, when so extended, until the Governor in Council directs by notification in the Bombay Government Gazette that it shall cease to have operation in such village, or extends Part III to such village.

(2) Part III shall come into force in any village to which the Governor in Council extends the same, under the power hereinafter conferred upon him in this behalf, from such date as is directed in this behalf by the Governor in Council, and shall continue in force, when so extended, until the Governor in Council directs by notification in the Bombay Government Gazette that it shall cease to have operation in such village.

(3) Part IV shall have operation, as far as its provisions apply, in and in respect of every village in which either Part II or Part III is in force.

Part II how
to be extend-
ed to a vil-
lage.

6. (1) Subject to the control of the Commissioner and of Government, the Collector may at any time extend Part II to any village in his district in which Part III is not in force.

(2) For the purpose of extending Part II to any such village, the Collector shall cause to be published by posting up copies thereof in conspicuous places in his own office and in the office of the Mámílatdár and of the Maháلكarí within whose táluqá or mahal the said village is situate and in the chávdfí or some other public building in the said village, a proclamation in the language of the district directing that, unless a proclamation be thereafter issued by him to the contrary, Part II shall extend to the said village on and from a date to be specified in the proclamation, which shall not be less than two months after that on which the proclamation is posted up in the village, and stating that any objection which any inhabitant of the village may desire to make to the said extension will, if submitted to the Collector not later than one month before the said specified date, be received and considered.

(3) If, after considering any objections which may have been made as aforesaid, the Collector shall be of opinion that good cause exists for not extending Part II to the village or for not extending it thereto immediately, he may, by proclamation published as aforesaid—

(a) cancel his previous proclamation ; or

(b) suspend the extension of Part II to the said village for a specified period.

(4) If the Collector suspends the extension of Part II to the village for a specified period, he may thereafter, by proclamation published as aforesaid—

(c) at any time abandon the proposed extension ; or

(d) from time to time defer the extension for a further specified period.

(Part I.—Preliminary. Sec. 7. Part II.—Sanitary Committees. Sec. 8.)

7. (1) The Governor in Council may at any time extend Part III to any village in any part of the Presidency to which this Act is applicable, whether Part II is at the time in force in such village or not. Such extension to a village where Part II is in force shall cause Part II to cease to operate therein.

Part III how to be extended to a village.

(2) For the purpose of extending Part III to any such village, the Governor in Council shall, by notification in the Bombay Government Gazette, direct that, unless a notification be thereafter issued by him to the contrary, Part III shall extend to the said village on and from a date to be specified in the notification, which shall not be less than three months from the date of the notification, and stating that any objection which any inhabitant of the village may desire to make to the said extension will, if submitted to a Secretary to Government or to the Collector, not later than one month before the said specified date, be received and considered.

(3) If, after considering any objections, which may have been made as aforesaid, Government shall be of opinion that good cause exists for not extending Part III to the village or for not extending it thereto immediately, it may, by notification in the Bombay Government Gazette, exercise the like powers with respect to the extension of the said Part as the Collector is authorized to exercise, with respect to Part II by sub-sections (3) and (4) of section 6.

(4) Translations in the language of the district of every notification issued by Government under this section shall be published by the Collector, without delay, in the manner prescribed in sub-section (2) of section 6 for the publication of a proclamation issued by himself.

PART II.

SANITARY COMMITTEES.

8. (1) There shall be a Sanitary Committee in every village to which this Part is extended. The said committee shall consist of three or more adult house-holders, residents of the village, chosen, with their own consent, by the Collector, of whom the police patel shall be one, unless the Collector for reasons recorded in writing in any particular case determines otherwise. For the purpose of aiding him in his choice, the Collector may, in his discretion, procure the nomination or election, by the house-holders of the village, of qualified persons, in such mode as he shall deem expedient.

Each village to have a Sanitary Committee.

(2) The chairman of the said committee shall be nominated by the Collector.

(Part II.—Sanitary Committees. Secs. 9-12.)

(3) The chairman and other members of the committee shall hold office for the prescribed period.

Record of
Committee's
proceedings.

9. The proceedings of the Sanitary Committee shall be recorded in the prescribed manner (or, until rules are made under section 11, in such manner as the Collector by written order directs), by the village-accountant or such other person as the Collector appoints in this behalf, and, in the absence of the village-accountant or person so appointed, by such other person as the Committee may employ for this purpose; and the said record shall be verified by the signature of the chairman or of some other member of the Committee authorized by the Committee in that behalf, below each day's proceedings.

Magistrates
having
jurisdiction
in the vil-
lage may
take part in
Committee's
proceed-
ings.

10. Every Magistrate having jurisdiction in the village may take part in the proceedings of the committee at any meeting thereof at which he is present, and such Magistrate or, if there be more than one, the highest in magisterial rank of such Magistrates shall for this purpose be deemed to be a member and president of the committee for the occasion.

Sanitary
Committee
to make vil-
lage-rules.

11. The Sanitary Committee may from time to time make rules, and repeal or vary the same, with the approval of the Collector—

- (a) for regulating the terms of office of its members and its proceedings;
- (b) for determining the manner in which its proceedings shall be recorded;
- (c) for procuring and preserving for the use of the village an adequate supply of pure potable water;
- (d) for the cleansing of the streets and open spaces of the village;
- (e) for preventing accumulations of offensive and noxious matter in the village;
- (f) for preventing nuisances and indecent or insanitary acts or omissions in the village; and
- (g) generally for giving effect in the village to the purposes of this Act.

Provisions
concerning
the making
of rules.

12. (1) For not less than three months before any rule which it is proposed to make under section 11 is to come into force, the Committee shall exhibit a copy thereof at the chavdi or some other public building in the village, and there shall be affixed to such copy a notice that objections thereto made in writing to the Collector not later than one month before the date fixed for their coming into force—which date shall be specified—will be received and considered.

(2) Any objections so made shall be considered by the Collector, in conference with the committee. If, on such consideration, it shall seem desirable to

(Part II.—Sanitary Committees. Secs. 13-15.)

alter or withdraw the proposed rule, such alteration or withdrawal shall be effected by a notice exhibited as aforesaid. If the Collector deems it expedient to suspend the operation of a rule, it may be suspended for a specified period by a notice exhibited as aforesaid, which shall state that objections thereto, made as aforesaid not later than one month before the expiry of the said period will be received and considered. Any objection so made shall be considered as aforesaid, and, if it then seems desirable to alter or withdraw the rule, the same shall be notified as aforesaid.

(3) Subject to the provisions of sub-section (2), every rule made by the committee, with the approval of the Collector and notified as aforesaid, shall come into force on the day notified in this behalf.

13. Whenever it shall come to the notice or knowledge of the Sanitary Committee that any person in the village has apparently committed or is accused of having committed a breach of any rule made by the committee under section 11, such committee may, by notice in writing, require such person's attendance before the committee.

Prosecution of offenders against the rules.

14. (1) All offences against the rules made by the committee under section 11 shall be cognizable by the committee.

Cognizance by the committee of offences against the rules.

(2) For the purpose of exercising this jurisdiction, the committee shall assemble as often as shall be necessary or as the Magistrate of the district shall direct at the chāvdi or some other convenient place within the village or near thereto.

(3) The Committee shall in the presence of the accused person, or if notwithstanding the service of a notice upon the said person as aforesaid he fails to appear, then in his absence, take evidence as to the alleged offence and any evidence produced by the said person in his defence, and shall thereupon either acquit or convict the accused person and, if he is convicted, may sentence him to such punishment authorized by this Act or by the rules as it thinks reasonable.

15. (1) A person convicted by the committee may, at any time within ten days after sentence is passed against him, appeal to the Magistrate of the district or other Magistrate vested under the Code of Criminal Procedure [*] with appellate jurisdiction over the place where the sentence is passed, or to such other Magistrate, not being a member of such committee, as the Magistrate of the district may, subject to the orders of Government from time to time, appoint in this behalf.

Appeals against the committee's decisions.

(2) If such person gives notice of his intention to appeal and deposits with an officer appointed by the Magistrate of the district in this behalf the

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Part II.—Sanitary Committees. Secs. 16-18.)

amount of the fine inflicted upon him, execution of the sentence shall be suspended until the lapse of ten days from the date of the sentence, or, if an appeal is made, until it is disposed of. If within ten days no appeal is made, the sum deposited shall be appropriated to payment of the fine inflicted.

(3) The Magistrate who hears the appeal may confirm, reverse or modify the decision of the Sanitary Committee and may pass any order as to punishment which it was competent to the committee to pass. His order shall be enforced in like manner as one made by the Sanitary Committee.

(4) The said Magistrate may suspend execution of the sentence pending disposal of the appeal when such suspension shall appear to him necessary or expedient, on such terms as shall seem reasonable.

Sanitary
Committee
may author-
ize expen-
diture for
necessary
works or
measures.

16. For the purpose of providing for the village an adequate supply of pure potable water, of cleansing the streets and open spaces thereof, of removing offensive and noxious matter therefrom and for other purposes conducive to the health and comfort of the inhabitants of the village, the Sanitary Committee may utilize, as far as available, the voluntary labour of inhabitants of the village and the services of village servants placed at its command under section 42; and, when these means are insufficient, may from time to time, with the approval of the Collector, employ such servants, enter into such contracts, make such deductions and allowances from any rate leviable under its authority, and may authorize the expenditure by the Collector or under his control, of such sums of money as shall be necessary and reasonable, for the purpose aforesaid.

Voluntary
subscriptions
may be raised
for such
works or
measures.

17. The inhabitants of the village may by voluntary subscription raise any sum of money for any of the purposes aforesaid, and such sum may be paid to the Mámílatdár or other officer appointed by the Collector in that behalf, and shall by him be placed to the credit of an account which he shall keep in the name of the Sanitary Committee, for the defrayal of charges incurred under this Act for the purpose for which the subscription was raised.

Necessary
moneys for
expenditure
may be
raised by a
rate on the
inhabitants.

18. (1) If any sum of money of which the expenditure is authorized by the committee is not raised by voluntary subscription and is not available from any other source, the same may be recovered by a rate charged on the inhabitants of the village and assessed by the Collector, in conference with the Sanitary Committee:

(2) Provided that the aggregate amount to be so charged in any year, on the inhabitants of any village, shall not exceed one-half of the aggregate amount leviable in that year as local fund cess from the inhabitants of such village.

(Part III.—Sanitary Boards. Secs. 19-21.)

(3) It shall be lawful for the Sanitary Committee, out of any unappropriated balance of money standing to its credit under the provisions hereinafter enacted, to make such contribution, on such terms as it shall deem expedient, to the cost of any work under construction by a Local Board, in fulfilment of the duties imposed on it by section 30, clauses (c), (e) and (f), of Bombay Act I of 1884 [*].

PART III.

SANITARY BOARDS.

19. (1) There shall be a Sanitary Board in every village to which this Part is extended, or one such board for a group of two or more such villages, as Government may direct. Each such board shall consist of such number of persons appointed by the Collector as Government directs, the said persons being residents within or near to the area which is to be subject to the board's authority and having property therein, and shall ordinarily include the police patels. For the purpose of aiding him in his choice, the Collector may in his discretion obtain the nomination or election of qualified persons, from amongst whom he will select all or some of the members, according to such mode and local distribution as shall seem expedient.

Constitution of Sanitary Boards.

(2) Each meeting of such board shall be presided over by the Magistrate of highest rank present thereat who is a member, or, in the absence of any such Magistrate, by such member as the Collector, subject to the orders of Government, appoints to be the president of the board. In the absence of any Magistrate and of the president, a meeting of the board shall be presided over by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(3) The president and members of the board shall hold office for the prescribed period.

20. The Sanitary Board may from time to time make rules, with the approval of the Collector, and, save as hereinafter provided, shall discharge functions and exercise authority for the area subject to its authority in respect of the same matters, in the same manner, and subject to like provisions, restrictions and conditions as are hereinbefore enacted in the case of a Sanitary Committee.

Sanitary Board may make rules.

21. (1) The Collector may, subject to the orders of Government, from

Appointment

(Part III.—Sanitary Boards. Secs. 22-25.)

of Sanitary
Inspector
and other
officers.

time to time appoint a Sanitary Inspector for any area or any part of the area subject to the authority of a sanitary board, and also such other subordinates as shall appear necessary, and determine the amount of salary to be paid to each of such officers. He may also dismiss or suspend the said officers.

(2) Such Sanitary Inspector may be a person employed by the Táluqá or District Local Board having authority at the place. He may be employed by or on behalf of two or more Sanitary Boards.

Duties of
the Sani-
tary In-
spector.

22. (1) The Sanitary Inspector shall take measures for preventing breaches of the rules in force in the area for which he is appointed, by, from time to time—

- (a) posting up and otherwise publishing a general admonition respecting the observance of the said rules ; or
- (b) admonishing any person whom he finds offending against any of the said rules ; or
- (c) summoning to appear before the Sanitary Board any person who, from his own observation or from reports made to him by his subordinates, he has reason to think should be prosecuted for offending against any of the said rules.

(2) The Sanitary Inspector shall make such reports and be in such relation to the Sanitary Commissioner, consistent with the duties and obligations imposed on him by this Act or arising out of his position as a servant of a Local or Sanitary Board, as Government may prescribe.

Prosecutions
at instance
of the Board
for breaches
of rules.

23. The Board may also by notice in writing require the attendance before the Board of any person who is accused of having committed, or who, to the knowledge of the Board, has apparently committed, a breach of any rule made by the Board under section 20.

Cognizance
by the Board
of offences
against the
rules.

24. (1) All offences against the rules made by the Board under section 20 shall be cognizable by the Board, who, for the purpose of exercising this jurisdiction, shall assemble, as often as shall be necessary or as the Magistrate of the district shall direct, at some convenient place within or near to the area subject to its authority.

(2) The provisions of sub-section (3) of section 14 and of section 15 shall apply, as nearly as may be, to the hearing and decision of cases under this section by a Sanitary Board and to appeals by persons convicted by such Board.

Sanitary
Board's
orders by
whom to be
carried out.

25. (1) The orders of every Sanitary Board shall be carried out and its orders and proceedings shall be recorded in the prescribed manner and preserved by such member of the Board or by such officer of the Board or by such other officer as the Collector may from time to time nominate in this behalf.

(Part III.—Sanitary Boards. Secs. 26-29.)

(2) The person authorized in this behalf shall be bound to keep a true record of the Board's proceedings and orders, under his signature, and truly to prepare all summonses, notices and orders issuing by direction of the Board or of any member thereof in accordance with this Act or with rules made under section 20.

26. A Sanitary Board may, with the approval of the Collector, contract with any person—

- (a) for the daily surface-cleansing of the streets and public spaces within the area or any portion of the area subject to its authority, so far as the same cannot be effected by means of the village-servants, if any, whose services are placed at its command under section 42, or
- (b) for the removal from the said area of sweepings, dust, ashes, refuse, rubbish, carcasses of dead animals and any offensive or noxious matter.

Sanitary Board may enter into certain contracts.

27. Every Sanitary Board may, with the approval of the Collector, cause to be constructed such works and buildings as shall be necessary for providing for the area subject to its authority or any part thereof—

- (a) an adequate supply of water;
- (b) proper and convenient places for the temporary deposit or final disposal of sweepings, dust, ashes, refuse, rubbish, carcasses of dead animals and other offensive or noxious matter;
- (c) means for conveying away or removing the several matters and things specified in clause (b).

Works and buildings which may be provided by a Sanitary Board.

28. The inhabitants of the area or any part of the area subject to the authority of a Sanitary Board may by voluntary subscription raise any sum of money for any purpose for which the Board may incur expenditure, and such sum may be paid to the Mámílatdár or other officer appointed by the Collector under section 30, and shall by him be placed to the credit of the Board for expenditure within the area in which and on the purpose for which the subscription was raised.

Voluntary subscription may be raised to meet a Sanitary Board's expenditure.

29. Every Sanitary Board shall be bound to provide for, or authorize the expenditure necessary for—

- (a) paying the salaries of the Sanitary Inspector and other officers, if any, appointed under section 21; and
- (b) providing stationery and other requisites for the use of the Board and of the said Sanitary Inspector and other officers, if any; and
- (c) fulfilling any contract entered into by it under section 26; and
- (d) constructing necessary works and buildings under section 27.

Purposes for which expenditure is to be incurred by Sanitary Board.

(Part III.—Sanitary Boards. Sec. 30. Part IV.—General Provisions. Secs. 31-33.)

Sanitary Board's ways and means.

30. (1) A debit and credit account shall be kept by the Mámíatdár or other officer appointed by the Collector in that behalf in the name of each Sanitary Board. To the debit of such account shall be placed all expenditure authorizedly incurred under section 29. To its credit shall be placed all sums raised by voluntary subscription under section 28, all sums realized from any other source for meeting the Board's expenditure and the net proceeds of any rate assessed as hereinafter provided.

(2) For the purpose of raising money for expenditure by a Sanitary Board under this Act, the Collector may, subject to the same limit as is by section 18 (2) provided in respect of rates charged under section 18 (1), from time to time, in conference with such Board, charge and assess a rate on the inhabitants of the area or of any part of the area subject to the Board's authority.

(3) The burden of any rate charged under sub-section (2) shall be distributed over the several parts of the area subject to the Board's authority in such proportions as the Collector, in conference with the Board, directs, or, if the Collector, in conference with the Board, so determines, shall be placed wholly on one or more such parts.

PART IV.

GENERAL PROVISIONS.

Certain Government officers to advise Sanitary Committees and Boards.

31. The Executive Engineer of the district and any subordinate of the Executive Engineer, of the Sanitary Commissioner or of a Local Board, having authority at the place whom the Collector may appoint generally or specially in this behalf shall have, in relation to a Sanitary Committee or Board, such rights and duties as are assigned to certain officers in relation to Local Boards by the first paragraph of section 33 of Bombay Act I of 1884[*].

Removal from office of members, etc., of Sanitary Committees and Boards.

32. The Collector may, after recording his reasons for the same, remove from office any member or chairman of a Sanitary Committee and, with the sanction of Government, any member, or president of a Sanitary Board, who appears to be incompetent or who has been guilty of any misconduct or neglect of duty which appears to render his removal expedient.

Filling up of vacancies.

33. (1) Whenever for any reason a vacancy occurs or is about to occur in the office of a member or chairman of a Sanitary Committee, or of a member or president of a Sanitary Board, the Collector shall without delay appoint a person to fill such vacancy.

[*] Printed *supra*, p. 34.

(Part IV.—General Provisions. Secs. 34-38.)

(2) During any such vacancy the continuing members of a Sanitary Committee or Board may act as if no vacancy had occurred.

34. Every question which comes before a Sanitary Committee or Board for decision shall be decided by a majority of votes of the members present and voting at a prescribed meeting of such committee or board or at a meeting thereof assembled by direction of the Collector or otherwise after notice duly issued to all the members, the member who presides having a second or casting vote when there is an equality of votes.

Questions to be decided by majorities.

35. Summonses, notices and orders issued by a Sanitary Committee or Board or with its authority may be signed on behalf of the committee or board by the member presiding at any meeting of such committee or board.

Signing of summonses, etc.

36. A breach of any rule made by a Sanitary Committee or Board under this Act in respect of any matter other than the matters specified in clauses (a) and (b) of section 11 shall be punishable, unless in any case a smaller maximum punishment is prescribed by the said rules, with fine which may extend to ten rupees, and in default with confinement in the chāvdī for a period which may extend to forty-eight hours, and, in the case of a continuing breach, with fine which may extend to two rupees for every day after conviction for the first breach or after receipt of notice from the committee or board or from the Sanitary Inspector, to discontinue the breach, during which the breach continues and, in default, with confinement as aforesaid.

Punishment for breach of rules made under this Act.

37. (1) A Sanitary Committee or Board may allow to a person sentenced to pay a fine such time not exceeding four days as it may think proper for payment of the fine, on such terms as to security as it shall seem to the committee or board necessary to impose.

Order for levy of fines.

(2) Whenever default is made in the payment of a fine, the Sanitary Committee or Board which passed the sentence, or on appeal from whose decision the sentence was passed, may in its discretion by written order direct the levy of the amount, although the sentence directs that, in default of payment of the fine, the offender shall be confined and the offender is or has been confined.

38. All fines for the levy of which an order has been issued as aforesaid, all sums assessed on account of any rate under this Act, which are not paid after reasonable notice, shall be leviable by the patel or by such other person as the Collector or the Sanitary Committee or Board, with the Collector's sanction, appoints in that behalf, by distress and sale of any moveable property of the person liable therefor, subject to such exceptions as are enacted in

Levy of fines and rates.

(Part IV.—General Provisions. Secs. 39-41.)

the Code of Civil Procedure [*] in respect of the sale of moveable property in execution of decrees. XIV of 1882

Net proceeds of fines to be credited to account of committee or board having authority over the villages in which offences are committed. Contributions and loans from local boards.

39. All fines levied in respect of breaches of rules made under this Act shall, after deducting the expenses, if any, of prosecuting the offenders, be paid to the Mámlatdár or other officer appointed by the Collector under section 17 or 30, and shall by him be placed to the credit of the account of the Sanitary Committee or Board having authority over the village in which the breach was committed, for expenditure on any purpose contemplated by this Act.

40. (1) Any District or Táluqá Local Board may from time to time assign, by way of donation or loan, to the Sanitary Committee or Board of any village or group of villages in the area subject to its authority, for expenditure on any purpose contemplated by this Act, such sum out of the portion of the local fund at its disposal as it shall think proper.

(2) Any sum so assigned shall be paid to the Mámlatdár or other officer appointed by the Collector under section 17 or 30, and shall by him be placed to the credit of the account of the Sanitary Committee or Board to which it is assigned.

(3) But no sum shall be so assigned by way of loan, without the sanction of the Collector, and every sum assigned by way of loan with such sanction shall be recoverable by the Collector in such instalments of interest and of principal as shall be agreed upon between the parties, by a rate charged and assessed by the Collector, in conference with the Sanitary Committee or Board, upon the inhabitants of the area subject to the authority of such Committee or Board.

Execution of works in which two or more Sanitary Committees or Boards are jointly interested.

41. (1) Works for the supply of water or for the drainage of two or more villages subject to the authority of different Sanitary Committees or Boards and any other work or measure conducive to the common health or comfort of two or more such villages may, upon request made, with the approval of the Collector, by all such Committees and Boards or by a majority of them, be executed by or under the direction of the Collector or of such other officer as Government appoints in this behalf.

Recovery of cost of such works.

(2) The cost of any such work or measure shall be divided between the several Committees and Boards in such proportions as shall be agreed upon by them, or, in default of such agreement, as the Collector shall determine ;

[*] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

(Part IV.—General Provisions. Secs. 42-43.)

and shall be recoverable in the said proportions by a rate charged and assessed by the Collector, in conference with each Committee and Board, upon the inhabitants of the areas subject respectively to the said Committee's and Board's authority: subject to the same limit as is provided by section 18, clause (2), in respect of rates charged under section 18, clause (1).

(3) Where any work undertaken or proposed by a committee or board constituted under this Act shall be such as to interfere with or materially affect any work undertaken or proposed by a District or Táluqá Local Board, such latter Board may require the Sanitary Committee or Board to desist from such work as aforesaid, and it shall thereupon be the duty of the District or Táluqá Local Board to make reasonable provision, within reasonable time, for supplying to the area under the authority of the Sanitary Committee or Board such means of health, cleanliness and decency, or means equivalent thereto, as would have been furnished by the work abandoned in consequence of such requisition as aforesaid.

Abandonment of a work proposed to be undertaken by a Sanitary Committee or Board in favour of a work to be undertaken by a Local Board.

(4) For the purpose of obtaining information as to any work intended or in course of construction, to which the provisions of the preceding clause may apply, it shall be lawful for the Táluqá or District Local Board to call for such report from the Sanitary Committee or Board, through the Collector, as shall be necessary and reasonable, and to cause such inspection and report to be made by any person in its employment, as it shall deem necessary in this behalf, and it shall be the duty of the Sanitary Committee or Board concerned to comply with such requisition and to give reasonable aid and furtherance to any inspection ordered as aforesaid.

Local Boards may call for information in such cases.

42. Village-servants who hold land, profits of land or other emoluments by way of remuneration, wholly or partly, for services consisting in or connected with cleansing or conservancy may, as to such services, be placed by the Collector, subject to the control of Government, under the command and superintendence of the Sanitary Committee or Board having authority in the place in respect of which the said services are due, and shall be bound to fulfil all reasonable orders of the said Committee or Board under such reasonable penalties as may be provided in any rule made under this Act.

Certain village-servants to be placed under command of Sanitary Committee or Board.

43. (1) The Collector shall—

(a) determine all questions as to the amount of any payment at any time by custom or under any settlement mentioned in section 18, 19 or 20 of the Bombay Hereditary Offices Act [a] due to a village-servant

Determination and recovery of dues of village-

servants placed under command of Sanitary Committee or Board.

placed under the command of a Sanitary Committee or Board under the last preceding section ; and,

(b) if necessary, cause the amount which he determines to be due or the money value thereof at the market-rate of the time being, if the due is payable in kind, to be recovered on behalf of the village-servant entitled thereto, free of charge, as if the same were an arrear of land-revenue :

(2) Provided that the Collector may decline to cause such recovery to be made on behalf of any servant, if, in his opinion, the duty in respect of which the payment is due has not been duly performed by such servant.

44. Any power conferred or duty imposed by this Act upon the Collector may, with the sanction of Government, be delegated by him to an Assistant or Deputy Collector.

45. In the discharge of the duties and the exercise of authority assigned to them by this Act, Collectors, Magistrates and other public servants shall be subject to the like control as in the discharge of their ordinary functions.

46. (1) No Magistrate, Collector, president or member of a Sanitary Committee or Board, or Sanitary Inspector shall be liable to any penalty or to payment of damages for any act by him done in good faith in pursuance or intended pursuance of any authority or duty conferred or imposed upon him by this Act.

(2) And no public servant or person duly authorized or appointed shall be liable as aforesaid for giving effect in good faith to any order or direction issued with apparent authority by a person empowered in that behalf under this Act or under any rule made hereunder.

SCHEDULE.

(See section 3.)

Number and year of enactment.	Subject or title.	Extent of repeal.
[^a] Bom. Act VII of 1867.	The Bombay District Police Act, 1867.	Sections 33 and 34.
[^b] Bom. Act VIII of 1867.	The Bombay Village Police Act, 1867.	Clauses 2, 3 and 4 (except the first two and the last thirteen words) and 5 of section 16.

[^a] Printed in Vol. II of this Code, p. 108.

[^b] Printed in Vol. II of this Code, p. 120.

Collector's functions under this Act may be delegated. Collectors, Magistrates and other public servants subject to usual control in the exercise of their authority. Indemnity of persons acting in good faith under this Act.

1890 : Bom. Act I.]

Gambling.

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1890 : Bom. Act II.]

Salt.

BOMBAY ACT No. I of 1890.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 27th May, 1890.)

Bom. IV of 1887. An Act to amend the Prevention of Gambling Act (Bombay IV of 1887).

[NOTE.—The amendments made by this Act are incorporated in Bom. Act IV of 1887 as printed on pp. 149 *et seq.*, *supra.*]

THE BOMBAY SALT ACT, 1890.

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(Chap. I.—Preliminary. Secs. 1-3.)

BOMBAY ACT No. II OF 1890.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 9th July, 1890.)

An Act to consolidate and amend the law relating to Salt and the Salt-revenue throughout the Presidency of Bombay.

Whereas it is expedient to amend the Bombay Salt Act, 1873, and to enact a consolidated salt law for the whole of the Bombay Presidency; It is enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be cited as the Bombay Salt Act, 1890.

Short title.

(2) It extends to the whole of the Presidency of Bombay.[^a]

Extent.

2. (1) The Bombay Salt Act, 1873, and Bombay Act V of 1882 (*an Act to amend the Bombay Salt Act of 1873*) are repealed :

Repeal of enactments.

(2) Provided that—

(a) all rules and appointments made, licenses and permits granted, notifications published and powers conferred under either of the said enactments and now in force shall, so far as they are consistent with this Act, be deemed to have been respectively made, granted, published and conferred hereunder ;

(b) the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

3. In this Act, unless there is something repugnant in the subject or context :—

Definitions.

(a) " Commissioner " means a Commissioner of Salt-revenue :

(b) " Collector, " " Deputy " and " Assistant Collector " mean, respectively, a Collector or a Deputy or Assistant Collector of Salt-revenue :

[^a] Words repealed by Act XVI of 1895 are omitted.

(Chap. I.—Preliminary. Sec. 3.)

(c) "Salt-revenue-officer" means an officer of the Salt Department and includes any other person, whether Government officer or not, invested under section 10 with any power under this Act :

(d) "natural salt" means salt spontaneously produced, natural saline deposits and efflorescence :

(e) "salt" includes natural salt :

(f) "salt-earth" means earth naturally impregnated with salt, or with which salt is mixed :

(g) "manufacture" includes every process by which salt is separated from brine or earth or any other liquid or substance, and also every process for the purification or refinement of salt :

(h) "salt-work" includes—

(i) a place used or intended to be used for the manufacture of salt and all embankments, reservoirs, condensing and evaporating pans, buildings and waste places situated within the limits of the same ;

(ii) all drying grounds and storage platforms and store-houses appertaining to any such place ; and

(iii) land on which salt is spontaneously produced :

(k) a "private salt-work" is one not solely owned or not solely worked by Government :

(l) "licensee of a salt-work" means a person licensed to manufacture, excavate or collect salt at, or to remove salt from, a salt-work :

(m) "contraband salt" means salt or salt-earth manufactured, excavated, collected, packed, stored, landed, transported or removed from a salt-work or from a Government warehouse or store, or had in possession, in contravention:—

(i) of this Act, or of any other enactment relating to the salt-revenue at the time being in force ; or

(ii) of any rule or order made under this Act or under any other such enactment as aforesaid ; or

(iii) of any license or permit issued under this Act, or under any other such enactment as aforesaid :

*removed from a salt work or from a salt
warehouse or store, or*

(Chap. II.—Establishment and Control. Secs. 4-5.)

(n) "maund" means an Indian maund of $82\frac{2}{7}$ pounds avoirdupois weight :

(o) "possession" or "removal" of salt or salt-earth by a servant or agent of any person, on that person's account, shall be deemed to be possession or removal thereof by such person.

CHAPTER II.

ESTABLISHMENT AND CONTROL.

4. (1) Subject to the general control of the Governor General in Council, the Governor in Council may, from time to time, appoint, either by name or by virtue of their office, so many persons as he thinks fit to be officers of the Salt Department.

Power for Governor in Council to appoint superior officers of the Salt Department.

(2) The said officers shall be appointed under the designations of—

- (a) Commissioner of Salt-revenue ;
- (b) Collector of Salt-revenue ;
- (c) Deputy Collector of Salt-revenue ;
- (d) Assistant Collector of Salt-revenue ;

and such other designations, if any, as the Governor in Council thinks fit.

(3) Each such officer shall be appointed for such local area as the Governor in Council from time to time defines in this behalf.

(4) The Governor in Council may suspend, remove, dismiss or accept the resignation of, any person appointed under this section.

(5) The Governor in Council may at any time withdraw from any officer any of the powers or duties which are or which may be conferred or imposed by or under this Act.

5. (1) Subject to the control and direction of the Commissioners to whom they are respectively subordinate and to the orders of Government, the Collectors are charged with the collection of salt-revenue and with the carrying out of the provisions of this Act within the local areas for which they are respectively appointed :

Collectors charged with carrying out this Act.

(2) Provided that it shall be competent to the Governor in Council, by an order published in the Bombay Government Gazette whenever and for so long as he shall deem fit, to keep the office of Commissioner of Salt-revenue in any part of the presidency in abeyance, and to empower the Collectors in such part, during the time that the said office is so held in abeyance, to

Proviso.

(Chap. II.—Establishment and Control. Secs. 6-10.)

exercise the powers and perform the duties of Commissioner within the local areas for which they are respectively appointed, and their proceedings and orders shall, in that case, be subject to the immediate control of Government.

Power of Commissioners—

to appoint subordinate officers of the Salt Department, and

to punish them for misconduct.

6. Subject to such orders as may from time to time be passed by Government in this behalf, the Commissioners may—

(a) appoint such subordinate officers of the Salt Department, with such designations as they deem fit ;

(b) at any time, after inquiry recorded in writing, fine, dismiss, suspend or reduce any officer so appointed, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

Delegation of powers by Commissioners to Collectors, etc.

7. The powers conferred on Commissioners by the last preceding section may be delegated by any Commissioner, in whole or in part, to any Collector or Deputy or Assistant Collector, and any such delegation may be at any time cancelled by the Commissioner.

Provisions of Chapter III, Bombay Land-revenue Code, 1879, to apply to Salt-officers and their sureties.

8. All officers of the Salt Department shall be deemed to be revenue-officers within the meaning and for the purposes of Chapter III of the Bombay Land-revenue Code, 1879 [a], and all the provisions of the said Chapter relating to revenue-officers and their sureties shall be applicable respectively to officers of the Salt Department and their sureties. Provided that all the powers conferred and duties imposed by the said Chapter on the Collector or the Superintendent of Survey, shall, in respect of officers of the Salt Department and their sureties, be exercised and performed by the Collectors of Salt-revenue only.

Bom. V o
1879.

9. [*Existing officers in Sindh.*] Repealed by Act XVI of 1895.

Conferment of powers under this Act.

10. (1) The Governor in Council may, from time to time, by notification in the Bombay Government Gazette, invest—

(a) any officer of the Salt Department, either personally or in virtue of his office, or

(b) any Government officer of any other department, either personally or in virtue of his office, or

(Chap. III.—Manufacture, Excavation and Collection of Salt and Salt-earth. Secs. 11-13.)

(c) any other person,

with all or any of the powers described or contemplated in sections 28, 38, 39, 42 and 44.

(2) The Governor in Council may delegate the power vested in him by this section, either wholly or partly, to a Commissioner, subject to such limitations or conditions as Government may by any order prescribe.

CHAPTER III.

MANUFACTURE, EXCAVATION AND COLLECTION OF SALT AND SALT-EARTH.

11. No salt shall be manufactured and no natural salt and, except under the provisions of section 14, no salt-earth shall be excavated or collected or removed, otherwise than by the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf.

Manufacture, etc., of salt prohibited except under license.

[*] Provided that no such license shall be necessary for any process of manufacture of salt on which duty has been paid.

12. The Collector shall, on application, grant a license for the manufacture, excavation, collection or removal of salt, to any person entitled to the same under section 16 or section 17, and may, in his discretion, grant licenses for any of the said purposes or for the excavation, collection or removal of salt-earth to any other persons.

Licenses to be granted by the Collector.

13. (1) each such license shall specify—

- (a) the name of the person to whom it is granted ;
- (b) the limits within which the manufacture, excavation or collection under it is to be carried on ; and
- (c) the place where the salt-earth so manufactured, excavated, collected or removed is to be stored ;

Licenses what to contain.

and shall be in such form and contain such conditions as the Commissioner, subject to the directions of Government, from time to time prescribes.

(2) The Collector may, at any time, call for any such license and alter or amend it in accordance with the conditions so prescribed.

(3) A register of licenses granted under this section shall be kept in the office of the Collector.

[*] This proviso was added by Bom. Act II of 1892.

(Chap. III.—*Manufacture, Excavation and Collection of Salt and Salt-earth.*
Secs. 14-15. Chap. IV.—Private Salt-works. Secs. 16-17.)

Power for Government to make rules for permitting excavation, collection or removal of salt-earth without a license.

Village-officers bound to report illicit manufacture of salt, etc.

14. The Governor in Council may, from time to time, make rules for permitting the excavation, collection or removal, by any person or class of persons, in any local area or place defined in such notification, of salt-earth, without a license from the Collector, and may in such rules frame such provisions as he shall deem fit for limiting and regulating such excavation, collection or removal, and prescribe the uses to which salt-earth so obtained may be put.

15. Every village-officer shall communicate to a salt-revenue-officer or to a Magistrate or to an officer in charge of a police-station, within three days after the same shall come to his knowledge, any information which he may obtain of the manufacture, excavation, collection or removal of salt or salt-earth without a license or of any new formation of natural salt in or near his village.

CHAPTER IV.

PRIVATE SALT-WORKS.

Proprietors entitled to manufacturing licenses.

Special and permanent rights of manufacturing salt to be recognized.

16. The proprietor of a private salt-work who has by virtue of a sanad, granted by the British or any former Government, a special and permanent right to manufacture salt, or to excavate or collect natural salt, shall, unless his salt-work is suppressed under section 24 of this Act or has been suppressed under section 33 of the Bombay Salt Act, 1873 [a], be entitled, on application, to a license for such purpose.

Bom. VII
of 1873.

Rights of ordinary proprietors of existing salt-works.

17. (1) Except as is hereinafter otherwise provided, every proprietor of a private salt-work, to which section 16 does not apply and which is being lawfully worked at the time when this Act comes into force, or which was lawfully worked at any time within three years next before the date on which this Act comes into force, shall, unless his salt-work is suppressed under section 24 of this Act or has been suppressed under section 33 of the Bombay Salt Act, 1873 [a], be entitled, on application, to a license to manufacture salt or to excavate or collect natural salt at such work :

(2) Provided that the Collector may at any time withdraw or withhold a license from the proprietor of any salt-work to which section 16 does not apply, if no salt shall have been manufactured, excavated or collected in such salt-

[a] Bom. Act VII of 1873 is repealed by s. 2 of this Act.

(Chap. IV.—Private Salt-works. Secs. 18-21.)

work for the three years ending on the thirtieth day of June last proceeding the date of his order or, with the previous sanction of the Governor in Council, if such salt-work shall not have produced, on an average, during the said three years, at least five thousand maunds of salt per annum.

Control of Works.

18. (1) The Collector may, for the purposes of this Act, cause chaukis to be erected in such places as he thinks fit within a private salt-work, and the proprietor or licensee of the salt-work shall have no claim for compensation for the ground occupied by such chaukis.

Chaukis and preventive stations may be established by the Collector in or near salt-works.

(2) The Collector may also, for the purposes of this Act, station such salt-revenue-officers, and other persons as he deems fit within the limits of a private salt-work, and establish preventive stations wherever he thinks fit in the neighbourhood of any such salt-work.

19. (1) The Collector may, at any time, by written notice, require the licensee of a private salt-work to store in heaps any sifted or refuse salt which may be lying on such work, or, at such licensee's option, to destroy the same.

Disposal of sifted or refuse salt at a private salt-work.

(2) If the licensee shall fail, within ten days from the date of service of any such notice, either to store in heaps or effectually to destroy the same, the Collector may cause the salt to be effectually destroyed and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

(3) The decision of the Collector as to whether any salt is sifted or refuse salt shall, for the purposes of this section, be conclusive.

20. (1) When any heap of salt in a private salt-work has been opened and a portion of it removed, the salt-revenue officer in charge of the salt-work may, by written notice, require the licensee of the salt-work either to remove the remaining portion of the salt in such heap or to reheap and secure the same in such manner as the said officer shall deem sufficient.

Heaps of salt at a private salt-work when opened to be entirely removed or reheaped.

(2) If the licensee shall fail to comply with such notice within three days from the date of service thereof, the officer aforesaid may offer the salt remaining from the heap for sale, and, if the price offered be not less than the duty leviable thereon, may sell it. If the price offered be less than the amount of the duty, he may cause the salt to be destroyed, and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

21. (1) Any salt-revenue-officer not lower in rank than a sarkarkún may, by written notice, require the licensee of a private salt-work—

Power for certain salt-revenue-officers to require licensees of private salt-works to

(a) to repair or re-construct any embankment, platform or place for the storage of salt within such salt-work ;

(b) to protect, in any manner which shall appear to such officer sufficient,

(Chap. IV.—Private Salt-works. Secs. 22-24)

repair or reconstruct places for storage of salt or to provide for protection of salt or to repair store-houses.

by thatch or in any other mode customary in the locality, any salt stored upon any such embankment, platform or place ;

- (c) to repair, to such officer's satisfaction, any store-house, building or premises used for the storage of salt manufactured, excavated or collected at such salt-work on which duty has not been paid.

(2) If the licensee shall fail to comply with such notice within twenty days from the date of service thereof, the officer aforesaid may cause the necessary work to be executed, and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

Provision for execution of emergent works.

22. If the salt-revenue-officer aforesaid shall be of opinion that unless any such work as is mentioned in the last preceding section is executed without delay, the salt-revenue will be endangered, he may, by written notice, and after recording his reasons for so doing in writing, require the licensee of the salt-work to execute the said work within such period as may be reasonably sufficient for the execution thereof, and, if the licensee fails to comply with the notice within such period, may cause the work to be executed ; and the cost of so doing shall be recoverable by him as aforesaid.

Power of Collector to require licensees of private salt-works to construct, re-construct, alter or extend store-houses, or to construct places for the storage of salt.

23. (1) The Collector may, by written notice, require the licensee of a private salt-work, within a reasonable period to be prescribed in such notice, to his satisfaction—

- (a) to construct within or adjacent to such salt-work a store-house or other building or premises for the storage of salt manufactured, excavated or collected at such salt-work, on which duty has not been paid ; or
- (b) to re-construct, alter or extend any existing store-house or other building or premises used for the storage of such salt as aforesaid ;
- (c) to construct within such salt-work any embankment, platform or place for the storage of salt.

(2) If the licensee shall fail within the prescribed period to comply with such notice, the Collector may cause the necessary work to be executed ; and the cost of so doing shall be recoverable by him from the licensee of the salt-work.

Suppression of private Salt-works and Determination of Licenses.

Power for Governor in Council to suppress.

24. (1) If the licensee of any private salt-work, or his agent, has been found by an authority competent in this respect to have committed any offence punishable under this Act, the Governor in Council may suppress such sal t-

(Chap. IV.—Private Salt-works. Secs. 25-27.)

work, or suspend or withdraw the license to manufacture, excavate or collect salt thereat or to remove salt therefrom.

(2) If any such offence is committed by any person employed at a private salt-work, the Governor in Council may impose a fine not exceeding one thousand rupees on the licensee of such work, unless the said licensee establishes, to the satisfaction of the Governor in Council, that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

a private salt-work or to suspend or withdraw license, if the licensee offends against this Act; or to fine the licensee if an offence is committed by any person employed at a private salt-work.

(3) For the purposes of this section the decision of the Governor in Council as to whether any such offence as aforesaid has been committed shall be conclusive.

(4) If any fine imposed under this section is not paid forthwith, the amount thereof may be recovered, upon application by the Collector, by any Magistrate, as if the same were a fine inflicted by such Magistrate.

25. Whenever it shall appear necessary to the Governor in Council to obtain the ownership of any private salt-work with a view to suppressing it, he may proceed to acquire such salt-work under the provisions of the Land Acquisition Act, 1894^[a].

Acquisition of private salt-works under Act I of 1894.

I of 1894.

26. Whenever, under any of the provisions of this Act, a private salt-work is suppressed, or a license to manufacture, excavate or collect salt at or to remove salt from any salt-work is withheld, suspended or withdrawn, the Collector may flood the said work with water or take such other measures as he may deem fit for preventing the manufacture or the spontaneous production of salt therein.

Power to destroy suppressed and unlicensed salt-works.

27. (1) Salt in store at any private salt-work on the date when it is suppressed or when a license for the manufacture, excavation or collection of salt thereat or the removal of salt therefrom is withheld, suspended or withdrawn, may be removed by the licensee of the salt-work within the period of six months from the said date, and for the purpose of such removal the license shall for the said period be deemed to continue in force.

Removal of salt from suppressed and unlicensed private salt-works.

(2) The Collector may cause any salt which remains at any such salt-work after the expiry of the said period of six months to be put up for sale, and if the price offered be not less than the duty leviable thereon may sell it. If the price offered be less than the amount of the duty, he may cause the salt to be destroyed.

[*] The reference to Act X of 1870 is altered in accordance with Act I of 1894, s. 2.

(*Chap. V.—Removal of Salt from Salt-works or Government Warehouses, Secs. 28-31.*)

CHAPTER V.

REMOVAL OF SALT FROM SALT-WORKS OR GOVERNMENT WAREHOUSES.

Removal of salt from a salt-work or Government warehouse without a permit prohibited.

Permit to be granted only after payment of duty and charges and on a written application.

Payment of duty and charges.

28. No salt shall be removed from any salt-work or from any Government warehouses or store, otherwise than on account of Government, except under the authority and subject to the terms and conditions of a permit to be granted by a salt-revenue-officer empowered in this behalf.

29. No such permit shall be granted until after payment of the duty and other charges, if any, payable to Government in respect of the salt intended to be removed, nor except upon a written application for the same.

30. (1) The duty and other charges, if any, payable to Government shall be paid to such officer as the Commissioner from time to time directs; and he shall give a receipt for the payment in such form as the Commissioner may prescribe.

(2) If the officer authorized to receive the said payment is the same salt-revenue-officer who is empowered to grant the permit, the amount of the duty and other charges, if any, payable to Government in respect of the salt intended to be removed shall be presented to the said officer, along with the written application for a permit, and the said officer's receipt therefor may be attached to the permit. Otherwise the receipt of the officer authorized to receive payment of the duty and other charges, if any, shall accompany the written application for a permit.

Form and contents of receipt, written application and permit.

31. (1) The receipt and written application shall, respectively, be in such form and be signed by such persons and contain such particulars as the Commissioner from time to time directs.

(2) The permit shall specify—

(a) the amount of duty and other charges, if any, paid;

(b) the quantity of salt to be removed;

(c) the salt-work, or Government warehouse or store from which and the person by whom the salt is to be removed;

(d) in the case of salt removed from a salt-work, the preventive station at which the salt is to be examined;

(e) the place to which and the route by which the salt is to be taken;

(f) the period for which the permit shall be in force;

(Chap. V.—Removal of Salt from Salt-works or Government Warehouses.
Secs. 32-35.)

and shall be in such form and contain such other particulars, if any, as the Commissioner from time to time directs.

32. (1) If the Commissioner so directs, there shall be attached to the permit an order to the salt-revenue-officer in subordinate charge of the salt-work or Government warehouse or store from which salt is to be removed, requiring him to allow the quantity of salt mentioned in the permit to be removed, and to endorse upon the order a certificate signed by himself and by the person who removes the salt and, if it is removed from a private salt-work, by the licensee of the salt-work, as to the correctness of the weightment and of the scales and weights used in weighing the salt.

Order to subordinate salt-revenue-officer may be attached to permit.

(2) The said order and certificate shall be in such form and contain such particulars as the Commissioner from time to time prescribes.

33. When a permit is presented to the salt-revenue-officer in subordinate charge of a salt-work, or of a Government warehouse or store, he shall—

Course to be followed by salt-revenue-officer in subordinate charge of salt-work, etc., when permit is presented to him.

- (a) fill up the blanks therein, if any, intended to be filled up by him ;
- (b) permit the authorized amount of salt to be weighed out for removal ;
- (c) tear off and retain the order, if any, attached to the permit ;
- (d) fill in and take the signatures of the proper persons beneath, and himself attest the certificate to be endorsed on the said order, if any ;
- (e) return the permit to the person entitled to remove the salt and permit the salt to be removed.

34. (1) Salt removed from a salt-work under a permit as aforesaid shall be taken, together with the permit covering it, direct to the preventive station named in the permit, within the period prescribed in such permit.

Salt how to be dealt with after leaving a salt-work.

(2) Subject to such orders as the Collector from time to time issues in this behalf, the salt-revenue-officer in charge of the preventive station may examine and re-weigh the salt under removal.

(3) If the said officer shall be satisfied that the quantity of salt under removal is not in excess of the quantity specified in the permit, he shall allow it to pass, and, after endorsing the permit to the effect that he has passed the same, shall return it to the person removing the salt.

(4) Thereafter the salt shall be conveyed to the place named in the permit within the period prescribed therein.

35. It shall be incumbent on every person who has obtained a permit for the removal of salt, either personally or through an agent lawfully appointed for this purpose—

Responsibilities of permit-holders.

- (a) to test the scales and weights used in weighing out such salt ;

(Chap. VI.—Warehousing of Salt for sale. Secs. 36-37.)

- (b) to prevent the removal of salt in excess of the quantity named in the permit;
- (c) if so required by the salt-revenue-officer in subordinate charge of the salt-work, or Government warehouse, or store, from which the salt is removed, to sign a certificate as to the correctness of the weighing and of the scales and weights used in weighing out the salt;
- (d) to superintend the removal of the salt.

CHAPTER VI.

WAREHOUSING OF SALT FOR SALE.

Salt not to be stored for the purpose of sale within certain limits without a license.

36. No salt shall be stored or had in possession for the purpose of sale—

- (a) in Sind; or
- (b) within one mile from the Mátunga Salt-work in the island of Bombay; or
- (c) within ten miles from any salt-work, or from any customs-station established under section 4 of Act No. XXIX of 1857 [*] (*an Act to make better provision for the collection of land-customs on certain foreign frontiers of the presidency of Bombay*), or from any port or place at which at the time being it is lawful to import salt by sea or to land the same; or
- (d) within any other limits which shall from time to time be defined for this purpose by the Governor in Council by notification in the Bombay Government Gazette;

except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf.

The Governor in Council may make rules to regulate the storage, etc., of salt for purpose of sale in the said limits.

37. (1) The Governor in Council may, from time to time, make rules for regulating and licensing the storage or possession of salt for the purpose of sale within any of the limits aforesaid.

Licenses to store, etc., and sell salt may be

(2) Subject to the provisions of any rules so made, the Collector may, from time to time, grant licenses to such persons as he deems fit, authorizing

[*] Printed in Vol. I of this Code, p. 103.

(Chap. VI.—Warehousing of Salt for sale. Sec. 38. Chap. VII.—Powers of Salt-revenue-officers. Sec. 39.)

them to store or possess salt within any of the said limits, for the purpose of sale. issued by the Collector.

38. (1) No person shall, within any of the limits described in section 36, transport or possess salt exceeding one maund in weight, unless the same— Possession of salt exceeding one maund in weight prohibited within the said limits except under a permit, etc.
- (a) is being removed under a permit obtained under section 28; or
 - (b) is stored or possessed for the purpose of sale under a license granted under the last preceding section; or
 - (c) has been legally imported, from a foreign port or place, at some port or place within the said limits and is covered by a certificate signed by a customs-officer of the payment of the import-duty leviable thereon; or
 - (d) is covered by a special permit granted under the power next hereinafter conferred.

(2) The Collector or Deputy or Assistant Collector or any salt-revenue-officer empowered in this behalf may grant to such persons, as they shall think fit, special permits authorizing them to be possessed of salt exceeding one maund in weight for their private consumption within or for conveyance out of any of the said limits.

CHAPTER VII.

POWERS OF SALT-BEVENUE-OFFICERS.

39. Any salt-revenue-officer empowered in this behalf, may—
- (a) enter, at any time by day or by night, any land, building, enclosed place or premises upon or in or from which he has reason to believe that— Power of salt-revenue officers-- to enter any place where illicit manufacture of salt is suspected to be going on;
 - (i) salt is being manufactured, excavated, collected or removed without a license granted under this Act; or
 - (ii) there is a natural formation of salt; or
 - (iii) contraband salt is stored or concealed;
 - (b) in case of resistance, break open any door and remove any other obstacle to his entry upon or into such land, building, enclosed place or premises; to overcome resistance;
 - (c) take possession of, or destroy any salt so manufactured, excavated, collected or formed, and any work, apparatus, implement, utensil or material constructed or employed for the purpose of such manufacture, excavation, collection or removal, or of utilizing the salt so to take possession of or destroy salt illicitly manufactured;

(Chap. VII.—Powers of Salt-revenue-officers. Secs. 40-41.)

formed contrary to any of the provisions of the Act or of any rule made hereunder;

to enter and inspect salt-works and stores or vessels laden with salt;

(d) enter and inspect, at any time by day or night, any salt-work or any building, enclosed place or premises used for storing salt, or any vessel laden with, or which is being laden with, or which it is intended to load with, salt;

to detain and search any person, animal, etc., for contraband salt;

(e) detain and search any person, animal, vessel, conveyance, goods or package upon or in whom or which he shall have reason to believe that there is contraband salt;

to seize contraband salt, etc.;

(f) seize in any open place, or in transit, any article which he has reason to believe to be contraband salt, and any package or covering in which such article is found and the other contents, if any, of such package or covering in which the same is found, and any animal, vessel or conveyance used or intended to be used in carrying the same;

to detain, search and arrest any offender against this Act.

(g) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence punishable under this or any other law for the time being in force relating to salt-revenue, or in whose possession contraband salt is found.

Searches and arrests how to be made.

40. All searches and arrests under the last preceding section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1882^[a], relating, respectively, to searches and arrests made under that Code.

Officers of certain departments bound—
to give information concerning offences punishable under this Act;
to prevent such offences;

41. It shall be incumbent on every village officer and on every officer of the departments of Police, Customs, Opium, Ábkári, Forests and Revenue—

(a) to communicate to some salt-revenue-officer, not lower in rank than a sarkárkún or a daroga, any information which he receives of a design to commit or of the commission of any offence punishable under this Act;

(b) to interpose for the purpose of preventing and to prevent, by the use of all reasonable means within his power, the commission of any such offence;

to assist salt-revenue officers.

(c) on receipt of notice or of a request from any salt-revenue-officer, to assist such officer in carrying out any of the provisions of this Act.

[^a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1838, published by the Legislative Department.

42. (1) Any Commissioner, or Collector, or other salt-revenue-officer empowered in this behalf, and any Magistrate, may issue a warrant for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that contraband salt is kept or concealed.

Issue of search-warrants.

X of 1882.

(2) Every warrant issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882 [a], relating to search-warrants, by a police-officer or by a salt-revenue-officer empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

43. (1) Any officer who makes a search under this Act, or who examines any salt or salt-earth for any of the purposes of this Act, or of any rule made under this Act, may require the person who has the immediate possession or control of any animal, vessel, conveyance, goods or package which he desires to search, or of any salt or salt-earth which he desires to examine, without delay and in such manner as he thinks fit to direct—

Person in possession of articles which are to be searched or examined, bound to unpack and weigh the same.

(a) to unload, unpack or open, any such animal, vessel, conveyance, goods or package; and

(b) to weigh any such salt or salt-earth; or

(c) before or after such search, examination or weighing is completed, to remove any such animal, conveyance, goods or packages beyond the limits of any wharf, landing-place or preventive station, or to deposit any such goods or package until further orders at any spot indicated by such officer within such limits.

(2) If the said person shall fail to comply with any such requirement, the officer aforesaid may cause the animal, vessel, conveyance, goods or package to be unloaded, unpacked, opened, removed or deposited or the salt or salt-earth to be weighed in the manner which he requires, and the cost of so doing shall be recoverable by the said officer from the said person.

44. Every person arrested under section 39 shall be forwarded without delay to the nearest salt-revenue-officer empowered to send persons so arrested to a Magistrate, or, if there be no such salt-revenue-officer within a reasonable distance, to the officer in charge of the nearest police-station.

Disposal of person arrested.

45. The officer in charge of a police-station to whom any person is forwarded under the last preceding section, or who receives, direct, any complaint or information of the commission of an offence punishable under this Act, shall inquire into and deal with the case under the provisions of the Code of Criminal Procedure, 1882 [a], relating to cognizable cases.

Procedure to be followed by officer in charge of a police-station in cases of offences punishable under this Act.

X of 1882.

[a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chap. VII.—Powers of Salt-revenue-officers. Sec. 46. Chap. VIII.—Penalties. Sec. 47.)

Inquiry how to be made by salt-revenue-officers against arrested persons forwarded to them under section 44.

46. (1) When any person is forwarded under section 44 to a salt-revenue-officer empowered to send persons so arrested to a Magistrate, the said salt-revenue-officer may detain such person and shall proceed to inquire into the charge against him.

(2) For this purpose the said salt-revenue-officer may exercise the like powers and shall be subject to the same provisions as the officer in charge of a police-station may exercise and is subject to, under the Code of Criminal Procedure, 1882 [*], when investigating a cognizable case : X of 1882

(3) Provided that—

(a) if the said salt-revenue-officer shall be of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall forward him to a Magistrate having power to take cognizance of the offence ;

(b) if it appears to the said salt-revenue-officer that there is not sufficient evidence or reasonable ground as aforesaid, he shall release the accused on his executing a bond, with or without sureties, as such salt-revenue-officer may direct, to appear, if and when so required, before a Magistrate having power as aforesaid, and make a full report of all the particulars of the case to his official superior and be guided by the order which he shall receive upon such report.

CHAPTER VIII.

PENALTIES.

For illicit manufacture of salt, etc.

47. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license or permit obtained under this Act,—

(a) manufactures, removes or transports salt ; or

(b) excavates, collects or removes natural salt or salt-earth ;

and whoever—

(c) except in the exercise of some power or the discharge of some duty conferred or imposed upon him under this Act or any other enactment at the time in force, receives or, without lawful excuse, retains contraband salt, knowing or having reason to believe the same to be contraband salt ;

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

or in possession

48. Whoever, being a salt-revenue-officer or a village-officer or an officer of any of the departments of Police, Customs, Opium, Ábkári, Forests or Revenue,—

For offences against this Act committed by public servants.

(a) does any act, or is guilty of any omission, in contravention of this Act, or of any rule or order made under this Act; or,

(b) with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act;

shall for every such offence be punished with fine which may extend to five hundred rupees.

49. Whoever prepares, or signs, or uses, or attempts to use, an incorrect application for a permit to remove salt, or an incorrect certificate purporting to be such as is required by section 32, knowing or having reason to believe such application or certificate to be incorrect, shall, for every such offence, be punished with fine which may extend to two hundred rupees, and, in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

For preparing or using incorrect application for a permit, or an incorrect certificate under section 32.

50. All contraband salt, and every vessel, animal or conveyance used, or intended to be used, in carrying contraband salt, and

What things are liable to confiscation.

all goods, packages and coverings in or among which contraband salt is found, and

every apparatus, implement, utensil or material employed, or intended to be employed, for the manufacture, excavation, collection or removal of salt without a license or for the purpose of utilizing natural salt or salt-earth contrary to any of the provisions of this Act or of any rule made hereunder, shall be liable to confiscation.

CHAPTER IX.

PROCEDURE.

51. All offences punishable under this Act shall be cognizable by any Magistrate.

Cognizance of offences.

52. (1) All confiscations under this Act shall be adjudged by the Collector or by any officer empowered by the Governor in Council in this behalf:

Order of confiscation by whom to be made.

(2) Provided that no order of confiscation shall be made without hearing any person who within one month from the date of its seizure claims a right

(Chap. VII.—Powers of Salt-revenue-officers. Sec. 46. Chap. VIII.—Penalties. Sec. 47.)

Inquiry how to be made by salt-revenue-officers against arrested persons forwarded to them under section 44.

46. (1) When any person is forwarded under section 44 to a salt-revenue-officer empowered to send persons so arrested to a Magistrate, the said salt-revenue-officer may detain such person and shall proceed to inquire into the charge against him.

(2) For this purpose the said salt-revenue-officer may exercise the like powers and shall be subject to the same provisions as the officer in charge of a police-station may exercise and is subject to, under the Code of Criminal Procedure, 1882 [a], when investigating a cognizable case : X of 1882.

(3) Provided that—

(a) if the said salt-revenue-officer shall be of opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall forward him to a Magistrate having power to take cognizance of the offence ;

(b) if it appears to the said salt-revenue-officer that there is not sufficient evidence or reasonable ground as aforesaid, he shall release the accused on his executing a bond, with or without sureties, as such salt-revenue-officer may direct, to appear, if and when so required, before a Magistrate having power as aforesaid, and make a full report of all the particulars of the case to his official superior and be guided by the order which he shall receive upon such report.

CHAPTER VIII.

PENALTIES.

For illicit manufacture of salt, etc.

47. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license or permit obtained under this Act,—

(a) manufactures, removes or transports salt ; or

(b) excavates, collects or removes natural salt or salt-earth ;

and whoever—

(c) except in the exercise of some power or the discharge of some duty conferred or imposed upon him under this Act or any other enactment at the time in force, receives or, without lawful excuse, retains contraband salt, knowing or having reason to believe the same to be contraband salt ;

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

[a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

or in possession

(Chap. VIII.—Penalties. Secs. 48-50. Chap. IX.—Procedure. Secs. 51-52.)

48. Whoever, being a salt-revenue-officer or a village-officer or an officer of any of the departments of Police, Customs, Opium, Ábkári, Forests or Revenue,—

For offences against this Act committed by public servants.

(a) does any act, or is guilty of any omission, in contravention of this Act, or of any rule or order made under this Act; or,

(b) with intent to cause injury or annoyance to any person, vexatiously and unnecessarily makes use of any power conferred upon him under this Act;

shall for every such offence be punished with fine which may extend to five hundred rupees.

49. Whoever prepares, or signs, or uses, or attempts to use, an incorrect application for a permit to remove salt, or an incorrect certificate purporting to be such as is required by section 32, knowing or having reason to believe such application or certificate to be incorrect, shall, for every such offence, be punished with fine which may extend to two hundred rupees, and, in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

For preparing or using incorrect application for a permit, or an incorrect certificate under section 32.

50. All contraband salt, and every vessel, animal or conveyance used, or intended to be used, in carrying contraband salt, and

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all goods, packages and coverings in or among which contraband salt is found, and

every apparatus, implement, utensil or material employed, or intended to be employed, for the manufacture, excavation, collection or removal of salt without a license or for the purpose of utilizing natural salt or salt-earth contrary to any of the provisions of this Act or of any rule made hereunder, shall be liable to confiscation.

CHAPTER IX.

PROCEDURE.

51. All offences punishable under this Act shall be cognizable by any Magistrate.

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52. (1) All confiscations under this Act shall be adjudged by the Collector or by any officer empowered by the Governor in Council in this behalf:

Order of confiscation by whom to be made.

(2) Provided that no order of confiscation shall be made without hearing any person who within one month from the date of its seizure claims a right

(Chap. IX.—Procedure. Sec. 53.)

to any thing intended to be confiscated and the evidence, if any, which he produces in support of his claim :

(3) Provided also that it shall be lawful for the Governor in Council to make from time to time rules consistent with this Act to regulate the disposal and destruction of things seized under this Act.

Such rules may among other matters provide—

(a) that any officer of a class which shall be designated in such rules may, at any time after a seizure under this Act has been made of any goods which appear to him to be subject to speedy and natural decay, direct such goods to be sold by public auction, destroyed or otherwise disposed of ;

(b) that the owner or person in charge of any animal seized under this Act shall provide from day to day for its keep, while detained, and that, if he omits to do so, such animal may, if any officer such as is referred to in clause (a) so direct, be sold by public auction and the expenses, if any, incurred on account of it defrayed from the proceeds of such sale ;

(c) that the surplus proceeds of a sale under clause (a) or clause (b) of this section shall, unless the owner of the thing seized establishes his claim to such proceeds within a period not less than three months, to be fixed by such rules, be forfeited to Her Majesty.

(4) Whenever confiscation is ordered under this Act, the owner of the thing confiscated shall be given an option of redeeming it, on payment of such fine as the Collector or other officer aforesaid thinks fit.

53. (1) Any salt-revenue-officer not lower in rank than a sarkárkun or a daroga shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other thing in any inquiry which such officer is making for any of the purposes of this Act. A summons to produce documents or other things may be for the production of certain specified documents or things or for the production of all documents or things of a certain description in the possession or under the control of the person summoned.

(2) All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct : Provided that exemptions under sections 640 and 641 of the Code of Civil Procedure [*] shall be applicable to requisitions for attendance under this section ;

[*] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

Power to regulate disposal of things seized.

Redemption of thing confiscated to be permitted on payment of fine.

Power to summon persons to give evidence and produce documents in enquiries under this Act.

(Chap. IX.—Procedure. Secs. 54-57.)

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements ;

and to produce such documents and other things as may be required.

(3) Every such inquiry as aforesaid shall be deemed to be a "judicial proceeding" within the meaning of section 193 and section 228 of the

XLV of 1860. Indian Penal Code [a].

54. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and shall also bear his official seal, if he have any; and shall be served by tendering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Summons to be in writing, signed and sealed. How to be served.

55. (1) Every notice under this Act shall be deemed to be served on the date on which a copy thereof is tendered or delivered to the person on whom it is to be served, or to his agent, if he have any ;

Service of notices.

or, when the notice has not been so served, the date which shall appear to the officer holding the enquiry to be the date on which the person on whom the same is to be served has become aware of the issue and purport thereof.

(2) No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced a material misconception of the intended intimation.

Notice not void for error.

56. Whenever it is provided in this Act that the costs of doing anything shall be recoverable from any person by a salt-revenue-officer, the said officer may recover the same by detention of any property of the person liable therefor and by sale of such property; and the said costs shall also be recoverable, if necessary, by a revenue-officer in any manner in which, under the law at the time in force, an arrear of land-revenue may be recovered.

Recovery of costs.

57. (1) Every order passed by any salt-revenue-officer other than a Commissioner or a Collector shall be appealable to such officer's immediate superior at any time within sixty days from the date of such order.

Appeals.

(2) Every order passed by a Collector shall be appealable within ninety days from the date of such order to the Commissioner, if any, to whom the Collector is subordinate and, if there be no such Commissioner, to Government.

(3) Every order passed by a Commissioner shall be appealable within

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(Chap. X.—Miscellaneous. Sec. 58.),

ninety days from the date of such order to Government: Provided that no such appeal shall lie from any order passed by a Commissioner on appeal.

(4) Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

CHAPTER X.

MISCELLANEOUS.

Further matters for which the Governor in Council may make rules.

58. (1) In addition to the rules which the Governor in Council is hereinbefore empowered to make, he may from time to time make rules, consistent with this Act, to regulate the following matters, namely:—

- (a) the manufacture, deposit and storage of salt at any salt-work;
- (b) the deposit and storage of salt in any building, enclosed place or premises used for the deposit or storage of salt on which duty has not been paid;
- (c) the removal of salt from any such building, enclosed place or premises as last aforesaid or from any salt-work;
- (d) the routes by which salt shall be taken from any such building, enclosed place or premises as aforesaid or from any salt-work to any preventive station;
- (e) the routes by which manufacturers of salt and other persons shall approach, enter or leave any salt-work and the hours during which any person may remain within the limits of any salt-work or in any such building, enclosed place or premises as aforesaid;
- (f) the conservancy of any salt-work and of any such building, enclosed place or premises as aforesaid;
- (g) the granting and the refusal of permission to construct within a salt-work or in the immediate vicinity thereof places of residence for manufacturers of salt and other work-people employed therein; and the terms as to the situation and construction of any such places as may be permitted;
- (h) the attendance and the enforcement of the contract or agreement of any person who has contracted or agreed to manufacture, excavate or collect salt at any salt-work under the immediate management and control of Government;
- (i) the licensing and control of hamals and labourers for hire by whomsoever employed at salt-works, and at preventive stations;

(Chap. X.—Miscellaneous. Secs. 59-61.)

(j) the grant of amended or duplicate copies of documents relating to proceedings under this Act, and the fees to be charged for such copies.

59. In making a rule under this Act, the Governor in Council may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees and, in default of payment of the fine, with simple imprisonment for a term which may extend to one month.

Penalties may be attached by the Governor in Council to breach of rules.

60. All rules made under this Act shall be published in the Bombay Government Gazette and, in Sindh, in the Sindh Official Gazette, and shall thereupon have the force of law.

Publication of rules.

61. (1) No person shall be liable to any penalty or to payment of damages on account of any act done or order made in good faith, in pursuance or intended pursuance of any duty imposed or any authority conferred on him by this Act, or by any rule, order or direction made or appearing to have been made under the provisions thereof by a person having or appearing to have authority in that behalf.

No person to be liable to penalty or damages for act done in good faith in pursuance of duty.

(2) In the case of an alleged offence or wrong on the part of any 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 if committed or the wrong if done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed if instituted, more than six months after the act complained of.

No suit or prosecution in respect of an act done under colour of duty as aforesaid shall be entertained, or shall be dismissed, if not instituted within six months.

(3) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrongdoer one month's notice at least of the intended suit, with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

In suits as aforesaid one month's notice to be given and sufficient description of wrong complained of.

(4) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if any what, tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

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BOMBAY ACT No. III OF 1890.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 21st August, 1890.)

An Act to amend the Matádárs Act (Bombay, VI of 1887). Bom. VI of
1887.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VI of 1887 as printed on pp. 155 *et seq.*, *supra.*]

THE BOMBAY DISTRICT POLICE ACT, 1890.

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(Chap. I.—Preliminary. Secs. 1-3.)

BOMBAY ACT No. IV OF 1890. [a]

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 4th September, 1890.)

An Act to amend the law for the regulation of the District Police in the Presidency of Bombay.

WHEREAS it is expedient to amend the law for the regulation of the District Police of the Presidency of Bombay; It is enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title.
Extent.

1. This Act may be called the Bombay District Police Act, 1890.

(1) It extends to the whole of the Presidency of Bombay, except Sindh, the City of Bombay, Aden and its dependencies, and Perim.

Extension to Sindh, Aden and its dependencies and Perim.

(2) It, including the schedules, may be introduced wholly or in part in Sindh or in Aden and its dependencies and Perim, by an order of Government.

Repeal of enactments,

2. Subject to the provision in section 1, sub-section (1), the enactments mentioned in Schedule A are repealed to the extent specified in the third column thereof [b].

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 portion of this Act.

All rules prescribed, appointments made, powers conferred, and orders and certificates issued under any such enactment shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued hereunder.

Definitions.

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

(a) "Inspector General", "Deputy Inspector General", "District Superintendent" and "Assistant Superintendent", mean, respectively, the Inspector General of Police, a Deputy Inspector General of Police, a District Superintendent of Police and an Assistant Superintendent of Police appointed under this Act:

[a] Bom. Act IV of 1890 has been extended, by notification under the Scheduled Districts Act, 1874, to Aden,--see Appendix to Vol. I of this Code, p. lix.

For power to create a general police-district embracing parts of two or more presidencies, provinces or places, see Act III of 1888, s. 2 (in General Acts, 1885-88, Ed. 1889, page 191). As to employment of police officers beyond the presidency, province or place to which they belong, see *ib. s. 3.*

[b] Words repealed by Act XVI of 1895 are omitted.

(Chap. II.—Organization of the Police. Secs. 4-5.)

(b) "police-officer" means any member of a police-force appointed under this Act:

(c) "constable" means a police-officer of the lowest grade:

(d) "district" means a territorial division constituting a district for the purposes of the Code of Criminal Procedure, 1882 [*]:

X of 1882.

(e) "street" includes any highway and the way over any causeway, bridge, viaduct, arch, quay or wharf, and any road, lane, footway, square, court, alley or passage accessible to the public, whether a thoroughfare or not:

(f) "cattle" includes elephants, camels, horses, asses, mules, sheep, goats and swine:

(g) words and expressions which are defined in the Code of Criminal Procedure, 1882, [*] have the same meaning as in that Code.

CHAPTER II.

ORGANIZATION OF THE POLICE.

General.

4. In each district of the Presidency of Bombay to which this Act extends, Government may, subject to the control of the Governor General in Council, establish and entertain a police-force of such number in the several ranks and having such an organization and such duties, rights and authority as are hereinafter prescribed and provided for, and receiving such salaries and allowances as shall from time to time be directed and approved by the authorities aforesaid.

Police-force to be entertained in each district.

5. (1) For the direction and supervision of the police-force of every portion of the presidency to which this Act extends, Government shall appoint an Inspector General of Police, who shall have such functions, authority and responsibility as are hereinafter provided, subject to the provisions of this Act, and to such rules and orders as may be made by Government in this behalf.

Appointment and authority of Inspector General of Police,

(2) Subject to the previous approval of the Governor General in Council, Government may appoint one or more Deputy Inspectors General of Police, to whom Government may assign such duties being amongst the lawful duties of the Inspector General of Police, or in aid and furtherance thereof, as shall to Government seem expedient.

and of Deputy Inspector General.

(3) The Inspector General and Deputy Inspector General may be suspended or removed from office by Government.

Their suspension or removal.

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1886, published by the Legislative Department.

(Chap. II.—Organization of the Police. Secs. 6-11.)

Appointment of District and Assistant Superintendents.

6. Government may appoint for each district a Superintendent and such Assistant Superintendents of Police as it may think expedient, and may dismiss, suspend, reduce, remove or transfer any of such officers as it may think fit.

Commissioners and Inspector General to have magisterial powers; to exercise them subject to such limitations as are imposed by Government.

7. Each Commissioner throughout the districts under his control, and the Inspector General of Police throughout the presidency, shall have the powers of a Magistrate of the first class, but shall exercise such powers subject to such limitation as may from time to time be imposed by Government.

Appointment of Inspectors.

8. The Inspector General may, subject to the rules and orders of Government, appoint such inspectors as shall be necessary for the service of each district.

Appointment of police-officers below the grade of inspector.

9. Police-officers below the grade of inspector shall be appointed in each district by the District Superintendent, subject to such rules as to sanction, designations, mutual relations and conditions of service as, consistently with the law at the time in force, Government may from time to time prescribe.

Certificates of appointment to be given to inspectors. Certificates of office to be given to police-officers below the grade of inspector.

10. An inspector shall, on appointment, receive from the Inspector General a certificate of appointment containing particulars of his race, name, age, caste or religion and of his previous service, if any.

11. (1) Every police-officer below the grade of inspector shall, on enrolment, receive a certificate in the form of Schedule B under the seal of the Magistrate of the district in which he is enrolled.

Powers, etc., of persons appointed as aforesaid.

(2) Every person appointed as aforesaid shall, in virtue of such appointment, be vested with the powers, functions, privileges and responsibilities of a police-officer.

Such certificates when to become null and void.

(3) (a) Every certificate of appointment shall become null and void whenever the person named therein for any reason ceases to belong to the police.

Temporary suspension of powers, etc., of police-officers.

(b) 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

(Chap. II.—Organization of the Police. Secs. 12-16.)

and subject to the same authorities as if no such suspension had taken place.

12. The District Superintendent shall, subject to the orders of the Inspector General and of the Magistrate of the district, within their several spheres of authority, direct and regulate all matters of arms, drill, exercise, observation of persons and events, mutual relations, distribution of duties, study of laws, orders and modes of proceeding and all matters of executive detail in the fulfilment of their duties by the police-force of his district.

General powers of District Superintendent.

13. (1) The District Superintendent and the police-force of a district shall be under the command and control of the Magistrate of the district.

Control by Magistrate of the district,

(2) In exercising authority under the preceding sub-section, the Magistrate of the district shall be governed by such rules and orders as Government may from time to time make in this behalf, and shall be subject to the lawful orders of the Commissioner.

subject to rules and orders of Government and lawful orders of the Commissioner.

(3) The Inspector General shall be bound, in the rules and orders issued by him under this Act, to give furtherance to the purposes of sub-section (1).

Inspector General in issuing rules and orders to give furtherance to purposes of sub-section (1).

14. If the Magistrate of the district considers that there is, or on any particular occasion will be, pressing need for a police-force that cannot be furnished by his own district, he shall communicate with the Inspector General, who shall, as far as possible, and subject to the orders of Government, comply with the requisitions of the Magistrate of the district.

Additional police-force to be furnished to any district by the Inspector General on requisition of District Magistrate.

15. The Magistrate of the district may require from the District Superintendent reports, either particular or general, on any matter connected with crimes, the condition of the criminal classes, the prevention of disorder, the regulation of assemblies and amusements, the distribution of the police-force, the utilization of auxiliary means and all other matters in furtherance of his control of the police-force and the maintenance of order.

District Superintendent may be required by District Magistrate to furnish reports.

16. If the Magistrate of the district observes marked incompetence, or unfitness for the locality or for his particular duties, in any officer subordinate to the District Superintendent, he may call on the Superintendent to substitute another officer for any officer whom he has power to remove, and the

District Magistrate's general powers of supervising.

(Chap. II.—Organization of the Police. Secs. 17-20.)

the police-force of his district.

Superintendent shall be bound to comply with such requisition. In the case of an Inspector or officer of higher grade, the Magistrate of the district may communicate with the Inspector General, who shall thereon determine the measures to be taken with careful attention to the views of the Magistrate of the district and shall inform him of the orders he may issue.

Power of Commissioner to issue directions in respect of police-force.

17. (1) A Commissioner may make any order with respect to the police-force in any district within the division subject to his authority, which the Magistrate of the district might make, and any order which he may be authorised to make by any rule lawfully made by Government under the provisions of this Act or other law in force, and may also in case of emergency direct any portion of such force appointed for one district to be employed in any other district in such division.

Such direction ordinarily to be to the District Magistrate and to be communicated to the Inspector General.

(2) An order under sub-section (1) shall ordinarily be directed to the Magistrate of the district concerned, but may when necessary be addressed directly to the District Superintendent, in which case it shall be communicated to the Magistrate of the district. The order shall in each case be communicated by the Commissioner to the Inspector General.

Commissioner may call Inspector General's attention to defects in the police of his division, which shall be remedied.

18. In such matters falling under his observation as lie within the sphere of authority of the Inspector General, a Commissioner may call the Inspector General's attention to defects of system or of personal competence in the police of any portion of the division subject to his authority. It shall be incumbent on the Inspector General in every such case to remedy defects, and to remove causes of complaint and to conform to the requests of the Commissioner where the same shall be lawful and consistent with the orders of Government and other lawful commands, requests and instructions. He shall communicate the steps taken by him to the Commissioner.

Commissioner may call on District Magistrate for reports on state of crime, etc., and issue orders thereon.

19. A Commissioner may call on the Magistrate of a district for such reports and information connected with the state of crime in his district and with the distribution of the police therein and on the arrangements for repressing offences and disorder as he may think necessary, as a means towards the good administration of the division subject to his authority, and may thereon issue such orders as shall be conformable to law. Every such order shall be directed to the Magistrate of the district and shall be communicated to the Inspector General.

Commissioner may investigate and regulate all

20. A Commissioner shall, subject to the orders of Government, have authority to investigate and regulate all matters of account connected with the police within the division subject to his authority, and all persons con-

(Chap. II.—Organization of the Police. Secs. 21-22.)

cerned shall be bound to give him reasonable aid and facilities in conducting such investigations, and to conform to his lawful orders consequent thereon. matters of police accounts.

Special.

21. (1) Whenever it shall appear to a Magistrate of the second class or of higher rank having jurisdiction at a town or place, that any unlawful assembly, riot or other disturbance of the peace has taken place or is reasonably apprehended and that the available police-force is not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of property in the local area in which such unlawful assembly, riot or other disturbance has taken place or is apprehended, such Magistrate may, on the application of any police-officer not lower in rank than a chief constable, by a written order signed by himself and sealed with his official seal, appoint to be special police-officers, for such time and within such limits as he shall think necessary, so many persons fit and willing to act as such officers as he shall think proper. Appointment of special police-officers.

(2) Every special police-officer so appointed shall have the same powers, functions, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary police-officer; but it shall not be necessary for him to receive a certificate of office under section 11. Powers and responsibilities of special police-officers.

Additional.

22. (1) Any District Superintendent, on the application of any person showing the necessity therefor, may depute any additional number of police to keep the peace or to perform other police-duties at any place within the district. Employment of additional police at request of persons showing the necessity therefor. Cost thereof.

(2) Such additional police shall be employed at the charge of the person making the application, but shall be subject to the orders of the police-authorities and shall be employed for such period as the District Superintendent thinks fit:

(3) Provided that, if the person upon whose application such additional police are employed shall at any time make a written requisition to the District Superintendent for the withdrawal of the said police, he shall be relieved from the charge therefor on the expiration of such period, not exceeding one month from the date of delivery of such requisition, as the District Superintendent shall determine. Proviso regarding relief from costs.

(4) In acting under this section the District Superintendent shall be subject to the provisions of section 13 (1).

(Chap. II.—Organization of the Police. Secs. 23-26.)

Employment of additional police near large works.

23. (1) Whenever it shall appear to any Magistrate of a district that the behaviour, or a reasonable apprehension of the behaviour, of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial concern under construction or in operation at any place within his district, necessitates the employment of additional police at such place, such Magistrate may, with the sanction of Government, depute such additional police to the said place as he shall think fit, and keep the said police employed at such place for so long as such necessity shall appear to him to continue.

Cost thereof.

(2) Such additional police shall be employed at the charge of the person by whom the work, manufactory or concern is being constructed or carried on, and the said person shall pay the charges therefor at such rates and at such times as the Magistrate of the district, with the sanction of Government, shall from time to time require.

Disputes as to payment of cost.

24. In case of any dispute in any case under section 22 or section 23, the decision of the Magistrate of the district 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 Magistrate of the district, be levied by the Collector as if it were an arrear of land-revenue due by the person found to be answerable therefor.

Employment of additional police in cases of special danger to the public peace.

25. (1) Government may, from time to time, by notification, direct the employment of additional police for such period as it shall think fit in any local area which shall appear to it to be in a disturbed or dangerous state, or in which the conduct of the inhabitants or of any particular section of the inhabitants shall, in its opinion, render it expedient temporarily to increase the strength of the police.

Cost thereof.

(2) The cost of such additional police shall, if Government so direct, be defrayed, either wholly or partly, by a rate charged on the inhabitants generally or on any particular section of the inhabitants of the local area to which the notification applies.

Assessment of the cost.

(3) The said rate shall be assessed, except in a municipal district, by the Collector at his discretion. If the local area in which any such rate is to be imposed is a municipal district, the amount of the charge shall be paid by the municipality from the municipal fund and the rate shall be assessed by the municipality conformably to the direction given by Government under subsection (2).

Recovery of rates and charges

26. (1) Every rate assessed under the last preceding section or other provision of this Act by a municipality shall be recovered by such municipality

(Chap. III.—Regulation, Control and Discipline of the Police-force.
Secs. 27-29.)

from each person answerable therefor in the same manner as a municipal tax due by him. under section 25 by a municipality;

(2) Every rate assessed by the Collector as aforesaid shall be recoverable by the Collector as if it were an arrear of land-revenue due by the person answerable therefor. by the Collector.

CHAPTER III.

REGULATION, CONTROL AND DISCIPLINE OF THE POLICE-FORCE.

27. Subject to the orders of Government, the Inspector General may from time to time make rules or orders not inconsistent with this Act or with any other enactment at the time in force— Framing of rules for administration of the police.

- (a) relating to the recruitment, organization, classification and discipline of the police ;
- (b) regulating the inspection of the police by his subordinates ;
- (c) determining the description and quantity of arms, accoutrements, clothing and other necessaries to be furnished to the police ;
- (d) for the institution, management and regulation of any police-fund for any purpose connected with police-administration ;
- (e) regulating, subject to the provisions of section 13, clause (1), and section 17, the distribution, movements and location of the police ;
- (f) regulating the duties of police-officers of different grades ;
- (g) regulating the collection and communication by the police of intelligence and information ;
- (h) generally, for the purpose of rendering the police efficient and preventing abuse or neglect of their duties.

28. The Inspector General of Police may, subject to the rules and orders of Government, call for such returns, reports and statements on subjects connected with the suppression of crime, the maintenance of order and the performance of their duties, as his subordinates may be able to furnish to him. He will communicate to the Magistrate of the district and the Commissioner any general orders issued by him for the purposes aforesaid or in consequence of the information furnished to him, and also any orders which Government may direct. Inspector General may call for returns, etc.

29. (1) The Governor in Council, or any officer authorized by sub-section (3) in that behalf, may suspend, reduce or dismiss any police-officer whom he Punishment of police-officers

(Chap. III.—Regulation, Control and Discipline of the Police-force
Secs. 30-32.)

departmentally for neglect of duty, etc.

shall think cruel, perverse, remiss or negligent in the discharge of his duty or unfit for the same, and may fine, to an amount not exceeding one month's pay, any police-officer below the grade of Assistant Superintendent who is guilty of any breach of discipline or misconduct which does not require his suspension or dismissal or who, by any act of his own, renders himself unfit for the discharge of his duty.

Punishment under this section to be in addition to penalty under section 36, 63 or 64.

(2) Any punishment inflicted on a police-officer under this section shall be in addition to the penalty to which such officer is liable under section 36, 63 or 64 of this Act or any other law in force.

Punitive powers of Inspector General and Superintendent.

(3) The Inspector General shall have authority to punish an inspector under sub-section (1). A District Superintendent shall have the like authority in respect of any police-officer subordinate to him below the grade of inspector and may suspend an inspector who is subordinate to him, pending inquiry into a grave complaint against such inspector and until an order of the Inspector General can be obtained. But the exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by Government in that behalf.

Procedure to be observed in awarding punishment.

30. When any officer passes an order for fining, suspending, reducing or dismissing a police-officer, he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the inquiry made, in writing, under his signature in the language of the district or in English.

Departmental punishment for insubordination.

31. (1) The Inspector General and any District Superintendent and any Assistant Superintendent in charge of a portion of a district may punish, by confinement for a period not exceeding three days, any police-officer below the rank of head constable who is, in his presence, grossly insubordinate or who is insolent to him.

Procedure to be observed in awarding such punishment.

(2) Every order for punishing a police-officer as aforesaid shall be recorded in the manner prescribed in section 30, and a copy of every such order made by a District Superintendent or an Assistant Superintendent shall be forwarded by him to his immediate superior.

Police-officers to be deemed to be always on duty and to be liable to employ.

32. (1) Every police-officer shall, for all purposes of this Act, be deemed to be always on duty in the area for which he is appointed or to which he is lawfully transferred, and any police-officer and any number or body of police-officers appointed for one part of the presidency may, if Government or the Inspector General so direct, at any time be employed on police-duty in any

(Chap. III.—Regulation, Control and Discipline of the Police-force, Secs. 33-34.)

other part of the presidency for so long as the services of the same may be there required.

ment in any part of the presidency.

(2) Timely intimation shall, except in cases of extreme urgency, be given to the Commissioner and Magistrate of the district by the Inspector General of any proposed transfer under this section, and, except where secrecy is necessary, the reasons for the transfer shall be explained; whereupon the officers aforesaid and their subordinates shall give all reasonable furtherance to such transfer.

Intimation of proposed transfers to be given by the Inspector General to the Commissioner and District Magistrate.

33. (1) No police-officer shall engage in trade or be in any way concerned, either as principal or agent, in the purchase or sale of land within the district wherein he is employed or in any commercial transaction whatever, without the permission of the Magistrate of the district, or of Government.

Police-officer not to engage in trade, etc.

(2) No police-officer under the rank of Assistant Superintendent shall, unless with the written permission of the Inspector General, hold any office or practice in any profession, or engage in any employment whatever, other than his office or duties as such police-officer.

Police-officers under the rank of Assistant Superintendent not to be employed on other than police-duties.

(3) The prohibitions in sub-sections (1) and (2) apply when a police-officer is on leave or under suspension as well as when he is on duty.

These prohibitions to apply also when a police-officer is on leave or under suspension.

34. (1) Unless with the written permission of the District Superintendent or of some other police-officer empowered by the Inspector General to grant such permission, no police-officer under the rank of Assistant Superintendent shall resign his office or withdraw himself from the duties thereof, until—

Under what conditions police-officer may resign.

(a) the expiration of two months after written notice of his intention so to do has been given by him to the District Superintendent; and until

(b) he has fully discharged any debt due by him, as such police-officer, to Government or to any police-fund:

(2) Provided that if any such police-officer produces a certificate signed by the Civil Surgeon declaring him to be unfit by reason of disease or

Proviso.

(Chap. III.—Regulation, Control and Discipline of the Police-force.
Secs. 35-36.)

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 satisfactory security for the payment of any debt due by him as aforesaid.

Arrear pay of a police-officer contravening this section may be forfeited.

(3) If any such police-officer as aforesaid resigns or withdraws himself from the duties of his office in contravention of this section, he shall be liable, on the order of the District Superintendent, to forfeit all arrears of pay then due to him. This forfeiture shall be in addition to the penalty to which the said officer is liable under section 36 of this Act or other law in force.

Certificate, arms, etc., to be delivered up by person ceasing to be a police-officer, and if not delivered up, may be seized under a search-warrant.

35. (1) Every person who for any reason ceases to be a police-officer shall forthwith deliver up to some officer empowered by the District Superintendent to receive the same, his certificate of appointment or of office and the arms, accoutrements, clothing and other necessaries which have been furnished to him for the execution of his office.

(2) Any Magistrate and, for special reasons which shall be recorded in writing at the time, any District Superintendent may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1882[*], by a police-officer or, if the Magistrate or District Superintendent issuing the warrant so directs, by any other person. X of 1882.

Saving of certain articles.

(3) Nothing in this section shall be deemed to apply to any article which, under the orders of the Inspector General, has become the property of the person to whom the same was furnished.

Penalty for making false statement, etc., and for misconduct of police-officers.

✓ 36. (1) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a police-officer, or

(2) any police-officer who—

- (a) contravenes any provision of section 33, or
- (b) is guilty of cowardice, or
- (c) resigns his office or withdraws himself from the duties thereof in contravention of section 34, or
- (d) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which, as such police-officer, it is his duty to observe or obey, or

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chap. III.—Regulation, Control and Discipline of the Police-force. Secs. 37-38. Chap. IV.—Police Regulations. Sec. 39.)

(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.

(3) A police-officer who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of such leave shall, for the purposes of clause (e), be deemed to withdraw himself from the duties of his office within the meaning of section 34.

Consequence of failure to return to duty after leave.

37. Any police-officer who wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provision of sub-section (1) of section 35, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Penalty for failure to deliver up certificate of appointment or of office or other article.

38. Government, whenever it shall seem necessary, may by notification make an order to such effect as any order which if made by a Magistrate under section 144 of the Code of Criminal Procedure [*] could be continued in force by Government under the enactment aforesaid.

Government may make orders under section 144, Code of Criminal Procedure.

X of 1882.

CHAPTER IV.

POLICE REGULATIONS.

39. (1) In any town or other place in which he thinks fit, the Magistrate of the district may, from time to time and subject to such orders as may have been made by a municipal or other authority empowered in that respect, make rules or orders—

Rules may be made by District Magistrate regarding use of streets, etc.

(a) closing certain streets, or places temporarily, in cases of danger from ruinous buildings or other cause, with such exceptions as shall appear reasonable ;

(b) for guarding against injury to persons and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours or the public ;

(c) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street ;

(d) prohibiting the hanging or placing of any cord or pole across a street

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chap. IV.—Police Regulations. Sec. 39.)

- or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air ;
- (e) prescribing certain hours of the day during which ordure and offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets, and during which cattle shall not be driven along the streets, or along certain specified streets, except subject to such reasonable regulations as he may prescribe in that behalf ;
 - (f) prohibiting the setting fire to or burning any straw or other matter, or lighting a bonfire or wantonly discharging a fire-arm or air-gun, or letting off or throwing a fire-work or sending up a fire-balloon in or upon or within fifty feet of a street or building, or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto lamps or other contrivances for illumination, except subject to such reasonable regulations as he may prescribe in that behalf ;
 - (g) prohibiting, except under such reasonable regulations as the Magistrate of the district may impose, the making of any excavation, the placing of building materials or other articles, or the fastening or detention of any horse or other animal in any street ;
 - (h) prohibiting, save under such regulations as aforesaid, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases and the carcasses of animals or parts thereof and the corpses of persons deceased ;
 - (i) setting apart places for the slaughtering of animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matters, and for obeying calls of nature ;
 - (j) in cases of existing or apprehended epidemic or infectious disease of men or animals, with respect to cleanliness and disinfection of premises by the occupier thereof and residents therein, and as to the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been directed or approved by Government with a view to prevent the disease or to check the spreading thereof ;
 - (k) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only the use, of any source, supply or receptacle of water ; and providing against pollution of the same or of the water therein ;

(Chap. IV.—Police Regulations. Secs. 40-41.)

(l) regulating the hours during which and the manner in which any place for the disposal of the dead, any dharmśāla, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;

(m) regulating the entrance and exit of persons at theatres and other places of public amusement or assembly, the decent and orderly conduct of proceedings therein and the movement of persons, animals and vehicles at such times and such places at which in the opinion of the Magistrate special regulations may be necessary for the public safety and convenience.

(2) Every regulation made under clause (h) or made under clause (l) with respect to the use of a place for the disposal of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in certain cases; and every rule or order made by the Magistrate of the district under clause (e), (e), (f), (g), (h) or (i) shall be published by affixing a copy thereof, in the language of the district, in the chāvdi or in some other public building in the town or place in which the same is to have operation, and a copy, in the language of the district, of every rule or order made under clause (a), (b), (j), (k) or (l) shall be kept affixed in a conspicuous spot near to the building, structure, work or place to which the same specially relates.

Manner of publication of such rules.

(3) Every rule promulgated under the authority of article (j) of clause (l) of this section shall be forthwith reported to Government and shall be in force for not more than fifteen days unless extended by Government for a longer period and in such case for so long as Government directs.

Rules under clause (l) (j) to be reported to Government.

(4) It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation.

40. Every Magistrate of a district may from time to time make rules for the blasting of rocks or for making excavations in or near any street in any town or village in his district and may provide in such rules for the grant of licenses for such operations.

District Magistrates may make rules for blasting and excavation.

41. On complaint being made to a Magistrate of a district or of a sub-division that any house in a town or village in his district or sub-division to which Government has by notification extended this section is used as a common brothel or lodging-house or place of resort for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the said Magistrate may summon the owner or

Discontinuance of brothels.

(Chap. IV.—Police Regulations. Secs. 42-44.)

tenant of the house to answer the complaint, and on being satisfied that the house is so used may order the owner or tenant, within a reasonable period which shall be set forth in the order, to discontinue such use of it.

Issue of orders by Magistrates for prevention of disorder.

42. (1) The Magistrate of the district, or in his absence and subject to his order the Magistrate of the first class having jurisdiction in any town or village and present therein or in the neighbourhood thereof, may, whenever and for such time as it shall appear necessary, by a notification publicly promulgated or addressed to individuals, prohibit in such town or village or the vicinity thereof the carrying of arms, cudgels or other weapons, the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles, the exhibition of persons or of corpses or figures thereof, the public utterance of cries, singing of songs, delivery of harangues and 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, in the opinion of such Magistrate, 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 of a lawful authority.

Any one of several Magistrates having jurisdiction may issue order.

(2) If in any town or village or the vicinity thereof there are two or more Magistrates of the first class having jurisdiction therein, a prohibition as aforesaid may be made by any one of them.

Orders by subordinate Magistrate to be communicated to the District Magistrate.

(3) An order made under this section by a subordinate Magistrate shall be forthwith communicated to the Magistrate of the district, who shall thereupon confirm, cancel or modify the same as shall seem expedient.

Issue of orders by Magistrate of the district for prevention of riot or grave disturbance of the peace.

43. In order to prevent an impending or apprehended riot or grave disturbance of the peace the Magistrate of the district 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 order as the Magistrate may make and notify in the exercise of the authority hereby vested in him.

Issue of orders by Magistrate of the district for mainten-

44. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organized assemblage in any street as to which or the conduct of or participation in which it shall appear to the Magistrate of the district that a dispute or contention exists which is likely to

(Chap. IV.—Police Regulations. Secs. 45-46.)

lead to grave disturbance of the peace, such Magistrate 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 town or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

ance of order at religious ceremonials, etc.

(2) Any order made under the foregoing sub-section 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 Magistrate of the district that such order 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.

45. (1) Whenever it shall appear to the Magistrate of a district that any place in the district, at which, on account of a fair, pilgrimage or other such occurrence, large bodies of persons have assembled or are likely to assemble, is visited or will probably be visited with an outbreak of any epidemic disease, he may take such special measures and may by public notice prescribe such regulations to be observed by the residents of the said place and by persons present thereat or repairing thereto or returning therefrom as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

District Magistrate may take special measures to prevent outbreak of epidemic disease at fairs, etc.

(2) It shall be lawful for the Magistrate of the district or for the Collector on the requisition of the Magistrate of the district, subject to the orders of Government, to assess and levy such reasonable fees on persons falling under the provisions of sub-section (1) as will provide for the expenses of the arrangements for sanitation and the preservation of order at and about the place of assemblage.

Levy of fees in such cases.

(3) When the place of assemblage is within the limits of a municipality such sums as shall be necessary for the purposes aforesaid may be recovered from the municipality.

Recovery of expenses from municipalities.

46. Whenever it shall appear to the Magistrate of a district or to any Sub-divisional Magistrate that the movement or encampment of any gang or body of persons in the district is causing or is calculated to cause danger or alarm or reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such Magistrate may, by notification addressed to the persons appearing to be the leaders or chief men of such

Dispersal of gangs and bodies of persons.

(Chap. IV.—Police Regulations. Secs. 47-49.)

gang or body and published by beat of drum or otherwise as such Magistrate thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm, or to disperse and each of them to remove himself to such place by such route as such Magistrate shall prescribe.

Police to provide against disorder, etc., at public places of amusement and public meetings.

47. (1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any public place of amusement or at any assembly or meeting to which the public are invited or which is open to the public, the senior police-officer of highest rank superior to that of constable, present in the town or village where such place of amusement is situate or such assembly or meeting is to be held, 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 the proceedings at, such place of amusement or such assembly or meeting, as he thinks necessary; and all persons shall be bound to conform to every such reasonable direction.

Police to have free access thereto.

(2) The police shall have free access to every such place of amusement, assembly or meeting, for the purpose of giving effect to the provisions of subsection (1) and to any direction made thereunder.

Police to regulate assemblies, etc., in public streets.

48. (1) The District Superintendent or an Assistant Superintendent may, subject to any rule or order which may at any time be legally made by any Magistrate, or other authority duly empowered in this behalf—

- (a) make rules for and direct the conduct of assemblies and processions and moving crowds or assemblages on or along the streets, and prescribe, in the case of processions, the routes by which, the order in which, and the times at which the same may pass;
- (b) regulate and control, by the grant of licenses or otherwise, the playing of music, the beating of drums, tom-toms or other instrument and the blowing or sounding of horns or other noisy instruments in or near a street;
- (c) make reasonable orders subordinate to and in furtherance of any order made by a Magistrate under sections 39-46 of this Act.

Manner of publication of such rules and orders.

(2) Every rule and order made under this section shall be published at or near the place where it is to operate, or shall be notified to the person affected thereby, and all persons concerned shall be bound to act conformably thereto.

Provisions as to dogs.

49. (1) The Magistrate of the district may, by public notice, extending to such place or places within the district as shall therein be named, require

(Chap. IV.—Police Regulations. Sec. 50. Chap. V.—Executive Powers and Duties of the Police. Sec. 51.)

every dog, while in the streets and not led by some person, to be muzzled in such a manner as will admit of the animal breathing and drinking without obstruction and effectually prevent it from biting, and the police may, except as is hereinafter in sub-section (2) provided, destroy any dog found loose in any place beyond the premises of the owner thereof during the currency of such order, or may take possession of any such dog and detain the same until the owner has claimed it, has provided a proper muzzle, and has paid all expenses connected with such detention.

(2) The police shall not destroy any dog which wears a collar bearing a known owner's name, unless such dog is rabid, until the same has remained in their possession for three clear days without the owner claiming it and paying all expenses incurred by its detention ; but may sell or destroy any dog which has remained in their possession for the said period without the owner claiming it and paying the said expenses.

When dogs may be destroyed or sold by the police.

(3) For the expenses incurred under the preceding sub-sections the owner of the dog shall be answerable as for an arrear of land-revenue.

How expenses may be recovered.

(4) When any dog taken possession of by the police wears a collar with the apparently genuine address of any person inscribed thereon, a letter stating the fact of such dog having been taken possession of shall be forthwith sent by post to the said address.

Provision in case of dog wearing a collar with owner's address.

50. Every power conferred by this Chapter on a District Superintendent or officer subordinate to him shall be exercised by him subject to the orders of the Magistrate of the district, and all rules, regulations and orders made by the Magistrate of the district under this Chapter shall be subject to the provisions of section 13 (2).

Powers under this Chapter to be exercised by District Superintendent subject to control of District Magistrates and by District Magistrates subject to control of Government.

CHAPTER V.

EXECUTIVE POWERS AND DUTIES OF THE POLICE.

51. (1) Every police-officer shall—

(a) promptly obey and execute every warrant or other order lawfully issued

Duties of police-officer.

(Chap. V.—Executive Powers and Duties of the Police. Sec. 52.)

to him by competent authority; and shall by all lawful means endeavour to give effect to the commands of his superior;

- (b) to the best of his ability, obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and lay such information and 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 offences;
- (c) to the best of his ability, prevent the commission of public nuisances;
- (d) apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason;
- (e) 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) discharge such duties as are imposed upon him by any law relating to revenue or other law at the time in force.

Power to enter places of public resort.

(2) Every police-officer may, subject to the rules and orders made by Government or by a person lawfully authorised, enter for any of the said purposes, without a warrant, and inspect any place of public resort and any place which he has reason to believe is used as a drinking-shop, or a shop for the sale of intoxicating drugs or a place of resort of loose and disorderly characters.

Power to search suspected persons in the streets.

(3) When in a street or place of public resort a person has possession or apparent possession of any article which a police-officer in good faith suspects to be stolen property, such police-officer may search for and examine the same and may require an account thereof, and, should the account given by the possessor be manifestly false or suspicious, may detain such article and report the facts to a Magistrate, who shall thereon proceed according to sections 523 and 525 of the Code of Criminal Procedure [*] or other law in force.

X of 1:

Duties of police-officers towards the public.

52. It shall be the duty of every police-officer—

- (a) 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;
- (b) to take prompt measures to procure necessary help for any person under arrest or in custody, who is wounded or sick, and, whilst

[*] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chap. V.—Executive Powers and Duties of the Police. Secs. 53-54.)

guarding or conducting any such person, to have due regard to his condition ;

- (c) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;
- (d) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
- (e) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;
- (f) to use his best endeavours to prevent any loss or damage by fire ;
- (g) to use his best endeavours to avert any accident or danger to the public.

53. (1) It shall be the duty of a police-officer—

- (a) 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 any other law in force for observance by the public in or near the streets ;
- (b) to keep order in the streets and at and within public bathing, washing and landing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship during the time of public worship ;
- (c) 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.

Police to regulate traffic, etc., in streets ;

to keep order in the streets and other public places ;

to regulate resort to public places.

(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.

Persons bound to conform to reasonable orders of police.

(3) A police-officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid, and may either take such person before a Magistrate or, in trivial cases, may release him when the occasion is past.

Police-officer may restrain or remove contumacious person.

54. Whenever a notification has been duly issued under section 42, or an order has been made under section 43 or 44, 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

Enforcement of orders issued under section 42, 43 or 44.

(Chap. V.—Executive Powers and Duties of the Police. Secs. 55-58.)

disobedience, to arrest the person offending. Such Magistrate or police-officer may also seize any object or thing used or about to be used in contravention of such notification or order as aforesaid, and the thing seized shall be disposed of according to the order of any Magistrate having jurisdiction at place.

Duty of the police to see orders issued under section 45 or 46 carried out.

55. It shall be the duty of the police to see that every regulation and notification made by the Magistrate of the district under section 45, or by Magistrate of the district or a Sub-divisional Magistrate under section 46 duly obeyed, to warn persons who from ignorance fail to obey the same, and to arrest any person who wilfully disobeys the same.

Police-officer may take charge of stray cattle.

56. A police-officer may take charge of any animal falling under the provisions of the Cattle-trespass Act [a] which may be found straying in a street and may take or send the same to the nearest pound, and the owner and other persons concerned shall thereon become subject to the provisions of the said Act.

Duty of police with regard to unclaimed property.

57. The police shall take temporary charge of all unclaimed property found by or made over to them; and shall deliver all such property to the police patel, if any, of the town or village in which the same was found, and take a receipt therefor from the patel, who shall forward such property to the Magistrate to whom such police-patel is subordinate. If in any such case there be no police-patel of such town or village, the police shall forthwith report to such Magistrate as the Magistrate of the district shall, from time to time, appoint in this behalf, and act thereafter as the said first-mentioned Magistrate shall direct.

Procedure by Magistrate when the property exceeds ten rupees in value.

58. (1) If the property regarding which a report is made to a Magistrate under the last preceding section or under section 19 of the Bombay Village Police Act, 1867 [b], appears to such Magistrate to have been left by a person who has died intestate and without known heirs and to be likely, if sold in public auction, to realize more than ten rupees net proceeds, he shall communicate with the District Judge with a view to its being dealt with under the provisions of section 10 of Regulation VIII of 1827 [c] (a Regulation to provide for the formal recognition of heirs, etc.) or other law in force.

Bom. V.
1867.

Procedure in other cases.

(2) In any other case the Magistrate shall issue a proclamation specifying the articles of which such property consists, and requiring any person

[a] For Act I of 1871 see the revised edition, as modified up to 1st March, 1891, published by the Legislative Department.

[b] Printed in Vol. II of this Code, p. 120.

[c] Printed in Vol. I of this Code, p. 14.

(Chap. V.—Executive Powers and Duties of the Police. Secs. 59-60.

Chap. VI.—Offences and Punishments. Sec. 61.)

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. If no person within such period establishes his claim to such property, it shall be at the disposal of Government, and may be sold in public auction under the orders of the Magistrate.

(3) The provisions of section 10 of the Regulation aforesaid shall be deemed not to apply to intestate property which is dealt with by a Magistrate under sub-section (2).

59. If the property regarding which a report is made as aforesaid is subject to speedy and natural decay or consists of live-stock, or appears to be of less value than five rupees, the Magistrate may at once direct it to be sold in public auction, and the provisions of the last preceding section shall, as nearly as may be practicable, apply to the net proceeds of such sale.

Power to sell perishable property at once.

60. 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, where 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 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.

A superior police-officer may himself perform duties imposed on his inferior, etc.

CHAPTER VI.

OFFENCES AND PUNISHMENTS.

61. In any local area to which Government by notification from time to time extends this section or any part thereof, whoever contrary thereto—

Punishment of certain street offences and nuisances—

(a) without lawful excuse drives along, or keeps standing in, any street a vehicle of any description at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light or lights, except when there is sufficient moonlight to render such light unnecessary;

driving on dark nights without a light;

(b) drives a vehicle of any description along a street and does not keep (except in cases of actual necessity or of some sufficient reason for deviation) on the left side of such street when meeting any other

disregarding the rule of the road;

(Chap. VI.—Offences and Punishments. Sec. 61.)

vehicle, or on the right side of such street when passing any other vehicle;

leaving cattle,
etc., insuffi-
ciently
tended;

causing
obstruction
or mischief
by animals;

exposing
animal for
hire or sale,
etc.;

causing any
obstruction in
a street;

obstructing a
footway;

exhibiting
mimetic,
musical or
other per-
formances,
etc.;

- (c) leaves in any street insufficiently tended or secured any animal or vehicle;
- (d) causes obstruction, injury, danger or alarm in any street, or mischief by any misbehaviour, negligence or ill-usage in the driving, management or care of any animal or vehicle, or by driving any vehicle or animal laden with timber, poles or other unwieldy articles through a street, contrary to any regulation made in that behalf and published by the Magistrate of the district;
- (e) exposes for hire or sale any animal or vehicle, cleans any furniture or vehicle, or cleans, grooms, trains or breaks in any horse or other animal or makes or repairs any vehicle or any part of a vehicle in any street (unless when in the case of an accident repairing on the spot is necessary) or carries on therein any manufacture or operation so as to be a serious impediment to traffic or a serious annoyance to residents or to the public;
- (f) causes obstruction in any street by allowing any animal or vehicle which has to be loaded or unloaded or to take up or set down passengers, to remain or stand therein longer than may be necessary for such purpose, or by leaving any vehicle standing or fastening any cattle therein, or using any part of a street as a halting-place for vehicles or cattle, or by leaving any box, bale, package or other thing whatsoever in or upon a street for an unreasonable length of time, or contrary to any regulation made and published by the Magistrate of the district, by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever causes obstruction;
- (g) causes obstruction on any footway, or danger, alarm or annoyance by driving, riding or leaving any animal or driving or drawing any vehicle thereupon or fastening any animal so that the same can stand across or upon such footway;
- (h) exhibits, contrary to any regulation made and notified by the Magistrate of the district, any mimetic, musical or other performances of a nature to attract crowds, or carries or places bulky advertisements, pictures, figures or emblems in any street whereby an obstruction to passengers or annoyance to the inhabitants may be occasioned;

(Chap. VI.—Offences and Punishments. Sec. 61.)

- (*i*) assembles with others or joins any assembly in a street assembled for the purpose of gaming or wagering; gambling in a street;
- (*j*) slaughters any animal, cleans a carcass or hide, obeys a call of nature, or causes a child to do so, or bathes or washes his person in or near to and within sight of a street (except in some place set apart for the purpose by order of the District Magistrate or of some other person having lawful authority in that behalf), so as to cause annoyance to the neighbouring residents or to passers-by; doing offensive acts on or near public streets;
- (*k*) negligently lets loose any horse or other animal, so as to cause danger, injury, alarm or annoyance, or suffers a ferocious dog to be at large without a muzzle, or sets on or urges a dog or other animal to attack, worry or put in fear any person or horse or other animal; letting loose horses, etc., and suffering ferocious dogs to be at large;
- (*l*) bathes or washes in or by the side of a public well, tank or reservoir, not set apart for such purpose by order of the Magistrate of the district or of some other person having lawful authority in that behalf, or in or by the side of any pond, pool, aqueduct, part of a river, stream, nala or other source or means of water-supply in which such bathing or washing is forbidden by order of the Magistrate of the district or other person having lawful authority in that behalf; bathing or washing in places not set apart for those purposes;
- (*m*) defiles, or causes to be defiled, the water in any public well, tank, reservoir, pond, pool, aqueduct or part of a river, stream, nala or other source or means of water-supply, so as to render the same less fit for any purpose for which it is set apart as aforesaid; defiling water in public wells, etc.;
- (*n*) obstructs or incommodes a person bathing at a place set apart for that purpose as aforesaid, by wilful intrusion or by using such place for any purpose for which it is not so set apart; obstructing bathers;
- (*o*) wilfully and indecently exposes his person, uses indecent language or behaves indecently or riotously or in a disorderly manner in a street or place of public resort, or in any public office, station or station-house; behaving indecently in public;
- (*p*) is drunk and incapable of taking care of himself in a street or place of public resort; being drunk and incapable;
- (*q*) wilfully pushes, presses, hustles or obstructs any passenger in a street, or by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening horses or cattle, or otherwise disturbs the public peace or order; obstructing or annoying passengers in the streets;

(Chap. VI.—Offences and Punishments. Secs. 62-65.)

misbehaviour with intent to provoke a breach of the peace ;

- (r) uses in any street any threatening, abusive or insulting words or behaviour, with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned ;

begging and exposing offensive ailments.

- (s) begs importunately for alms, or exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound, in or near to and within sight of any street ;
shall be punished with fine which may extend to fifty rupees.

Punishment for cruelty to animals.

62. (1) Whoever cruelly beats, goads, overworks, ill-treats or tortures or causes or procures to be cruelly beaten, goaded, overworked, ill-treated or tortured any animal, shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(2) Jurisdiction in cases arising under this section shall not be exercised by a Magistrate of lower rank than the first class unless such Magistrate be specially invested with jurisdiction for that purpose by Government.

Penalty for vexatious search, arrest, etc., by the police.

63. 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 ;
or
(b) vexatiously and unnecessarily seizes the property of any person ; or
(c) vexatiously and unnecessarily detains, searches or arrests any person ;
or
(d) offers any unwarrantable personal violence to any person in his custody ;
(e) holds out any threat or promise not warranted by law to a person accused ;

shall for every such offence be punished with imprisonment for a term not exceeding two months, or with fine which may extend to five hundred rupees, or both.

Penalty for vexatious delay in forwarding a person arrested.

64. Any police-officer who 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 shall be punished with fine which may extend to two hundred rupees.

Penalty for contravention of

65. Whoever—

- (a) contravenes any rule made under section 39, or

(Chap. VI.—Offences and Punishments. Secs. 66-72.)

(b) opposes or fails to conform to any direction given by the police under section 53, rules under section 39 or of directions under section 53.

(c) abets the commission of any offence under clause (a) or (b), shall be punished with fine which may extend to fifty rupees.

66. Whoever contravenes any rule made under section 40 or any condition of any license granted under the said rules shall be punished with fine which may extend to one hundred rupees. Penalty for contravening rules, etc., under section 40.

67. Whoever fails to comply with an order made under section 41 shall be punished with fine which may extend to twenty-five rupees for every day that such order continues to be disobeyed by him. Penalty for failure to comply with order under section 41.

68. Whoever—

(a) disobeys an order lawfully made under section 42, 43 or 44, or

(b) opposes or fails to conform to any direction given by the police under section 47, or

(c) opposes or disobeys any rule made or direction given by the police under section 48, or

(d) contravenes any condition of a license granted under clause (b) of the said section, or

(e) abets the commission of any offence under clause (a), (b), (c) or (d),

shall be punished with fine which may extend to two hundred rupees. Penalty for contravention of rules or directions under sections 42, 43, 44, 47 and 48.

69. Whoever contravenes or abets the contravention of any regulation made under section 45 shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both. Penalty for contravention of a regulation made under section 45.

70. Whoever opposes or disobeys any direction given by a Magistrate of a district or a Sub-divisional Magistrate under section 46 or abets opposition to, or disobedience of, any such direction, shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both. Penalty for contravention of direction given under section 46.

71. Whoever opposes or fails forthwith to comply with any reasonable direction given by a Magistrate or a police-officer under section 54, or abets opposition thereto or failure to comply therewith, shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Penalty for opposing or not complying with direction given under section 54.

72. Offences against this Act, when the accused person or any one of the accused persons is a police-officer above the rank of a constable, shall not be cognizable by a Magistrate below the second class. Jurisdiction when offender is a police-officer above the rank of constable.

(Chap. VI.—Offences and Punishments. Secs. 73-74. Chap. VII.—Miscellaneous. Secs. 75-77.)

Prosecution for certain offences against the Act to be in the discretion of the police.

73. It shall not, except in obedience to a rule or order made by Government or by the Magistrate of the district, be incumbent on the police to prosecute for an offence punishable under section 61, 62, 65, 67, 68, 69 or 70, when such offence has not occasioned serious mischief and has been promptly desisted from on warning given.

Prosecution for offences under other enactments not affected by the Act.

74. 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^[a].

X of 1882.

CHAPTER VII.

MISCELLANEOUS.

Disposal of rewards, etc., payable to police-officers.

75. All sums paid for the service of process by police-officers, and all rewards, forfeitures and penalties or shares thereof which are by law payable to police-officers as informers, shall, except as hereinafter in this section provided, be credited to Government: Provided that, with the sanction of Government, or under any rule made by 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.

District Magistrate's authority over village-police-officers may be delegated to District Superintendent, and may be withdrawn.

76. Any Magistrate of a district may delegate to the District Superintendent any authority which such Magistrate himself possesses for police-purposes over any village-police-officer, and may withdraw such authority.

No municipal or other rates to be payable by Government on police-buildings.

77. (1) No municipal or other local rates shall be payable by Government on account of the occupation or use of any house or place by members of the police-force for the convenient performance of their duties.

Municipalities may be required to provide accommodation for the police.

(2) It shall be the duty of a municipality within the limits of which a police-force is stationed for the service of such municipality in preserving the

[a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chap. VII.—Miscellaneous. Secs. 78-80.)

peace, public order and safety and preventing crime, to provide on the requisition of Government such accommodation for the police so employed as shall be reasonably necessary or such portion thereof as to Government shall seem just and expedient.

(3) The provision of such accommodation or other fulfilment of the requirements of this section shall be deemed a purpose of the Bombay District Municipal Acts of 1873 [a] and 1884 [b].

Provision of such accommodation to be a purpose of the Bombay District Municipal Acts.

Bom. VI of 1873 and II of 1884.

78. Any order or notification published or issued by Government or by a Magistrate or officer under any provision of this Act, and the due publication and issue thereof, may be proved by the production of a copy thereof in the Bombay Government 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 and issued according to the provisions of the section of this Act applicable thereto.

Method of proving orders and notifications issued under this Act.

79. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision herein contained or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient for any defect of form or publication or any irregularity of procedure.

Rules and orders not to be deemed invalid on account of defect of form or irregularity in procedure.

80. (1) No Commissioner, Magistrate or police-officer shall be liable to any penalty or to payment of damages on account of any act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

No Commissioner, Magistrate or police-officer to be liable to penalty or damages for act done in good faith in pursuance of duty.

(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 Government or by a person empowered in that behalf under this Act or any rule made under any provision thereof.

No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.

(3) In any case of an alleged offence by a Magistrate, police-officer or other

Suits or prosecutions in

[a] Printed in Vol. II of this Code, p. 139.

[b] Printed *supra*, p. 69.

(Chap. VII.—Miscellaneous. Sec. 81.)

respect of acts done under colour of duty as aforesaid not to be entertained or to be dismissed if not instituted within six months.

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 six months after the date of the act complained of.

In suits as aforesaid, one month's notice of suit to be given with sufficient description of wrong complained of.

(4) In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

Plaint to set forth service of notice and tender of amends.

(5) The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any, and if any what, tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof.

Person interested may apply to Government to annul, reverse or alter any rule or order.

81. (1) In the case of any rule or order made by 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 Government by a memorial given to a Secretary to Government to annul, reverse or alter the rule or order aforesaid on the ground of its being unlawful, oppressive or unreasonable.

When a suit shall lie to the District Court to declare a rule or order unlawful.

(2) After such an application as aforesaid and the rejection thereof wholly or in part, or after the lapse of four months without an answer to such application or a decision thereon published by Government, it shall be competent to the person interested and deeming the rule or order contrary to law to institute a suit against Government in the District Court of the district wherein the rule or order operates, for a declaration that the rule or order is unlawful either wholly or in part. The decision in such suit shall be subject to appeal; and a rule or order finally adjudged to be unlawful shall by Government be annulled or reversed or so altered as to make it conformable to law.

82. [Saving of certain Acts.] Repealed by Act XVI of 1895.

1890: Bom. Act IV.] *District Police. (Schedule A.)*

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Schedule B.

1890: Bom. Act V.] *Municipal Servants.*

SCHEDULE A.

(See section 2.)

ENACTMENTS REPEALED.

Number and year of enactment.	Title or subject.	Extent of repeal.
[^a] Bombay Regulation No. XII of 1827.	For the establishment of a system of police throughout the Bombay Presidency. <i>Acts of the Governor of Bombay in Council.</i>	So much of clauses 1, 6, 7 and 8 of section 19 as has not already been repealed.
[^b] VII of 1867 . . .	The Bombay District Police Act.	The whole Act, except sections 33 and 34.
[^c] III of 1886 . . .	The Bombay General Clauses Act.	So much of Schedule B as relates to clauses 1, 6, 7 and 8 of section 19 of Regulation XII of 1827 and to any section of Bombay Act VII of 1867, except section 34.

SCHEDULE B.

(See section 11.)

FORM OF CERTIFICATE FOR POLICE-OFFICER BELOW THE GRADE OF INSPECTOR.

Seal of the
Magistrate
of the district.

A. B. has been appointed to the Police of the district of _____ and is vested with the powers, functions and privileges of a Police-officer under the Bombay District Police Act, 1890.

BOMBAY ACT No. V of 1890.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 15th January, 1891.)

The Bombay Municipal Servants Act.

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere, for the enforcement of regulations regarding certain classes of

[^a] Printed in Vol. I of this Code, p. 17.

[^b] Printed in Vol. II of this Code, p. 108.

[^c] Printed *supra*, p. 91.

(Secs. 1-3.)

municipal servants whose functions intimately concern the public health or safety, and regarding the duties, withdrawal from duty and leave of such servants; It is enacted as follows:—

Short title.

1. (1) This Act may be cited as the Bombay Municipal Servants Act.

Commencement and extent.

(2) It shall come into force in the City of Bombay at once.

(3) The Governor in Council may, by notification, extend all or any of its provisions, on and after a day not less than two months after the date of such notification, to any municipal district in the Bombay Presidency.

He may also cancel or vary such notification consistently with the provisions of this Act.

Interpretation.

2. (1) Unless there be something repugnant in the subject or context, all words used in this Act shall have respectively the meanings assigned to them in the City of Bombay Municipal Act, 1888 [a].

Bom. III of
1888.

Act to be read with Municipal Acts in force.

(2) This Act shall, in so far as it affects the City of Bombay, be read with the City of Bombay Municipal Act, 1888[a], and, in so far as it affects any other part of the Presidency of Bombay, shall be read with the Bombay District Municipal Acts, 1873 [b] and 1884 [c].

Bom. VI of
1873 and II
of 1884.

Conditions as to resignation, withdrawal and absence from specified duties.

3. (1) Any municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality to perform any of the duties specified in the schedule, who—

(a) without the written permission, in the City of Bombay of the Commissioner or a person by him deputed in that behalf, and elsewhere of the officer authorized by the Municipality to give such permission, resigns his office without at least two months' notice given in writing to the Commissioner or person by him deputed, or to such officer, or withdraws or absents himself from the duties thereof, except in case of illness or accident disqualifying him for the discharge of such duties or other reason accepted as sufficient by such Commissioner or person by him deputed, or such officer, or

Neglect or breach of duty.

(b) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which, as such municipal officer, servant or other person employed by or on behalf of the Corporation or a Municipality, it is his duty to observe or obey, or

[a] Printed *supra*, p. 192.

[b] Printed in Vol. II of this Code, p. 139.

[c] Printed *supra*, p. 69.

(Secs. 4-5.)

(c) who abets an offence under clause (a) or clause (b), shall be liable to forfeit his pay accruing due under a current term of service, and arrears of pay due for a term of not more than one month, and, in addition to such forfeiture and any other penalty which may be imposed on him under any enactment or rule for the time being in force, shall be liable, on conviction by a Magistrate, to imprisonment which may extend to three months, or to fine, or to both imprisonment and fine :

Provided that if any such officer, servant or other person produces a certificate signed by the medical officer appointed in the City of Bombay by the Commissioner, and elsewhere by the Municipality in this behalf, of a present incapacity to perform his duties which will probably endure for a month or more, the necessary permission to resign shall forthwith be granted. Proviso.

Provided further that no fee shall be taken from a person on account of such certificate as aforesaid or of examination in connection therewith.

(2) The provisions of clauses (a) and (b) of sub-section (1) shall not apply to persons at the date of the passing of this Act in the employment of the Corporation or of a Municipality until the lapse of two months from such date.

4. (1) The Commissioner or officer authorized by the Municipality under section 3 (a), may,—

- (a) at his discretion, accept any resignation to take effect at a time less than two months from the date thereof, or
- (b) at any time after any municipal officer, servant or other person employed as aforesaid, has tendered his resignation, dispense with the services of such officer, servant or person.

Power to dispense with two months' notice or with services after tender of resignation.

(2) Any such officer, servant or other person whose services are dispensed with under sub-section (1), clause (b), shall, subject to any agreement in writing previously made between him and the Corporation or Municipality or its representative, be entitled, in addition to any wages which he may have earned at the date of tendering his resignation, to fifteen days' wages or to wages for such period longer than fifteen days, as his services may, after such tender of resignation, have been retained by the officer authorised in that behalf.

(5. (1) It shall be lawful for the Governor in Council on the request of the Corporation or of a Municipality from time to time, by notification, to declare that from a date to be fixed therein, which shall not be less than two months from the date thereof, any specified class of duties which concern the

Power of Governor in Council to add to schedule.

public health or safety, shall be deemed to be included in the schedule to this Act, and from the date fixed on that behalf in such notification the provisions of section 3 shall apply to all persons employed by, or on behalf of, the Corporation or a Municipality to perform any duty of the class so specified in such notification .

(2) The Governor in Council may withdraw such notification and may from time to time cancel or vary the same consistently with the preceding clause and with the other provisions of this Act, and may also limit the operation of any notification to any Municipality or place wherein this Act is in operation.

Copies of Act to be supplied at nominal price to employés.

6. Every person employed by or on behalf of the Corporation or a Municipality to perform any of the duties set forth in the schedule, shall on entering the service, and every person now so employed shall forthwith, receive gratis, and shall at any time thereafter, on payment of one anna, be entitled to receive in the City of Bombay from the Municipal Commissioner for the City of Bombay, and elsewhere from the President of a Municipality, a copy of this Act and of the notifications issued thereunder, applicable to such person or to the class to which he belongs, in the English, Maráthi, Gujaráthi, Canarese or Sindhí language.

SCHEDULE.

(*Vide section 3.*)

DUTIES WHICH RENDER THE PROVISIONS OF SECTION 3 APPLICABLE TO THE PERSONS EMPLOYED BY, OR ON BEHALF OF, THE CORPORATION OR A MUNICIPALITY TO PERFORM THEM.

Class I.—Duties connected with the public health :

- (a) scavenging or cleansing streets or premises,
- (b) cleansing or flushing drains,
- (c) removing or disposing of excrementitious or polluted matter from houses, latrines, privies, urinals or cess-pools,
- (d) removing carcasses,
- (e) preventing nuisances generally.

Class II.—Duties connected with the public safety :

Duties of—

- (a) members of a fire-brigade,

- (b) persons, however designated, employed on, or in connection with, the maintenance or service of any municipal water-work, drain, pumping station or fire hydrant, including—
- (1) inspectors,
 - (2) sub-inspectors,
 - (3) foremen,
 - (4) mechanics,
 - (5) drivers,
 - (6) watchmen,
 - (7) labourers,
 - (8) workmen;
- (c) lamp-lighters.

BOMBAY ACT No. I OF 1891.

(The assent of the Governor General to this Act was first published by the Governor of Bombay on the 19th November, 1891.)

Bom. III
of 1886.

An Act to amend the Bombay General Clauses Act, 1886.

[NOTE.—S. 1 of this Act is repealed, and part of s. 2 superseded, by Act XVI of 1895. The amendments made by the rest of s. 2 are incorporated in Bom. Act III of 1886 as printed on pp. 91 *et. seq. supra.*]

THE BOMBAY BOILER INSPECTION ACT, 1891.

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BOMBAY ACT No. II OF 1891.

*(The assent of the Governor General of India to this Act was first published
by the Governor of Bombay on the 18th January, 1892.)*

An Act to amend the Law for the periodical inspection and the
management by competent Engineers of Boilers and Prime-
movers in the Presidency of Bombay.

WHEREAS it is expedient to amend the law for the inspection and manage-
ment of steam-boilers and of prime-movers ; It is enacted as follows :—

Preamble.

Preliminary.

1. (1) This Act may be cited as the Bombay Boiler Inspection Act, 1891.

Short title.

(2) It shall come into force at once in the City of Bombay and in the dis-
trict and places in which the Bombay Boiler Inspection Act, 1887 [a], is at
present in force. And the Governor in Council may from time to time, by
notification in the Bombay Government Gazette,—

Commence-
ment and
extent.

- (a) extend it to any other district or place in the presidency of Bombay ;
- (b) withdraw it from operation in any district or place other than the
City of Bombay to which it extends or has been by him extended.

Bom. III of
1887.

[*] Bom. Act III of 1887 is repealed by s. 2 of this Act.

(Preliminary. Secs. 2-3. Inspection of Boilers. Secs. 4-5.)

Limitation
of applica-
tion of Act.

(3) But nothing in this Act shall be deemed to apply to any boiler or prime-mover in any steam-vessel, or to any locomotive engine, boiler or prime-mover used upon or appertaining to any railway within the meaning of that word as defined in section 3, clause (4), of the Indian Railways Act, 1890, or to any boiler or prime-mover used exclusively for domestic purposes at atmospheric pressure. IX of 1890.

Repeal of
Bombay Act
III of 1887.
Proviso.

2. (1) The Bombay Boiler Inspection Act, 1887, is hereby repealed: Bom. III
1887.

(2) Provided that nothing in this Act shall affect the validity, according to its tenor, of any certificate granted under the said Bombay Boiler Inspection Act, 1887, or under the Boiler Inspection Act, 1873[*]. Every such certificate shall, for all the purposes of this Act, be deemed to have been granted, and to be in force, under the corresponding provisions of this Act. Bom. V
1873.

Interpreta-
tion-clause.

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

- (a) "boiler" includes any cylinder or vessel for generating steam or where-in steam is generated under pressure and any steam chest or other apparatus closely attached thereto;
- (b) "prime-mover" includes any steam-engine, steam-hammer, fly-wheel, first driving-shaft or pulley attached to any such engine, and every appurtenance necessary for the safe and efficient working of a prime-mover;
- (c) "owner" includes any agent or hirer using any boiler.

Inspection of Boilers.

Appoint-
ment of in-
spectors.

4. (1) Government may from time to time appoint one or more inspectors for the purposes of this Act, who shall be removeable at the pleasure of Government.

Local ex-
tent of their
duties.

(2) The local extent of each such inspector's duties and the mutual relations of inspectors shall be fixed from time to time by Government.

Their sub-
ordination
to the Col-
lectors.

(3) Subject to such rules as may from time to time be framed by Government under section 35, the inspectors shall be under the control of the Collector of the place or district in which the boilers to be inspected by such inspectors are respectively situated.

Appoint-
ment of
commis-
sions.

5. Government shall, as occasion may require, appoint commissions, either generally or specially, for hearing appeals preferred by owners under

[*] Bom. Act V of 1873 was repealed by Bom. Act III of 1887.

(Inspection of Boilers. Secs. 6-7.)

section 11 and for determining questions submitted to them under section 14. Such commissions shall consist of such person or persons as the Government shall deem fit to nominate, and their appointment shall endure for such term as shall be prescribed by Government.

6. (1) It shall not be lawful for the owner of any boiler—

Owner not to use a boiler without a certificate.

- (a) to use the same, or to permit the same to be used, unless a certificate shall have been duly granted in respect thereof in the manner hereinafter provided; or
- (b) to continue to use the same, or to permit the use thereof to be continued, after the period for which any such certificate shall have been granted has expired; or
- (c) to work the same or to permit the same to be worked, at a higher pressure than that allowed by such certificate; or
- (d) to work the same or permit the same to be worked at any time, except whilst he has in his employ, as engineer in direct and immediate management and charge thereof, a person who is a fit and proper person to manage and be in charge of the same:

(2) Provided that—

- (e) the owner of a boiler who holds in respect thereof a certificate as aforesaid, and who before the expiry of the period of such certificate gives notice under the next following section of his intention to continue to use the same after the expiry of the said period, may, subject to the provisions of clauses (c) and (d) of sub-section (1), continue to use the same or to permit the use thereof until it is examined in pursuance of such notice;
- (f) a person employed to manage and be in charge of not more than two sets of boilers, which boilers all belong to the same owner and are so situated that no one of them is more than a thousand feet apart from any other of them, may notwithstanding their distance from each other be deemed to be employed in direct and immediate management and charge of all such boilers.

7. (1) The owner of any boiler who desires to use the same shall, if it is unregistered, cause it to be registered.

Owner who desires to use a boiler to register the same. On notice from owner, inspector to register boiler.

(2) The owner of a boiler may give notice in writing to the inspector that he desires to have the same registered, whereupon the inspector shall register such boiler and shall allot to it a number corresponding to the number of the entry concerning it in the register of boilers. Such number shall be called

(Inspection of Boilers. Secs. 8-9.)

the registry number of the boiler. It shall be communicated to the owner, and shall, within such reasonable period as the inspector may direct, be permanently marked upon the boiler by the owner thereof so as to be plainly visible, and in such manner as Government may from time to time prescribe.

When Government inspector has been appointed, owner to give notice to him before using boiler.

8. (1) If the owner of a boiler does not hold in respect thereof a certificate which is at the time in force, he, having caused the boiler to be registered or having given a notice under sub-section (2) of section 7 in relation thereto, shall before using or continuing to use the said boiler give notice if it be situate in a city or town for which expressly an inspector has been appointed by Government to such inspector of his intention to use or to continue to use the said boiler and of his desire to obtain a certificate.

Inspector to appoint a time for examination.

(2) The inspector to whom such notice is given shall appoint a time between sunrise and sunset and within four days after the receipt of such notice, for the examination of such boiler, and at such time shall carefully examine such boiler and every appurtenance closely attached thereto.

Where inspector has not been appointed, owner to give notice to Collector.

(3) If such boiler be not situate in a city or town for which expressly an inspector has been appointed by Government, the owner shall, before using or continuing the use of the same, give notice to the Collector of the district in which it is situate of his intention to use or to continue to use the same, and the Collector shall cause an examination as aforesaid to be made by an inspector with the least possible delay and within twenty days after the receipt of such notice, and shall inform the owner of the date on which the said examination will take place.

Fees to be paid.

(4) Every person giving a notice under this section shall simultaneously pay the fees prescribed for the examination by a rule made under section 35.

Special provision regarding boilers procured in Bombay and Karáchi.

(5) If a boiler be procured in, or be imported into, the city of Bombay or Karáchi for use in any place beyond the said cities in which this Act is at the time in force, the owner of such boiler may, at his option, cause the same to be registered, numbered and examined for a certificate under the foregoing provisions of this section before it is removed from either of the said cities. Such certificate shall operate for a period of six months only from the date thereof.

Necessary information to be furnished by owner, and

9. (1) The owner or person in charge of any boiler so to be examined shall—

(a) afford to the inspector all reasonable facilities for such examination, and all such information as may reasonably be required by him ;

(Inspection of Boilers. Secs. 10-11.)

(b) previously arrange that—

(i) the boiler shall be empty and cool, and shall be cleaned inside and outside;

(ii) fire-flues shall be swept;

(iii) fire-bars and fire-bridges shall be removed;

(iv) blow-off and other cocks shall be cleared for the purpose of examination;

(c) if required by the inspector, cause any brick-work or masonry in contact with the boiler to be removed;

(d) during the examination, keep the boiler effectively disconnected from any steam or hot water communication with any other boiler.

necessary dispositions made for facilitating examination.

(2) The provision as to disconnection contained in clause (d) shall extend to every case wherein a person is sent, or with the owner's assent goes, into a boiler for any purpose connected therewith.

10. (1) If the inspector is satisfied that the boiler and the appurtenances closely attached thereto are in good condition, and if the registry number of the boiler is properly marked thereon in accordance with sub-section (2) of section 7, the inspector shall give to the owner a certificate to that effect.

Inspector to grant a certificate.

(2) Every certificate so granted shall be renewed by the inspector from time to time, if he is satisfied, after re-examining the boiler and the appurtenances closely attached thereto under the provisions of section 8, that the same are in good condition and that the registry number of the boiler is properly marked thereon as aforesaid.

Renewal of certificates.

(3) Every original or renewed certificate granted under this section shall be in the form of, and contain the particulars specified in, Schedule A. Except as is otherwise provided in sub-section (5) of section 8, every such certificate shall be granted for such period not exceeding twelve months as the owner of the boiler shall desire, unless it shall appear to the inspector improbable that the boiler and the appurtenances closely attached thereto will remain in good condition for so long a period, in which case the certificate shall be granted for such shorter period as the inspector in his discretion deems fit.

Form of certificates and periods for which they are to be granted.

11. If an inspector refuse to give a certificate or a renewed certificate to the owner of any boiler, or refuse to give the same for the full period applied for, he shall be bound to give to such owner, within forty-eight hours, his reasons for such refusal, in writing, and any owner deeming himself aggrieved by the decision of the inspector may, within one month from the date of the said refusal, lodge with the Collector of the place or district in which the

Appeal to lie from refusal by an inspector to give certificate.

(Inspection of Boilers. Secs. 12-15.)

boiler is situate an appeal to be heard by a commission appointed under section 5.

Determina-
tion of the
appeal.

12. (1) The owner's petition of appeal shall be forthwith forwarded by the Collector to the commission, and the said commission shall, within four days after the date of the receipt of the same, if the boiler be situated in the city of Bombay, and within ten days after the date of its receipt, if the boiler be situated elsewhere, inquire into and determine such appeal.

(2) The commission may either reject the appeal or grant the owner a certificate for such period not exceeding twelve months as it thinks fit.

(3) The inquiry shall be held in public, and the decision of the commission shall be final.

When com-
mission may
award costs.

13. (1) If the commission is of opinion that the appeal is unfounded or frivolous, it may award any sum not exceeding one hundred and fifty rupees, to be paid by the owner as costs.

Recovery of
costs.

(2) Any sum so awarded by the commission shall be recoverable by the Collector from the owner, as an arrear of land-revenue.

Revocation
of certifi-
cates.

14. (1) Any commission appointed under section 5 may, after such inquiry as shall seem just, revoke any certificate granted under section 10 or 12—

(a) if any fee, lawfully due under this Act, shall not be paid after the same has been duly demanded, or

(b) if there shall be reason to believe that such certificate has been fraudulently obtained or erroneously granted, or has been granted without sufficient examination, or

(c) if there shall be reason to believe that, since the granting of such certificate, the boiler in respect whereof it was granted has sustained injury or has ceased to be in good condition.

Fresh certi-
ficate may
be granted
after revoca-
tion of the
first.

(2) After such revocation, the boiler in respect whereof the certificate has been revoked shall not again be used until a further examination shall have been made and a certificate granted by the inspector with the countersignature of the said commission, or, if the commission consists of more than two persons, of a majority thereof or of their successors in office.

Inspector
may at any
time examine
a boiler for
which certi-
ficate has
been granted.

15. (1) It shall be lawful for an inspector, at any time between sunrise and sunset on any day during the period for which a certificate may have been granted under section 10, 12 or 14, to examine any boiler at work or not for which boiler such certificate has been granted, in order to ascertain whether such boiler is still in good condition, and whether any cause exists for revoking the said certificate.

(Inspection of Boilers. Secs. 16-18.)

(2) It shall be lawful for the inspector to order the working of a boiler to be stopped only when that shall in his opinion be indispensable for the proper examination of the boiler. The reasons for any such stoppage shall be given in writing by the inspector to the owner, on the owner's demand, concurrently with the order for stoppage, and the owner shall thereon become subject to the provisions of section 9.

When inspector may order working of a boiler to be stopped.

16. If at any time during the period for which a certificate has been granted under section 10, 12 or 14, any structural alteration or renewal is made in any part of the boiler to which such certificate relates, it shall be the duty of the owner of such boiler to give notice in writing of such alteration to the person hereinafter specified either before the same is commenced or whilst it is in progress.

Owner to report alterations to portions of boiler to which the certificate relates.

17. (1) It shall be the duty of every owner or person in charge of a boiler to report in writing to the person hereinafter specified, within twelve hours of its occurrence, every accident to the boiler or to any apparatus attached thereto which is calculated to weaken the strength of such boiler or to render it liable to explode.

Occurrence of accident to boiler to be reported.

(2) Every such report shall contain a true description of the nature of the accident and of the injury thereby caused, sufficient to enable the person to whom it is made to judge of the gravity of the accident.

Contents of the report.

(3) The owner or person in charge of the boiler shall be bound to answer truly, to the best of his knowledge and ability, every question put to him in writing by the person to whom the report is made as to the cause, nature and extent of the accident.

Owner to answer questions truly.

(4) Elsewhere than in the city of Bombay, the Collector of the district, or any person whom the said Collector generally or specially authorises in this behalf, may, after visiting the scene of any such accident as aforesaid, by an order in writing direct that the use of the boiler be discontinued until it has been examined and certified as fit for use by an inspector, and the owner and person in charge of the boiler shall be bound to obey such order.

Collector may order use of boiler to be discontinued.

(5) The persons to whom reports under this section and notices under the last preceding section shall be made or given are, in the city of Bombay, the inspector, and, elsewhere, the Collector of the district or such person as the said Collector appoints to receive the same.

Persons to whom reports and notices are to be given.

18. (1) The owner of any boiler who shall have obtained a certificate therefor, shall, at all reasonable times during the period for which such certificate is in force, be bound to produce the same when called upon to do so by

Owner to produce certificate when called upon.

(Engineers' Certificates. Secs. 19-23.)

any Presidency Magistrate in the city of Bombay, or by the Collector of the district elsewhere, or by any person generally or specially authorised in writing by such Magistrate or Collector to demand its production.

(2) A person who becomes owner of a boiler during the time for which a certificate therefor operates shall be entitled to receive the certificate from the preceding owner and shall be subject to the provisions of sub-section (1).

Engineers' Certificates.

Examinations of engineers to be held.

19. Examinations shall be held periodically, by a board of examiners, at such places and on such dates as Government shall determine, of persons who desire to qualify as engineers for the management of boilers.

Board of examiners to be appointed by Government.

20. The Governor in Council shall from time to time nominate competent persons to be members of the board of examiners for the said examinations. In no case shall an inspector appointed under this Act be a member of such board.

Certificate of competency to be granted to successful candidate.

21. (1) Every applicant for examination who is declared by the said board to have passed an examination shall receive a certificate of competency in accordance with the board's decision as to his qualifications, which shall be signed by the members of the board.

Certificates to be of different classes.

(2) Certificates of competency may be of different classes, and a certificate of each class shall qualify the holder thereof to manage or be in charge of a boiler of such capacity or kind as the Governor in Council may from time to time direct in the rules to be framed under section 35.

Certain other certificates to be available in proof of qualifications.

22. (1) If any engineer is in possession of a certificate of competency granted by any competent authority in British India, or in the United Kingdom, or in any British Colony, he shall be entitled to receive a certificate of competency as aforesaid, without undergoing examination.

(2) Government may from time to time determine what authorities shall be deemed competent for the purpose of this section.

(3) The certificate granted under this section shall be of such class as the board of examiners, or a majority of the members of the said board, on a consideration of the nature of the certificate in the engineer's possession, shall determine.

Grant of certificates of service.

23. (1) The board may, in the case of any person who satisfies it that he has served for a period of not less than three years prior to the date on which this Act comes into force as engineer in actual charge and management of a boiler, and that he is possessed of competent practical skill for such work, grant to him a certificate of service to the effect that he is qualified to the like extent

(Engineers' Certificates. Secs. 24-27.)

as the holder of a certificate of competency of any class which the board in such certificate of service specifies.

(2) Such certificate of service shall be signed as in the case of a certificate of competency.

(3) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act.

24. (1) If by means of any inquiry conducted under the provisions of this Act or of the rules framed thereunder it shall be established to the satisfaction of the Governor in Council that any engineer possessing a certificate of competency granted under section 21 or 22 or a certificate of service granted under section 23 is incompetent, or is addicted to drunkenness, or has been guilty of any serious misconduct or negligence, the Governor in Council may cancel such certificate, or suspend the same for such time as he shall deem fit.

Withdrawal or suspension of certificate.

(2) The holder of such certificate shall, on demand by the persons charged with the inquiry, forthwith place in the hands of such persons his certificate to abide the result of such inquiry.

Holder to surrender certificate pending inquiry.

(3) When any holder of a certificate shall have been called on to deposit the same under sub-section (2), or when any inquiry into his conduct shall have been directed by Government, if such holder shall fail to deposit his certificate, or shall withdraw beyond the limits of the Presidency of Bombay, Government may notify such failure or withdrawal by notification giving a statement of the circumstances so far as known.

Failure to surrender certificate may be notified.

25. A duplicate of every certificate of competency or service granted under this Act shall be kept and recorded in such manner as the Governor in Council shall direct; and all orders made under the last preceding section for cancelling or suspending any certificate shall be from time to time entered on the record containing such duplicates.

Record of certificate to be kept.

26. Whenever any engineer proves to the satisfaction of the Governor in Council that he has, without fault on his part, lost or been deprived of any certificate granted to him under this Act, a duplicate of the certificate to which by the record so kept as aforesaid he appears to be entitled shall be furnished to him, which shall have for all purposes the same validity as the original certificate.

Duplicate of certificate to be given.

27. No person who does not possess a certificate of competency or service granted under section 21, 22, 23 or 26 shall be deemed a fit and proper person to manage or be in charge of a boiler; and no holder of any such certificate shall be deemed a fit and proper person to manage or be in charge of any

Who is to be deemed a fit and proper person to manage a boiler.

boiler except to the extent of his qualification indicated by his said certificate.

Penalties.

28. Any owner of a boiler who—

For failing to give notice of alteration;

(a) fails to give notice, as required by section 16, of any structural alteration or renewal thereof,

for refusing to produce certificate;

(b) refuses or neglects to produce the certificate which he has obtained therefor, when duly called upon so to do under section 18,

and every owner or person in charge of a boiler who—

for failing to report accident to a boiler;

(c) fails to report^[a], as required by section 17, any accident of the kind mentioned in the section,

shall, for every such omission, refusal or neglect, be punished with fine which may extend to one hundred rupees.

29. (1) The owner of any boiler who shall—

for using boiler without certificate;

(a) use the same or permit it to be used, without a certificate duly obtained and in force in respect thereof,

for working boiler without having a competent engineer in charge,

(b) work the same or permit the same to be worked at any time, except whilst he has in his employ as engineer in direct and immediate management and charge thereof, a person who is a fit and proper person to manage and be in charge of the same,

and any such owner or any person who shall—

or at a higher pressure than allowed by certificate;

(c) work the same, or permit it to be worked, in contravention of an order for discontinuing its use, made under sub-section (4) of section 17, or at a higher pressure than that allowed by any certificate duly obtained and in force in respect thereof,

shall be punished with fine which may extend to one hundred rupees for every day or part of a day that he shall so use or work the said boiler, or permit the same to be so used or worked.

(2) And if the said owner or person shall continue so to use or work the boiler, or to permit the same to be so used or worked after such fine shall have been imposed, he shall be held to have committed a separate offence, and shall be punished with a further fine which may extend to one hundred rupees for

[*] Words repealed by Act XVI of 1895 are omitted.

(Penalties. Secs. 30-34. Miscellaneous. Sec. 35.)

each day or part of a day after the first conviction during which the offence is continued, and in like manner after each subsequent conviction.

30. (1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the registry number marked on a boiler shall, for every such act, be punished with fine which may extend to five hundred rupees.

for tampering with registry number of a boiler ;

(2) And whoever fraudulently marks upon a boiler a registry number which has not been duly allotted to it under this Act shall be punished with imprisonment which may extend to two years, or with fine, or with both.

for fraudulently marking a registry number on a boiler ;

31. A person who, being bound to deposit his certificate under the provisions of section 24 (2), shall refuse or omit to do so, shall be punished with fine which may extend to five hundred rupees.

for refusing or omitting to deposit his certificate in accordance with section 24 (2).

32. All offences against this Act shall be cognizable in the city of Bombay by a Presidency Magistrate, and elsewhere by a Magistrate of the first class.

Cognizance of offences against this Act.

33. No charge shall be brought against any person of any offence punishable under this Act, except within six months after the commission of the offence, nor shall any such charge be brought except with the sanction or under the direction of the Collector of the place or district in which such offence is alleged to have been committed.

Charges within what period to be brought.

34. No proceeding shall be taken to enforce the penalties mentioned in section 30 in any district or place in which the Bombay Boiler Inspection Act, 1887^[*], is not now in force, before such day after this Act shall have been extended to such district or place as Government shall fix by notification in the Bombay Government Gazette.

When penalties are to be enforced under section 30.

Bom. III of 1887.

Miscellaneous.

35. Government may from time to time frame rules not inconsistent with this Act, for—

Rules to be framed.

- (a) settling the duties and emoluments of commissions, inspectors and examiners appointed under this Act, and regulating the control to be exercised by Collectors over inspectors ;

[*] Bom. Act III of 1887 is repealed by s. 2 of this Act.

(Miscellaneous. Secs. 36-37.)

- (b) fixing the fees to be levied for inspection of boilers under sections 8 and 17 at such rates not exceeding those prescribed in Schedule B as Government thinks fit;
- (c) regulating the submission of appeals under section 12, the reference and cognizance of matters under section 14, the procedure to be followed in the hearing of the appeals and inquiry into the matters aforesaid, and the conduct of the examinations to be held under section 19, and providing for interpretation in the case of candidates unacquainted with English;
- (d) prescribing the qualifications to be required of candidates at the said examinations, the fees to be paid by them, the forms of the certificates to be granted to them, and the capacity or kind of boiler of which each such certificate shall qualify the holder thereof to be in charge;
- (e) providing for inquiry into an allegation of drunkenness, misconduct or negligence on the part of the holder of a certificate of competence or service;
- (f) generally for giving effect to the provisions of this Act.

All rules so framed may from time to time be varied, or cancelled, by Government, and shall be published in the Bombay Government Gazette, and when so published shall, until cancelled or varied, have the force of law.

Disposal of fees, etc.

36. All fees, costs and penalties levied under this Act shall be disposed of in such manner as Government shall from time to time direct.

Certain provisions of this Act may be applied to prime-movers.

37. (1) The Governor in Council may, from time to time by notification—

- (a) apply so much of this Act as relates to the taking out and grant of certificates for and the inspection of boilers to prime-movers generally, or to prime-movers of any particular class in any place or district in which this Act is at the time in force, and
- (b) cancel any such notification.

(2) During such period as any notification under the above clause (a) is in force in any place or district, the provisions of this Act thereby made applicable to prime-movers shall be read and understood in such place or district as if the word "boiler" included the words "prime-mover" wherever used therein.

(Sch. A.—Form of Inspector's Certificate. Sch. B.—Maximum Rates of Fees leviable for Inspections of Boilers under sections 8 and 17.)

SCHEDULE A.

(See section 10.)

FORM OF INSPECTOR'S CERTIFICATE.

Name of owner.	Registry number and description of boiler and age.	Power.	When and where made.	When and where last repaired.	Time for which this certificate is to be in force.	Maximum pressure at which the boiler may be worked.	Remarks.

I, the undersigned, certify that I have examined the above-named boiler, and to the best of my judgment the boiler, as shown in the above statement, and all its necessary appurtenances, are in good condition and the registry number is properly marked thereon.

A. B., Inspector.

SCHEDULE B.

(See section 35.)

MAXIMUM RATES OF FEES LEVIABLE FOR INSPECTIONS OF BOILERS UNDER SECTIONS 8 AND 17.

	Rs.
(1) For the inspection of each boiler not exceeding 10 horse-power nominal	15
(2) Ditto ditto exceeding 10 but not exceeding 20 ditto	20
(3) Ditto ditto exceeding 20 but not exceeding 30 ditto	30
(4) Ditto ditto exceeding 30 but not exceeding 50 ditto	40
(5) Ditto ditto exceeding 50 ditto	50

THE BOMBAY DISTRICT VACCINATION ACT, 1892.

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SCHEDULE E.—REGISTER OF POSTPONED VACCINATIONS.

BOMBAY ACT No. I of 1892.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 11th August, 1892.)

An Act to prohibit the practice of inoculation and to make the Vaccination of Children in certain portions of the Bombay Presidency compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation and to make compulsory the vaccination of children in certain portions of the presidency of Bombay, and to remove doubts as to the legality of compulsory

vaccination in the case of convicts and others confined in criminal jails, reformatories and lunatic asylums in the said presidency; It is enacted as follows:—

Preliminary.

- Short title.** 1. This Act may be cited as the Bombay District Vaccination Act, 1892.
- Extent and commencement.** 2. (1) Section 33 extends to the whole of the presidency of Bombay, and shall come into force at once.
- (2) The rest of the Act—
- (a) extends to the whole of the presidency of Bombay, except—
the city of Bombay, and
the town of Karáchi; and
- (b) shall come into force in each local area within its extent on such day as the Governor in Council by notification in the Bombay Government Gazette may direct.
- (3) Every such notification shall specify the local area to which it relates—
- (a) by name if such area is a territorial sub-division or area with a specific name and defined limits, or
- (b) by defining its limits in any other case.
- (4) Except when an epidemic of small-pox exists or is apprehended, notice of the intention of Government to introduce the Act as aforesaid on a date specified shall be given in the Bombay Government Gazette at least one month before such notification is issued, and Government shall receive and consider such suggestions and objections as may be submitted to Government by persons interested, not later than a week before the date specified as aforesaid.
- Power to suspend or withdraw Act.** 3. The Governor in Council may at any time by notification withdraw the Act from operation, or, for such period as he deems fit, suspend its operation, in any local area in which it may have been brought into force under section 2, sub-section (2), or in any part of such area.
- Interpretation-clause.** 4. In this Act, unless there be something repugnant in the subject or context,—
- (a) “parent” means, in the case of a legitimate child, the father or the mother and, in the case of an illegitimate child, the mother only:
- (b) “guardian” means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage, or who has accepted or assumed the care, nurture or custody of any child or to

whom the care or custody of any child has been entrusted by any authority lawfully authorised in that behalf :

(c) "public vaccinator" means any vaccinator appointed under this Act, and includes any deputy duly authorised to act for such public vaccinator :

(d) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act :

(e) "unprotected child" means a child who has not been protected from small-pox by having been successfully vaccinated, or who has not been certified under section 12 to have already had small-pox or to be insusceptible of vaccination :

(f) "animal-lymph" means vaccine taken from the calf of a cow or buffalo :

(g) "vaccination-area" means a local area in which the Governor in Council has by notification declared this Act to be, and the Act is, in force :

(h) "vaccination-circle" or "circle" means one of the circles into which a vaccination-area is sub-divided under this Act :

(i) "Sanitary Commissioner" means the Sanitary Commissioner for the Presidency of Bombay or any officer whom the Governor in Council from time to time directs to exercise or perform all or any of the powers or duties of a Sanitary Commissioner under this Act :

(j) "Registrar of births" means any officer or other person whose duty it is,—

(a) under any law for the time being in force other than the Births, Deaths and Marriages Registration Act, 1886^[a], or

(b) under any bye-law or rule having the force of law, to register births :

(k) "register" and "registration" refer to registration in pursuance of any such law, bye-law or rule as aforesaid.

Establishment.

5. (1) Subject to such rules and orders as may from time to time be made by Government, every vaccination-area shall, with the concurrence of the Com- Vaccination-circles.

[a] For Act VI of 1886 see the revised edition, as modified up to 1st June, 1891, published by the Legislative Department.

(Establishment. Secs. 6-8. Vaccination. Sec. 9.)

missioner, be divided by the Sanitary Commissioner into such and so many circles for the performance of vaccination, as he shall from time to time deem fit.

Appointment of public vaccinators and vaccine-stations.

(2) The Sanitary Commissioner shall appoint a public vaccinator for each vaccination-circle, and shall, with the concurrence of the Commissioner appoint such places in each such circle as he shall from time to time deem fit to be stations for the performance of vaccination. Such stations shall be called public vaccine-stations.

Public vaccinators how removable.

(3) Every public vaccinator shall be removable from office by the Sanitary Commissioner.

Limits of circles and hours of attendance how to be notified.

(4) The limits of the vaccination-circles made, and the positions of the public vaccine-stations fixed, under sub-sections (1) and (2), and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 32.

Public vaccinator to live within his circle.

6. Every public vaccinator, unless specially permitted by the Sanitary Commissioner to reside elsewhere, shall reside within the circle for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the vaccination-circle of * *", to be posted up in English and in the vernacular of the district in some conspicuous place on or near the outer door of his dwelling-house, and of every public vaccine-station in his circle.

Qualifications of public vaccinator.

7. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Sanitary Commissioner.

Superintendent of Vaccination.

8. (1) In each vaccination-area a Superintendent of Vaccination shall be appointed by Government, and, subject to the orders of the Sanitary Commissioner, shall have a general control over all the proceedings of the public vaccinators within that area, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Assistant Superintendents.

(2) Each Superintendent shall have, if necessary, one or more assistants as Government may from time to time direct.

Vaccination.

Duty of parent or guardian of children within limits of vaccination-area.

9. (1) Subject to the provision contained in clause (a) of sub-section (3), section 14, it shall be the duty of the parent, or, in the case of a child in the care of a guardian, of the guardian of every child such as is mentioned in sub-section (2), within the period prescribed in respect thereof in the said sub-

section, to take it or cause it to be taken to a public vaccinator to be vaccinated, or to cause it to be vaccinated by a public vaccinator or by some medical practitioner.

(2) The duty imposed by sub-section (1) shall be performed in the under-mentioned cases within the periods hereinbelow respectively specified, that is to say—

in the case of—

- (a) a child born within the limits of a vaccination-area—within twelve months after its birth ; Within what period to be performed—
in case of child born within vaccination-area,
- (b) an unprotected child brought to reside, whether temporarily or permanently, within the said limits,— in case of unprotected child brought within vaccination-area,
 - (i) if the child is less than nine months old—within twelve months after its birth ;
 - (ii) if the child is nine months or more than nine months, but less than fourteen years old—within three months of its being brought within the said limits ;
- (c) an unprotected child living within the said limits at the date when this Act comes into force therein,— in case of child living within vaccination-area when Act comes into force therein.
 - (i) if the child at such date is more than six months, but less than fourteen years old—within six months from the date of the Act coming into force in such area ;
 - (ii) if the child at such date is less than six months old—within twelve months from the date of its birth.

(3) The public vaccinator to whom any such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate the child. Public vaccinator bound to vaccinate all children brought to him.

10. (1) At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on any earlier or later day, if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator, or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation. Inspection.

(2) In the event of the vaccination being wholly or partly unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner Re-vaccination.

so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child be unfit for vaccination, certificate in Form A to be given.

11. (1) If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule A, or to the like effect, that the child is then in a state unfit for vaccination.

Certificate to remain in force for two months, but shall be renewable.

(2) The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months, until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given, in the form of Schedule C, according to the provisions of section 13, if warranted by the result.

When successive postponement certificates are to be granted.

(3) At or before the end of each successive period the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said Form A, so long as he deems requisite under the circumstances of the case.

Provision for giving certificates of insusceptibility to successful vaccination.

12. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

13. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C, or to the like effect, certifying that the said child has been successfully vaccinated.

Vaccination must ordinarily be performed with that kind of lymph which the parent or guardian of

14. (1) Except as is in sub-section (2) otherwise provided, the vaccination of a child under the provisions of this Act must, as the parent or guardian of the child may require, be performed with animal-lymph or with lymph taken from a human being.

(2) It shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable in any

(Vaccination. Sec. 15.)

vaccination-area without dangerous delay, to direct, by notification in the Bombay Government Gazette— the child may require.

(a) that, during such period as he may deem fit to appoint, the vaccination of children within such vaccination-area may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being ;

(b) that the public vaccinator or medical practitioner to whom, at any time during the said period, a vaccinated child is brought under the provisions of section 10 for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations in such manner as shall not be injurious to such child :

(3) The operation of any such notification shall be subject to the following provisos, *viz.*:—

(a) that if the period prescribed by section 9 for the vaccination of an unprotected child will expire while such notification is in force, the parent or guardian of such child may give written notice to a public vaccinator, before the expiry of the said period, of his desire to arrange privately for the effectual vaccination of the child in conformity with the provisions of this Act, and thereupon the public vaccinator shall for the said purpose allow an extension of the said period for such times, not exceeding one month, as he deems reasonable ;

(b) that lymph shall not be taken from any child who does not appear to be in good health and free from taint of a disease transmissible by vaccination, or whose parents are known to the public vaccinator or medical practitioner to have suffered or to be suffering from phthisis, leprosy or syphilis.

(4) Whenever the Governor in Council shall publish such a notification as aforesaid, he shall also frame and notify such regulations for the administration of the provisions thereby brought into force as shall appear necessary, in order to prevent the application of the said provisions from being attended with oppression or needless offence. These regulations shall include such rules as to the sources from which lymph is to be obtained, and the means by which it is to be preserved pure, as shall appear necessary, in order to satisfy reasonable scruples on the part of persons to be vaccinated or the parents or guardians of such persons.

15. (1) No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, No fee to be charged for vaccination

(Registration. Secs. 16-20.)

at a public
vaccine-
station or
for certifi-
cates.

Proviso.

nor for any vaccination done by him in pursuance of this Act at a public vaccine-station.

(2) But it shall be lawful for a public vaccinator to accept, for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station, a fee not exceeding such maximum as the Governor in Council may, by rule or order in this behalf, prescribe.

Registration.

Registrar
of births
to give notice
of the require-
ment of
vaccination.

16. On the registration in a vaccination-area of the birth of any child, the Registrar of births shall deliver to the person giving information of such birth a printed notice in the form of Schedule D, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of
all certificates
to be trans-
mitted to
Registrar.

17. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B and C shall, if possible, ascertain whether the birth of the child to which the certificate relates has been registered in any place situate within a vaccination-area or in the city of Bombay, or in the town of Karáchi. If he ascertains that it has been so registered he shall, within twenty-one days of giving the certificate, transmit a duplicate thereof to the Registrar of births of the said place; in every other case he shall, within the said period, transmit a duplicate of the said certificate to the Registrar of births (if any) of the place in which the child was vaccinated or presented for vaccination.

Registrar to
keep a
vaccination-
notice and
certificate-
book ;

18. Every registrar of births in a vaccination-area shall keep a book, in such form as may from time to time be prescribed under section 30, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

also a
duplicate
register of
births, with
entries
concerning
vaccination ;

19. He shall also prepare and keep a duplicate of any register of births which it is his duty to keep, with such columns added thereto as shall from time to time be prescribed under section 30, in which he shall record the date of every duplicate certificate, in the form of Schedule B or Schedule C, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, or has already had small-pox, as the case may be.

also a
register of

20. He shall also keep a register of postponed vaccinations in the form of Schedule E, in which he shall record the name of every child concerning

(Registration. Sec. 21. Prosecutions and Offences. Secs. 22-23.)

whom he receives a duplicate certificate in the form of Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of births in which such child's birth has been registered.

postponed
vaccina-
tions.

21. Every Registrar of births in a vaccination-area shall transmit, on the first of every month, to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed under section 30, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Transmis-
sion of
returns to
Superin-
tendent.

Prosecutions and Offences.

22. Whoever—

- (a) produces, or attempts to produce in any person, by inoculation with variolous matter or by wilful exposure to variolous matter, or to any thing impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person, or
- (b) being above the age of fourteen years and having been inoculated with small-pox in a place in which this Act is not for the time being in force, shall afterwards enter a vaccination-area before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion, or
- (c) having the charge, custody or control of any person so inoculated, shall, within such period or without such certificate as aforesaid, knowingly bring such person into, or permit such person to enter, a vaccination-area,

Penalty for
inoculating,

for entering
a vaccina-
tion-area
after inocu-
lation,

for bringing
person
inoculated
into such
area.

shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

23. (1) If a Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within a vaccination-area, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and, if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time not exceeding two months.

Magistrate
may make
an order
for the vac-
cination of
any unpro-
tected child
under fourteen
years.

Penalty for disobedience of such order.

(2) If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show to the Magistrate some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees :

Proviso for costs to person improperly summoned.

(3) Provided that, if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

24. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Penalty for neglect to take child to be vaccinated.

25. Whoever, in contravention of this Act,—

- (a) neglects, without reasonable excuse, to take, or cause a child to be taken, to be vaccinated, or after vaccination to be inspected, or
- (b) at any time, during the period for which any notification made under section 14 is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated, or
- (c) neglects to fill up, sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

26. Whoever wilfully signs, or makes or procures the signing or making of, a false certificate or duplicate certificate under this Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for accepting illegal fee or remuneration.

27. If any public vaccinator accepts, or obtains, or agrees to accept, or attempts to obtain, from any person any fee, or remuneration, contrary to the provisions of section 15, he shall be deemed to have committed an offence punishable under section 161 of the Indian Penal Code [a].

XLV of 186

[a] For Act XLV of 1860 see the revised edition, as modified up to 1st August, 1890, published by the Legislative Department.

(Prosecutions and Offences. Secs. 28-29. Supplemental. Secs. 30-32.)

28. All offences under this Act shall be cognizable by a Magistrate of the first or second class, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, a Magistrate of a district or of a sub-division, or of a Superintendent of Vaccination.

Cognizance of offences under the Act.

29. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from a Registrar of births, or any other officer, of the requirements of the law in this respect; but, if the defendant produce any certificate under section 12 or 13, or the duplicate of the register of births or the register of postponed vaccinations kept by any Registrar of births as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Prosecution for neglect.

Supplemental.

30. The Sanitary Commissioner shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars of births such books and forms as are required by them under the provisions of this Act.

Books and forms.

31. It shall be the duty of every Registrar of births in a vaccination-area to show in any annual general abstract of births prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year.

Annual return to be made of the number of children vaccinated, etc.

32. The Sanitary Commissioner may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act—

Sanitary Commissioner to make rules.

- (a) providing for the appointment of deputies of public vaccinators when necessary;
- (b) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 7;
- (c) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

Penalty for disobedience of such order.

(2) If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show to the Magistrate some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees :

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- (b) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 7;
- (c) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

(Supplemental. Sec. 33. Sch. A.—Form of Certificate of Postponement of Vaccination.)

All such rules or orders shall be published in the Bombay Government Gazette.

Vaccination
of convicts
and others
in jails, etc.

33. (1) Subject to such rules as the Inspector General of Prisons with the sanction of Government may make in this behalf, and to such exemptions as Government may from time to time, by either a general or a special order, authorize, the operation of vaccination shall be performed on every person confined in any of the cases hereinafter mentioned, whatever the age or sex of such person may be, and whether such person consent to undergo such operation or not; that is to say, in the case of every person in respect of whom—

- (a) imprisonment for more than one month or transportation has been awarded as part of the substantive sentence of a Criminal Court, or
 - (b) a Criminal Court has directed imprisonment, in default of payment of fine for a term which, if the fine be not sooner paid, will exceed one month, or
 - (c) a Court has directed imprisonment for failure to give security for good behaviour for a term which, if security be not sooner given, will exceed one month, or
 - (d) an order has been passed by Government under either section 466 or section 471 of the Criminal Procedure Code, 1882^[a], for his confinement as a lunatic. X of 1882.
- (2) [*Repealed by Act XVI of 1895.*]

SCHEDULE A.

(See section 11.)

I, the undersigned, hereby certify that, in my opinion, * * *, the child of * * * *, resident at * * *, in the vaccination-area of * * *, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this * * day of * * 18 * *.

(Signature of Medical Practitioner
or Public Vaccinator.)

[a] For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Sch. B.—Form of Certificate where child is insusceptible of Small-pox.
Sch. C.—Form of Certificate of Successful Vaccination. Sch. D.—Form
of Notice to Parent or Guardian or other Person who gives information of
Child's Birth.)

SCHEDULE B.

(See section 12.)

(FORM OF CERTIFICATE WHERE CHILD IS INSUSCEPTIBLE OF
SMALL-POX.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated * *, the child of * *, residing at * *, in the vaccination-area of * *, and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this * * day of * * 18 * *.

(Signature of Medical Practitioner
or Public Vaccinator.)

(Form of Certificate where child has already had small-pox.)

I, the undersigned, hereby certify that I have examined * *, the child of * *, residing at * *, in the vaccination-area of * *, and that I am of opinion that the said child has already had small-pox.

Dated this * * day of * * 18 * *.

(Signature of Medical Practitioner
or Public Vaccinator.)

SCHEDULE C.

(See section 13.)

I, the undersigned, hereby certify that * *, the child of * *, age * *, resident at * *, in the vaccination-area of * *, has been successfully vaccinated by me.

Dated this * * day of * * 18 * *.

(Signature of Medical Practitioner
or Public Vaccinator.)

SCHEDULE D.

(See section 16.)

To

[Here insert the name of the parent, guardian or other person who gives
information of the child's birth.]

Take notice that the child of * * * * * whose birth
has this day been registered, must be vaccinated under the provisions of the

Vaccination (Districts). [1892: Bom. Act I.
(Sch. E.—Register of Postponed Vaccinations.)
Salt. [1892: Bom. Act II.

Bombay District Vaccination Act, 1891, within twelve months from the date of its birth, under a penalty of fifty rupees.

The public vaccine-station nearest to the house in which the child was born is at * *.

The days and hours for vaccination at that station are as follows :—

(Here insert the days and hours when the public vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the vaccination-area on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the * * of * 18 * *.

Registrar of Births.

SCHEDULE E.

(See section 20.)

REGISTER OF POSTPONED VACCINATIONS FOR THE VACCINATION-AREA OF

Consecutive Number.	Name of Child.	BIRTH.		Date of Certificate of Postponement.	Signature of Registrar.
		Year.	Number of entry in Register.		

BOMBAY ACT No. II OF 1892.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th September, 1892.)

An Act to amend the Bombay Salt Act, 1890.

Bom. II of
1890.

NOTE.—The amendment made by this Act is incorporated in Bom. Act II of 1890 as printed on pp. 467 *et seq. supra.*]

1892 : Bom. Act III.]

Abkári.

557

1894 : Bom. Act I.] *City of Bombay Municipality.*

1894 : Bom. Act II.] *Laws, Peint. (Sec. 1.)*

BOMBAY ACT No. III OF 1892.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 8th December, 1892.)

An Act to amend the Bombay Abkári Act, 1878.

Bom. V of
1878.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act V of 1878 as printed on pp. 260 *et seq.* of Vol. II of this Code.]

BOMBAY ACT No. I OF 1894.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 30th January, 1894.)

An Act to further amend the Law relating to the Municipal Government of the City of Bombay.

Bom. III of
1888.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act III of 1888 as printed on pp. 192 *et seq. supra.*]

BOMBAY ACT No. II OF 1894.

(The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 20th December, 1894.)

An Act to amend the law in force in the Peint Territory in the Bombay Presidency.

XIV of 1874.

WHEREAS it is expedient that the law in force in the territory of Peint, to which the Secretary of State for India, by a Resolution in Council bearing date the 14th day of July 1855, declared the provisions of the Statute 33 Victoria, chapter 3, section 1 [a], to be applicable, should be the same as the law in force in the district of Násik, and that the said territory should cease to be a Scheduled District under the Scheduled Districts Act, 1874 [b].

55 & 56 Vict.,
cap. 14.

And whereas the previous sanction of His Excellency 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. This Act may be called the Peint Laws Act, 1894, and it shall come into force, on the first day of January, 1895.

Title and
commence-
ment.

[a] Printed in the Collection of Statutes relating to India, Vol. II, p. 378.

[b] For Act XIV of 1874 see the revised edition, as modified up to 1st October, 1895, published by the Legislative Department.

Laws, Peint. (Secs. 2-5.) [1894: Bom. Act II.

Aden Port Trust. [1895: Bom. Act I.

Tramways. [1895: Bom. Act II.

Amendment
of Act XIV,
1874, as to
territory of
Peint.

2. Notwithstanding anything in the definition of "Scheduled Districts" in section 1 of the Scheduled Districts Act, 1874 [a] the territory of Peint shall not be deemed to be a Scheduled District within the meaning of that Act. XIV of 1874.

Application
of laws of
Násik to
territory of
Peint.
Repeal of
other laws.

3. All enactments which are in force in the district of Násik and not in the territory of Peint shall come into force in the said territory.

4. All enactments which are in force in the said territory of Peint and not in the district of Násik shall be repealed in the said territory.

Pending
proceedings.

5. All proceedings commenced before any authority in the said territory before the day on which this Act comes into force and still pending on that day shall be disposed of by such authority as the Governor in Council may direct, and save as aforesaid shall be carried on as if this Act had not been passed.

BOMBAY ACT No. I OF 1895.

(*The assent of the Governor General of India to this Act was published by the Governor of Bombay on the 20th July, 1895.*)

An Act to amend the Aden Port Trust Act, 1888.

Bom. V of
1888.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act V of 1888 as printed on pp. 399 *et seq. supra.*]

BOMBAY ACT No. II OF 1895.

(*The assent of the Governor General of India to this Act was first published by the Governor of Bombay on the 28th August, 1895.*)

An Act to amend the Bombay Tramways Act, 1874.

Bom. I of
1874.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act I of 1874 as printed on pp. 167 *et seq.* of Vol. II of this Cede.]

[a] For Act XIV of 1874 see the revised edition, as modified up to 1st October, 1895, published by the Legislative Department.

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Act XV of 1877 (Limitation), as modified up to 1st December, 1892. 12a. (2a.)

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Act VII of 1878 (Forests), as modified up to 1st December, 1894. 10a. (2a.)

Act VIII of 1878 (Sea Customs), as modified up to 1st July, 1891. R1-5-3. (4a.)

Act XI of 1878 (Arms), as modified up to 1st July, 1892. 11a. (2a.)

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Act XVII of 1879 (Dekkan Agriculturists' Relief), as modified up to 1st March, 1895. 10a. (2a.)

Act VII of 1880 (Merchant Shipping), as modified up to 15th October, 1891. 10a. (2a.)

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Act XV of 1881 (Factories), as modified up to 1st April, 1891. 5a. (1a.)

Act XVIII of 1881 (Central Provinces Land-revenue), as modified up to 1st January, 1895. R1-2. (2a.)

Act XIX of 1881 (Lower Burma Forests), as modified up to 1st July, 1890. 10a. (2a.)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*contd.*

Act XXII of 1881 (Excise), as modified up to 30th September, 1893.
8a. (2a.)

Act I of 1882 (Assam Labour and Emigration), as modified up to 1st May, 1893. R1-2. (2a.)

Act IV of 1882 (Transfer of Property), as modified up to 1st April, 1893. 15a. (2a.)

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Act XII of 1882 (Salt), as modified up to 1st December, 1890. 6a. (1a.)

Act XIV of 1882 (Civil Procedure), as modified up to 1st July, 1888. R3. (6a.)

Act XV of 1882 (Presidency Small Cause Courts), as modified up to 1st February, 1895. 10a. (2a.)

Act XX of 1882 (Paper Currency), as modified up to 27th June, 1893; with an Appendix containing the Indian Coinage and Paper Currency Act, 1893, and the Notifications by the Government of India in the Finance and Commerce Department, Nos. 2662, 2663, and 2664, dated the 26th June, 1893, connected therewith. 5a. 6p. (1a. 6p.)

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Act XII of 1886 (Petroleum), as modified up to 1st June, 1893. 6a. (1a.)

Act IX of 1887 (Provincial Small Cause Courts), as modified up to 1st December, 1894. 6a. (1a.)

II.—REPRINTS OF ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS MODIFIED BY SUBSEQUENT LEGISLATION—*concl'd.*

- Act IV of 1889 (Merchandise Marks), as modified up to 1st June, 1891. 6a. (1a.)
 Act X of 1889 (Ports), as modified up to 1st June, 1894. 11a. (2a.)
 Act XIII of 1889 (Cantonments), as modified up to 1st March, 1895. 7a. (1a.)
 Act VIII of 1894 (Tariff), as modified up to 28th December, 1894. 6a. (1a.)
 Regulation I of 1886 (Assam Land and Revenue), as modified up to 1st June, 1894. 13a. (2a.)
 Regulation VIII of 1886 (Upper Burma Civil Justice), as modified up to 1st April, 1891. 8a. (1a.)
 Regulation XIV of 1887 (Upper Burma Villages), as modified up to 1st April, 1891. 5a. (1a.)

In the Press.

- Act XX of 1847 (Copyright), as modified up to date.
 Act XLV of 1860 (Indian Penal Code), as modified up to date.
 Act XX of 1869 (Volunteers), as modified up to date.
 Act IX of 1872 (Contract), as modified up to date.
 Act I of 1877 (Specific Relief), as modified up to date.
 Act XVIII of 1879 (Legal Practitioners), as modified up to date.
 Act XXI of 1879 (Foreign Jurisdiction and Extradition), as modified up to date.
 Act IX of 1890 (Railways), as modified up to date.
 Act VIII of 1894 (Tariff), as modified up to 1st March, 1896.

III.—ACTS AND REGULATIONS OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL, AS ORIGINALLY PASSED.

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IV.—TRANSLATIONS OF ACTS AND REGULATIONS OF
THE GOVERNOR GENERAL OF INDIA IN COUN-
CIL—*contd.*

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