

THE
COORG CODE.

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE
C O O R G C O D E :

CONTAINING

THE UNREPEALED ENACTMENTS LOCALLY IN FORCE IN COORG, A CHRONOLOGICAL TABLE
OF SUCH ENACTMENTS,

AN APPENDIX SHOWING THOSE WHICH HAVE BEEN DECLARED IN FORCE IN, OR EXTENDED
UNDER THE SCHEDULED DISTRICTS ACT, 1874 ;

AND AN INDEX.

THIRD EDITION.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
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PREFACE.

THIS, the third edition of the Coorg Code, contains the un-repealed enactments locally in force in Coorg. They consist of a Bengal Regulation, Local Acts of the Governor General in Council, an Act of the Governor of Fort St. George in Council, and Regulations made specially for Coorg under the Government of India Act, 1870 (33 Vict., Cap. 3). A list of enactments which have been declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874 (14 of 1874), is given in an Appendix.

The Acts of the Governor General in Council which apply to Coorg in common with the rest of British India are printed in the volumes of General Acts published or to be published by the Legislative Department.

2. The Bengal Regulation is reprinted from Clarke's edition of the Bengal Regulations, published in 1854 under the authority of the Court of Directors of the East India Company; and the Acts and Regulations from official copies preserved in the Legislative Department; the notifications in the appendix are based on those published in the Gazette of India and in the Coorg District Gazette.

3. The Code has been revised and passed through the Press by Mr. G. R. Ridge, Superintendent of the Publication Branch of the Legislative Department.

R. SHEEPSHANKS,

Deputy Secretary to the Government of India,

Legislative Department.

CALCUTTA:

The 11th March 1903.

**CHRONOLOGICAL TABLE OF UNREPEALED ACTS AND
REGULATIONS IN FORCE IN COORG.¹**

PART I.—BENGAL REGULATION IN FORCE IN COORG.

Year.	No.	Subject.	Repeals and amendments affecting Coorg.	Page.
1818	III	² The Bengal State Prisoners Regulation, 1818.	Rep. in part, Act 1 of 1903 ; Amended, Act 12 of 1891 ; Supplemented, Act 34 of 1850 ; Act 3 of 1858.	2

**PART II.—LOCAL ACTS OF THE GOVERNOR GENERAL IN
COUNCIL IN FORCE IN COORG.**

Year.	No.	Subject.	Repeals and amendments affecting Coorg.	Page.
1867	III	² The Public Gambling Act, 1867.	Rep. in part, Act 16 of 1874 ; Amended, Act 12 of 1891 ; Act 1 of 1903 ;	8
1878	XVII	The Northern India Ferries Act, 1878.	Rep. in part, Act 2 of 1901 ; Amended, Act 3 of 1886.	15
1879	XIV	Hackney-carriages . . .	Rep. in part, Act 13 of 1889 ; Amended, Act 1 of 1903.	23
1880	XIII	Vaccination . . . .	....	27
1882	V	Easements	Amended, Act 12 of 1891.	36
1886	III	Ferries (Amendment) Act, 1886.	....	58
1896	XII	The Excise Act, 1896	Amended, Act 7 of 1906.	62
1906	VII	The Excise (Amendment) Act, 1906.	....	80
1907	IV	The Repealing and Amending (Rates and Cesses) Act, 1907.	....	81

¹ For a complete list of Acts and Regulations whether repealed or unrepealed in force in Coorg see Wigley's Chronological Tables and Index of Indian Statutes, Vol. I, Ed. 1901.

² These titles were given by the Repealing and Amending Act, 1907 (5 of 1907), s. 4, General Acts, Vol. VI.

VI Chronological Tables of Unrepealed Acts and Regulations in force in Coorg.

PART III.—ACT OF THE GOVERNOR OF FORT ST. GEORGE
IN COUNCIL IN FORCE IN COORG.

Year.	No.	Subject.	Repeals and amendments affecting Coorg.	Page.
1878	VIII (Madras).	Coffee-stealing	....	84

PART IV.—REGULATIONS MADE UNDER THE STATUTE 33
VICT., CAP. 3, FOR COORG.

Year.	No.	Subject.	Repeals and amendments.	Page.
1892	IV	Temple Funds Management.	....	88
1899	I	The Coorg Land and Revenue Regulation, 1899.	Rep. in part, Act 4 of 1907 ; Amended, Regn. 4 of 1907 ; 1 of 1908.	98
1900	V	<i>The Coorg Land and Revenue Regulation, 1900.</i>	Vir. rep., Act 4 of 1907.	Not published.
"	VI	The Coorg District Fund Regulation, 1900.	---	135
1901	I	The Coorg Courts Regulation, 1901.	Amended, Reg. 4 of 1905.	136
1905	IV	The Coorg Courts (Amendment) Regulation, 1905.	---	142
1907	II	The Coorg Municipal Regulation, 1907.	---	150
"	IV	The Coorg Land and Revenue (Amendment) Regulation, 1907.	....	197
1908	I	The Coorg Land and Revenue (Amendment) Regulation, 1908.	....	197

	Page.
APPENDIX.—LIST OF ENACTMENTS DECLARED IN FORCE IN, OR EXTENDED TO, COORG BY NOTIFICATION UNDER THE SCHEDULED DISTRICTS ACT, 1874	199
INDEX	209

THE COORG CODE.

PART I:

BENGAL REGULATION IN FORCE IN COORG.

REGULATION FOR THE CONFINEMENT OF STATE PRISONERS.

CONTENTS.

SECTIONS.

1. Preamble.
2. Proceeding for placing persons under restraint as State prisoners.
Form of warrant.
Authority of warrant.
3. Officers having custody of State prisoners to submit periodical reports.
4. State prisoners in custody of Zila Magistrate by whom to be visited.
State prisoners in custody of other officers by whom to be visited.
5. Representations by State prisoners to be submitted to Government.
6. Report to Government regarding confinement, etc., of prisoners.
7. Appropriation of allowance for support.
8. [*Repealed.*]
9. Attachment of estates by order of Government without decision of Court.
10. Management of attached estates.
Attached lands not liable to sale in execution.
Government to arrange for satisfaction of decrees.
11. Rules as to cases where Government orders release of estate from attachment.

REGULATION III OF 1818.¹

[7th April, 1818.]

A Regulation for the confinement of State Prisoners.²

Preamble.

I. WHEREAS reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign Powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection, and the security of the British dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceeding, or when such proceeding may not be adapted to the nature of the case, or may for other reasons be unadvisable or improper;

and whereas it is fit that, in every case of the nature herein referred to, the determination to be taken should proceed immediately from the authority of the Governor General in Council;

and whereas the ends of justice require that, when it may be determined that any person shall be placed under personal restraint, otherwise than in pursuance of some judicial proceeding, the grounds of such determination should from time to time come under revision, and the person affected thereby should at all times be allowed freely to bring to the notice of the Governor General in Council all circumstances relating either to the supposed grounds of such determination, or to the manner in which it may be executed;

and whereas the ends of justice also require that due attention be paid to the health of every State prisoner confined under this Regulation, and that suitable provision be made for his support according to his rank in life, and to his own wants and those of his family;

and whereas the reasons above declared sometimes render it necessary that the estates and lands of zamindars, taluqdars and others situated within the territories dependent on the Presidency of Fort William, should be attached and placed under the temporary management of the Revenue-authorities, without having recourse to any judicial proceeding;

and whereas it is desirable to make such legal provisions as may secure from injury the just rights and interests of individuals whose estates may be so attached under the direct authority of Government;

the Vice-President in Council has enacted the following rules, which are to take effect throughout the Provinces immediately subject to the Presidency of Fort William, from the date on which they may be promulgated.

¹ Bengal Regulation 3 of 1818 was extended to Coorg by notification under the Scheduled Districts Act, 1874—see Appendix, p. 197.

Short title, the Bengal State Prisoners Regulation, 1818, see the Repealing and Amending Act, 1897 (5 of 1907), General Acts, Vol. VI.

² For further provisions relating to State Prisoners, see the State Prisoners Acts, 1850 and 1858, respectively (Acts 34 of 1850 and 3 of 1858), General Acts, Vol. 1, pp. 73 and 142.

(Secs. 2-4.)

2. *First.*—When the reasons stated in the preamble of this Regulation may seem to the Governor General in Council to require that an individual should be placed under personal restraint, without any immediate view to ulterior proceedings of a judicial nature, a warrant of commitment under the authority of the Governor General in Council, and under the hand of the Chief Secretary, or of one of the Secretaries to Government, shall be issued to the officer in whose custody such person is to be placed.

Second.—The warrant of commitment shall be in the following form :—
To the ¹ [here insert the officer's designation].

“Whereas the Governor General in Council, for good and sufficient reasons, has seen fit to determine that [here insert the State prisoner's name] shall be placed under personal restraint at [here insert the name of the place], you are hereby required and commanded, in pursuance of that determination, to receive the person abovenamed into your custody, and to deal with him in conformity to the orders of the Governor General in Council, and the provisions of Regulation III of 1818.

“ Fort William, the

“ By order of the Governor General in Council,

“ A. B., Chief Secy. to Govt. ”

Third.—The warrant of commitment shall be sufficient authority for the detention of any State prisoner in any fortress, jail or other place within the territories subject to the Presidency of Fort William.

3. Every officer in whose custody any State prisoner may be placed shall, on the 1st of January and 1st of July of each year, submit a report to the Governor General in Council, through the Secretary to Government in the Political Department, on the conduct, the health, and the comfort of such State prisoner, in order that the Governor General in Council may determine whether the orders for his detention shall continue in force or shall be modified.

4. *First.*—When any State prisoner is in the custody of a Zila Magistrate, the Judges are to visit such State prisoner on the occasion of the periodical sessions, and they are to issue any orders concerning the treatment of the State prisoner which may appear to them advisable, provided they be not inconsistent with the orders of the Governor General in Council issued on that head.

Second.—When any State prisoner is placed in the custody of any public officer not being a Zila Magistrate the Governor General in Council will instruct either the Zila Magistrate, or the Judge or any other public officer, not being the person in whose custody the prisoner may

¹ As to direction of the warrant, see Act 34 of 1850, s. 1, in General Acts, Vol. I, p. 73.

² The words “ or City ” were repealed by the Repealing and Amending Act, 1903 (1 of 1903),

³ The words “ of circuit ” were repealed by the Repealing Act, 1874 (16 of 1874).

(Secs. 5-10.)

be placed, to visit such prisoner at stated periods, and to submit a report to Government regarding the health and treatment of such prisoner.

Representations by State prisoners to be submitted to Government.

5. The officer in whose custody any State prisoner may be placed is to forward, with such observations as may appear necessary, every representation which such State prisoner may from time to time be desirous of submitting to the Governor General in Council.

Report to Government regarding confinement, etc., of prisoners.

6. Every officer in whose custody any State prisoner may be placed shall, as soon after taking such prisoner into his custody as may be practicable, report to the Governor General in Council whether the degree of confinement to which he may be subjected appears liable to injure his health, and whether the allowance fixed for his support be adequate to the supply of his own wants and those of his family, according to their rank in life.

Appropriation of allowance for support.

7. Every officer in whose custody any State prisoner may be placed shall take care that the allowance fixed for the support of such State prisoner is duly appropriated to that object.

8. [*Persons already confined as State prisoners.*] *Rep. Act XVI of 1874.*

Attachment of estates by order of Government without decision of Court.

9. Whenever the Governor General in Council, for the reasons declared in the preamble to this Regulation, shall judge it necessary to attach the estates or lands of any zamindar, jagirdar, taluqdar or other person, without any previous decision of a Court of Justice, or other judicial proceeding, the grounds on which the Resolution of Government may have been adopted, and such other information connected with the case as may appear essential, shall be communicated, under the hand of one of the Secretaries to Government, to the Judge and Magistrate of the district in which the lands or estates may be situated, ¹ [and] ² to the Sadr Diwani Adalat and Nizamut Adalat.

Management of attached estates.

10. *First.*—The lands or estates which may be so temporarily attached shall be held under the management of the officers of Government in the Revenue Department, and the collections shall be made and adjudged on the same principles as those of other estates held under khas management.

Attached lands not liable to sale in execution.

Second.—Such lands or estates shall not be liable to be sold in execution of decrees of the Civil Courts, or for the realization of fines or otherwise, during the period in which they may be so held under attachment.

Government to arrange for satisfaction of decrees.

Third.—In the cases mentioned in the preceding clause, the Government will make such arrangement as may be fair and equitable for the satisfaction of the decrees of the Civil Courts.

¹ The words "to the Provincial Court of Appeal and Circuit and" were repealed by the Repealing Act, 1874 (16 of 1874), previous to the application of the Regulation to Coorg.

² The word "and" was inserted by the Amending Act, 1891 (12 of 1891), see the reprinted edition showing the Schedules as modified up to 31st May, 1902.

(Sec. 11.)

11. Whenever the Governor General in Council shall be of opinion that the circumstances which rendered the attachment of such estate necessary have ceased to operate, and that the management of the estate can be committed to the hands of the proprietor without public hazard or inconvenience, the revenue-authorities will be directed to release the estate from attachment, to adjust the accounts of the collections during the period in which they may have been superintended by the officers of Government, and to pay over to the proprietor the profits from the estate which may have accumulated during the attachment.

Rules as to cases where Government orders release of estate from attachment.

PART II.
LOCAL ACTS OF THE GOVERNOR GENERAL IN
COUNCIL IN FORCE IN COORG.

ACT III OF 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
2. Power to extend Act.
3. Penalty for owning or keeping, or having charge of, a gaming-house.
4. Penalty for being found in gaming-house.
5. Power to enter and authorize Police to enter and search.
6. Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.
7. Penalty on persons arrested for giving false names and addresses.
8. On conviction for keeping a gaming-house, instruments of gaming to be destroyed.
9. Proof of playing for stakes unnecessary.
10. Magistrate may require any person apprehended to be sworn and give evidence.
11. Witnesses indemnified.
12. Act not to apply to certain games.
13. Gaming and setting birds and animals to fight in public streets.
Destruction of instruments of gaming found in public streets.
14. Offences by whom triable.
15. Penalty for subsequent offence.
16. Portion of fine may be paid to informer.
17. Recovery and application of fines.
18. [*Repealed.*]

(See Preamble, Sec. 1.)

[1867: Act III.]

ACT No. III OF 1867.¹

[25th January, 1867.]

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the ²North-Western Provinces of the Presidency of Fort William, and in the Punjab, ²Oudh, ³[and the Central Provinces].

Preamble.

WHEREAS it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories respectively subject to the Governments of the Lieutenant-Governor of the ⁴North-Western Provinces of the Presidency of Fort William, ⁵[and] of the Lieutenant-Governor of the Punjab, and to the administrations of the ⁴Chief Commissioner of Oudh, ⁶[and of the Chief Commissioner of the Central Provinces];

It is hereby enacted as follows :—

1. In this Act—

Interpretation-clause.
“Lieutenant-Governor.”

7[“ Lieutenant-Governor ” means the Lieutenant-Governor of the United Provinces of Agra and Oudh or of the Punjab, as the case may be :]

“Chief Commissioner.”
“Common gaming-house.”

7[“ Chief Commissioner ” means the Chief Commissioner of the Central Provinces or of the North-West Frontier Province, as the case may be :]

“ Common gaming-house ” means any house, walled enclosure, 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, enclosure, room or place, whether by way of charge for the use

¹ For Statement of Objects and Reasons, see Gazette of India, 1866, p. 976; for Report of the Select Committee, see *ibid*, 1867, Suppl., p. 44; and for Proceedings in Council, see *ibid*, 1866, p. 602, *ibid*, 1867, pp. 48 and 52.

Short title, the Public Gambling Act, 1867—see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI.

It was extended to Coorg by notification under the Scheduled Districts Act, 1874 (14 of 1874) [Appendix, p. 201]. The powers of a Chief Commissioner under the Act are exercised by the Chief Commissioner of Coorg—see paragraph 2 of the notification referred to.

² The North-Western Provinces and the province of Oudh are now known as the United Provinces of Agra and Oudh—see Proclamation No. 996P., dated 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

³ The words “and the Central Provinces” were substituted for the words “the Central Provinces and British Burma” by the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I, p. 18.

⁴ Read now the Lieutenant-Governor of the United Provinces of Agra and Oudh—see Proclamation No. 996P. of the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and s. 2 of the United Provinces (Designation) Act, 1902 (7 of 1902), General Acts, Vol. VII.

⁵ The word “and” was inserted by the Amending Act, 1891 (12 of 1891), see the reprinted edition showing the Schedules as modified up to 31st May, 1902.

⁶ These words were substituted for the words “of the Chief Commissioner of Lower Burma” by the Repealing and Amending Act, 1903 (1 of 1903), s. 3, Bengal Code, Vol. I, p. 18.

⁷ Substituted for the original definition by the Repealing and Amending Act, 1903 (1 of 1903), General Acts, Vol. VII, pp. 208 and 209.

(Secs. 2-4.)

of the instruments of gaming, or of the house, enclosure, room or place, or otherwise howsoever :

Words in the singular include the plural and *vice versâ*, and

Number.

Words denoting the masculine gender include females.

Gender.

2. ¹ [Sections 13 and 17] of this Act shall extend to the whole of the said territories ; and it shall be competent to the Lieutenant-Governor or the Chief Commissioner, as the case may be, whenever he may think fit, to extend, by a notification to be published in three successive numbers of the official Gazette, all or any of the remaining sections of this Act to any city, town, suburb, railway-station-house and place being not more than three miles distant from any part of such station-house within the territories subject to his government or administration, and in such notification to define, for the purposes of this Act, the limits of such city, town, suburb or station-house, and, from time to time, to alter the limits so defined. •

Power to extend Act.

From the date of any such extension, so much of any rule having the force of law which shall be in operation in the territories, to which such extension shall have been made, as shall be inconsistent with or repugnant to any section so extended, shall cease to have effect in such territories.

3. Whoever, being the owner or occupier, or having the use, of any house, walled enclosure, room or place, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house ; and

Penalty for owning or keeping, or having charge of, a gaming-house.

whoever, being the owner or occupier of any such house, walled enclosure, room or place as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house ; and

whoever has the care or management of, or in any manner assists in conducting, the business of any house, walled enclosure, room or place as aforesaid, opened, occupied, used or kept for the purpose aforesaid ; and

whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, walled enclosure, room or place,

shall be liable to a fine not exceeding two hundred rupees, or to imprisonment of either description ² as defined in the Indian Penal Code, for any term not exceeding three months³.

XLV of 1860.

4. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable to a fine not exceeding one hundred rupees, or to imprisonment of either description², as defined in the ² Indian Penal Code, for any term not exceeding one month³ ;

Penalty for being found in gaming-house.

XLV of 1860.

¹ These words and figures were substituted for the words and figures " Sections 13, 17 and 18 " by the Amending Act, 1891 (12 of 1891), Sch. II, see the reprint showing Schedules as modified up to 31st May, 1902.

² See s. 53 of Act XLV of 1860. For Act XLV of 1860, see the reprint, as modified up to the 1st April, 1903.

³ As to enhanced punishment for a second conviction of an offence under s. 3 or s. 4, see s. 15 of this Act.

(Secs. 5-7.)

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Power to enter and authorize Police to enter and search.

5. If the Magistrate of a district, ¹ or other officer invested with the full powers of a Magistrate, or the District Superintendent of Police, upon credible information, and after such enquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place, is used as a common gaming-house,

he may either himself enter, or by his warrant authorize any officer of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

and may either himself take into custody, or authorize such officers to take into custody, all persons whom he or such officer find therein, whether or not then actually gaming;

and may seize or authorize such officer 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 may search or authorize such officer to search all parts of the house, walled enclosure, room or place, which he or such officer shall have so entered when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

Finding cards, etc., in suspected houses, to be evidence that such houses are common gaming-houses.

6. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched 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, walled enclosure, 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 any of his assistants.

Penalty on persons arrested for giving false names and addresses.

7. If any person found in any common gaming-house entered by any Magistrate or officer of Police under the provisions of this Act, upon being arrested by any such officer or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address,

¹ Read District Magistrate and Magistrate of the first class, respectively—see Code of Criminal Procedure, 1898 (Act V of 1898), s. 3 (2), as modified up to 1st April, 1903.

² "Cowries" are not "instruments of gaming"—*Queen Empress v. Bharsani*, I. L. R. 18, All. 23.

(Secs. 8-11.)

shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

8. On conviction of any person for keeping or using any such common gaming-house or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to 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 converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary.

10. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act, to require any such persons to be examined on oath or solemn affirmation, and give evidence touching any unlawful gaming in such house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing or delaying the entry into such house, walled enclosure, room or place or any part thereof, of any Magistrate or officer authorized as aforesaid.

Magistrate may require any person apprehended to be sworn and give evidence.

No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court on any proceeding or trial in any ways relating to such unlawful gaming or any such acts as aforesaid, or from answering any question put to him touching the matters aforesaid, on the ground that his evidence will tend to criminate himself.

Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in section 178 or section 179 (as the case may be) of the ¹Indian Penal Code.

[KLV of 1860.]

11. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial

Witnesses indemnified.

¹ See the reprint as modified up to 1st April, 1903.

(Secs. 12-15.)

of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in writing to that effect, and shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

12. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill wherever played.

13. A Police-officer may apprehend without warrant—

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 situated within the limits aforesaid, or

any person setting any birds or animals to fight in any public street, place or thoroughfare situated within the limits aforesaid, or

any person there present aiding and abetting such public fighting of birds and animals.

Such persons when apprehended shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month ;

and such Police-officer may seize all instruments of gaming found in such public place 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.

14. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the ¹Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

15. Whoever, having been convicted of an offence punishable under section 3 or section 4 of this Act, shall again be guilty of any offence punishable under either of such sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description :

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

Act not to apply to certain games.

Gaming and setting birds and animals to fight in public streets.

Destruction of instruments of gaming found in public streets.

Offences by whom triable.

Penalty for subsequent offence.

¹ See now the Code of Criminal Procedure, 1898 (Act V of 1898), reprinted as modified up to 1st April, 1903.

16. The Magistrate trying the case may direct any portion of any fine which shall be levied under sections 3 and 4 of this Act, or any part of the moneys or proceeds of articles seized and ordered to be forfeited under this Act, to be paid to an informer. Portion of fine may be paid to informer.

17. All fines imposed under this Act may be recovered in the manner prescribed by section 61 of the Code of Criminal Procedure, and such fines shall (subject to the provisions contained in the last preceding section) be applied as the Lieutenant-Governor or Chief Commissioner, as the case may be, shall, from time to time, direct. Recovery and application of fines.

18. [*Offences under this Act to be "offences" within meaning of Penal Code.*] *Rep. Act XVI of 1874, section I, and Schedule, Part I.*

THE NORTHERN INDIA FERRIES ACT, 1878
(XVII OF 1878).

CONTENTS.

PREAMBLE.

I.—PRELIMINARY.

SECTIONS.

1. Short title.
2. [*Omitted.*]
3. Interpretation-clause.

II.—PUBLIC FERRIES.

4. Power to declare, establish, define and discontinue public ferries.
5. Claims for compensation.
6. Superintendence of public ferries.
7. Management may be vested in Municipality;
and proceeds paid into municipal fund.
- 7A. (*Not in force in Coorg.*)
8. Letting ferry-tolls by auction.
9. Recovery of arrears from lessee.
10. Power to cancel lease.

¹ See now ss. 386, 387 and 389 of Act V of 1898 in the reprint as modified up to the 1st April, 1903.

SECTIONS.

11. Surrender of lease.
12. Power to make rules.
13. Private ferry not to ply within two miles of public ferry without sanction.
14. Person using approaches, etc., liable to pay.
15. Tolls.
16. Table of tolls.
List of tolls.
17. (*Not in force in Coorg.*)
18. Compounding for tolls.

 III.—PRIVATE FERRIES.

19. Power to make rules.
20. Tolls.

 IV.—PENALTIES AND CRIMINAL PROCEDURE.

21. Penalty for breach of provisions as to table of tolls, list of tolls and return of traffic.
22. Penalty for taking unauthorized toll, and for causing delay.
23. Penalty for breach of rules made under sections 12 and 19.
24. Cancellation of lease on default or breach of rules.
25. Penalties on passengers offending.
26. Penalty for maintaining private ferry within prohibited limits.
27. Fines payable to lessee.
28. Penalty for rash navigation and stacking of timber.
29. Power to arrest without warrant.
30. Power to try summarily.
31. Magistrate may assess damage done by offender.

 V.—MISCELLANEOUS.

32. Power to take possession of boats, etc., on surrender or cancellation of lease.
33. Similar power in cases of emergency.
34. Jurisdiction of Civil Courts barred.
35. Delegation of powers.
36. [*Repealed.*]

(I.—Preliminary. Secs. 1-3. II.—Public Ferries. Sec. 4.)

ACT No. XVII OF 1878.¹

[9th November, 1878.]

An Act to Regulate Ferries in Northern India.

WHEREAS it is expedient to regulate ferries in the Punjab, the North-Western Provinces, Oudh, the Central Provinces, Assam and Ajmer and Merwara; It is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called the Northern India Ferries Act, 1878. Short title.
2. [Repeal of Bengal Regulation (VI of 1891).] [Not in force in Coorg.]
3. In this Act the word "ferry" includes also a bridge of boats, pontoons or rafts, a swing-bridge, a flying-bridge and a temporary bridge, and the approaches to, and landing-places of, a ferry. Interpretation-clause.

II.—PUBLIC FERRIES.

4. The Local Government may from time to time—
 - (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate; Power to declare, establish, define and discontinue public ferries.
 - (b) take possession of a private ferry and declare it to be a public ferry;
 - (c) establish new public ferries where, in its opinion, they are needed;
 - (d) define the limits of any public ferry;
 - (e) change the course of any public ferry; and
 - (f) discontinue any public ferry which it deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification in the official Gazette:

Provided that, when a river lies between two Provinces, the powers conferred by this section shall, in respect of such river, be exercised by the

¹ For Statement of Objects and Reasons, see Gazette of India, 1878, Pt. V, p. 135; for Preliminary Report of the Select Committee, see *ibid.*, p. 210, and for Proceedings in Council, see *ibid.*, Suppl., pp. 286, 325, 1104 and 1194.

It was extended, with the exception of paragraphs 2 and 3 of s. 1 and ss. 2, 7A, 17 and 36, to the Province of Coorg by notification under s. 5 of the Scheduled Districts Act, 1874 (14 of 1874)—see Appendix, p. 202.

² Read now the United Provinces of Agra and Oudh—see the United Provinces (Designation) Act, 1902 (VII of 1902), General Acts, Vol. VII.

³ For public ferries established in Coorg, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 117.

(II.—Public Ferries.—Secs. 5-8.)

Governor General in Council, by notification in the Gazette of India, and not otherwise :

Provided also that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river, such alteration may be made, by an order under his hand, by the Commissioner of the division in which such ferry is situate, or by such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf.

Claims for compensation.

5. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of under section 4, shall be enquired into by the Magistrate of the district in which such ferry is situate, or such officer as he appoints in this behalf, and submitted for the consideration and orders of the Local Government.

Superintendence of public ferries.

6. The immediate superintendence of every public ferry shall, except as provided in section 7, be vested in the Magistrate of the district in which such ferry is situate, or in such other officer as the Local Government may, from time to time, appoint by name or in virtue of his office in this behalf ;

and such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Management may be vested in municipality; and proceeds paid into municipal fund.

7. The Local Government may direct that any public ferry situate within the limits of a town be managed by the officer or public body charged with the superintendence of the municipal arrangements of such town ;

and may further direct that all or any part of the proceeds from such ferry be paid into the municipal fund of such town ;

and thereupon such ferry shall be managed, and such proceeds or part thereof shall be paid, accordingly.

7A. [*Management of public ferries by local boards, etc.*] (*Not in force in Coorg.*)

Letting ferry-tolls by auction.

8. The tolls of any public ferry may, from time to time, be let by public auction for a term not exceeding five years, with the approval of the Commissioner or by public auction, or otherwise than by public auction for any term with the previous sanction of the Local Government.

The lessee shall conform to the rules made under this Act for the management and control of the ferry, and may be called upon by the officer in whom the immediate superintendence of the ferry is vested, or, if the ferry is managed by a municipal or other public body under section 72 or section 7A, then by that body, to give such security for his good conduct and for the punctual payment of the rent as the officer or body, as the case may be, thinks fit.

1 S. 8 was substituted by s. 1 of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 58.

2 S. 7A of the Act is not in force in Coorg.

(II.—Public Ferries. Secs. 9-12.)

When the tolls are put up to public auction, the said officer or body, as the case may be, or the officer conducting the sale on his or its behalf, may, for reasons recorded in writing, refuse to accept the offer of the highest bidder, and may accept any other bid, or may withdraw the tolls from auction.

9. All arrears due by the lessee of the tolls of a public ferry on account of his lease may be recovered from the lessee or his surety (if any) by the Magistrate of the district in which such ferry is situate as if they were arrears of land-revenue.

10. The Local Government may cancel the lease of the tolls of any public ferry on the expiration of six months' notice in writing to the lessee of its intention to cancel such lease.

When any lease is cancelled under this section, the Magistrate of the district in which such ferry is situate shall pay to the lessee such compensation as such Magistrate may, with the previous sanction of the Local Government, award.

11. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Local Government of his intention to surrender such lease, and on payment to the Magistrate of the district in which such ferry is situate of such compensation as such Magistrate, subject to the approval of the Commissioner, may in each case direct.

12. Subject to the control of the Local Government, the Commissioner of a division, or such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, may, from time to time, make ¹ rules consistent with this Act—

(a) for the control and the management of all public ferries within such division and for regulating the traffic at such ferries ;

2[(b) for regulating the time and manner at and in which and the terms on which, the tolls of such ferries may be let by auction, and prescribing the persons by whom auctions may be conducted ;]

(c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for ; and

(d) generally to carry out the purposes of this Act ;

and, when the tolls of a ferry have been let under section 8, such Commissioner or other officer may, from time to time (subject as aforesaid), make additional rules consistent with this Act—

(e) for collecting the rents payable for the tolls of such ferries ;

¹ For rules for the lease, control and management of public ferries, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 117.

² Cl (b) was substituted by s. 1 (2) of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 58.

(II.—Public Ferries. Secs. 13-15.)

- (f) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained and opened for the passage of vessels and rafts through the same, and
- (g) in cases in which the traffic is conveyed in boats, for regulating—
- (1) the number and kinds of such boats and their dimensions and equipment;
 - (2) the number of the crew to be kept by the lessee for each boat;
 - (3) the maintenance of such boats continually in good condition;
 - (4) the hours during which, and the intervals within which, the lessee shall be bound to ply; and
 - (5) the number of passengers, animals and vehicles, and the bulk and weight of other things, that may be carried in each kind of boat at one trip.

The lessee shall make such returns of traffic as the Commissioner or other officer as aforesaid may from time to time require.

Private ferry not to ply with a two miles of public ferry without sanction.

13. ¹ [Except with the sanction of the Magistrate of the district or of such other officer as the Local Government may, from time to time, appoint in this behalf, by name or in virtue of his office, no person shall establish, maintain or work a ferry to or from any point within a distance of two miles from the limits of a public ferry]:

Provided that, in the case of any specified public ferry, the Local Government may, by notification in the official Gazette, reduce or increase the said distance of two miles to such extent as it thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons plying between two places, one of which is without, and one within, the said limits, when the distance between such two places is not less than three miles, or apply to boats ² [which do not ply for hire or] which the Local Government expressly exempts from the operation of this section.

Person using approaches, etc., liable to pay.

14. Whoever uses the approach to, or landing-place of, a public ferry is liable to pay the toll payable for crossing such ferry.

Tolls.

15. Tolls, according to such rates as are from time to time fixed by the Local Government, shall be levied on all persons, animals, vehicles and other

¹ This paragraph was substituted by s. 2 of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 58.

² These words were inserted by the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 58.

³ So far as this section exempts from the payment of tolls, persons, animals, vehicles or other things which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), it is repealed by s. 8 of that Act, *see* General Acts, Vol. VII, p. 142.

For exemptions under the proviso to s. 15, *see* Coorg Local Rules and Orders, Ed. 1905, Pt. II, pp. 119 and 120.

(II.—Public Ferries. Secs. 16-18. III.—Private Ferries. Secs. 19-20.
IV.—Penalties and Criminal Procedure. Sec. 21.)

things crossing any river by a public ferry and not employed or transmitted on the public service :

Provided that the Local Government may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been let under section 8, any such declaration, if made after the date of the [lease], shall entitle the lessee to such abatement of the rent payable in respect of the tolls as may be fixed by the Commissioner of the division or such other officer as the Local Government may, from time to time, appoint in this behalf by name or in virtue of his office.

16. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner of the division so directs, in English, in some conspicuous place near the ferry, Table of tolls.

and shall be bound to produce, on demand, a list of the tolls, signed by the Magistrate of the district or such other officer as he appoints in this behalf. List of tolls.

17. [*Disposal of tolls, rents, compensation and fines.*] (*Not in force in Coorg.*)

18. The Local Government may, if it thinks fit, from time to time fix rates at which any person may compound for the tolls payable for the use of a public ferry. Compound-
ing for tolls.

III.—PRIVATE FERRIES.

19. The Commissioner of the division may, with the previous sanction of the Local Government, from time to time make rules for the maintenance of order and for the safety of passengers and property at ferries other than public ferries. Power to
make rules.

20. The tolls charged at such ferries shall not exceed the highest rates for the time being fixed under section 15 for similar public ferries. Tolls.

IV.—PENALTIES AND CRIMINAL PROCEDURE.

21. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 16, Penalty for
breach of
provisions as
to table of
tolls, list of
tolls and
return of
traffic.
or who wilfully removes, alters or defaces such table, or allows it to become illegible,

¹ The word "lease" was substituted for the word "auction" by the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), s. 1 (3), *infra*, p. 53.

(IV.—Penalties and Criminal Procedure. Secs. 22-26.)

or who fails to produce on demand the list of the tolls mentioned in section 16,

and every lessee who neglects to furnish any return required under section 12,

shall be punished with fine which may extend to fifty rupees.

Penalty for taking unauthorized toll, and for causing delay.

22. Every such lessee or other person as aforesaid and any person in possession of a private ferry asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for breach of rules made under sections 12 and 19.

23. Every person breaking any rule made under section 12 or section 19 shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Cancellation of lease on default or breach of rules.

24. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 23, or, having been convicted of an offence under section 21 or section 22, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the sanction of the Commissioner of the division, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were let.

Penalties on passengers offending.

25. Every person crossing by any public ferry, or using the approach to, or landing-place thereof, who refuses to pay the proper toll, and every person —

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll; or

who obstructs any toll-collector or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act; or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes or takes any animals, vehicles or other things into any ferry-boat, or upon any bridge, at such a ferry, which is in such a state or so loaded as to endanger human life or property; or

who refuses or neglects to leave, or remove any animals, vehicles or goods from, any such ferry-boat or bridge, on being requested by such toll-collector, lessee or assistant to do so,

shall be punished with fine which may extend to fifty rupees.

Penalty for maintaining private ferry

26. Whoever establishes, maintains or works a ferry in contravention of the provisions of section 13 shall be punished with fine which may extend

¹ Substituted by s. 2 (3) of the Northern India Ferries Act Amendment Act, 1886 (3 of 1886), *infra*, p. 58. The original section was as follows:—

“Whoever conveys for hire any passenger, animal, vehicle or other thing, in contravention of the provisions of section 13, shall be punished with fine which may extend to fifty rupees.”

(IV.—Penalties and Criminal Procedure. Secs. 27-31. V.—Miscellaneous.
Sec. 32.)

to five hundred rupees, and with a further fine which may extend to one hundred rupees for every day during which the ferry is maintained or worked in contravention of those provisions.

within prohibited limits.

27. Where the tolls of any public ferry have been let under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 25 or section 26 may, notwithstanding anything contained in section 17, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Fines payable to lessee.

28. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry or any of his assistants, may seize and detain such vessel, raft or timber pending the enquiry and assessment hereinafter mentioned.

Penalty for rash navigation and stacking of timber.

29. The police may arrest without warrant any person committing an offence against section 25 or section 28.

Power to arrest without warrant.

X of 1872.

30. Any Magistrate or Bench of Magistrates having summary jurisdiction under ¹ Chapter XVIII of the Code of Criminal Procedure may try any offence against this Act in manner provided by that Chapter.

Power to try summarily.

31. Every Magistrate or Bench of Magistrates trying any offence under this Act may enquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 28, by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

Magistrate may assess damage done by offender.

The Commissioner of the division may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

V.—MISCELLANEOUS.

32. When the lease of the tolls of any ferry is surrendered under section 11 or cancelled under section 24, the Magistrate of the district may take possession of all boats and their equipment, and all other material and appliances used by the lessee for the purposes of such ferry, and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such Magistrate can conveniently procure proper substitutes therefor.

Power to take possession of boats, etc., on surrender or cancellation of lease.

¹ See now Chapter XXII of the Code of Criminal Procedure, 1898 (Act V of 1898, as modified up to 1st April, 1903.

(V.—Miscellaneous. Secs. 33-36.

Hackney-carriages.

[1879 : Act XIV.]

Similar
power in
cases of
emergency.

. When any boats or their equipment, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Local Government may in each case direct) until such transport is completed.

Jurisdiction
of Civil
Courts
barred.

34. No suit to ascertain the amount of any compensation payable, or abatement of rent allowable, under this Act shall be cognizable by any Civil Court.

Delegation
of powers.

35. The Local Government may, from time to time, delegate, under such restrictions as it thinks fit, any of the powers conferred on it by this Act to any Commissioner of a division or Magistrate of a district or to such other officer as it thinks fit, by name or by virtue of his office.

36. [Validation of proceedings since repeal of Regulation VI of 1819 in Punjab.] Rep. by Act XIV of 1891. The section was also not in force in Coorg.

THE HACKNEY-CARRIAGE ACT, 1879.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Commencement.
Saving.
2. Interpretation-clause.
3. Application of Act to municipalities.
Power of committees to make rules.
Confirmation and publication of rules.
Power of Local Government to rescind rules.
4. Power to make rules for cantonments.
5. Power to extend operation of rules beyond limits of municipality or cantonment.
6. What rules under sections 3 and 4 may provide for.
7. Penalty for breach of rules.
8. Disposal of fees and payment of expenses.
9. Power of Magistrate to decide disputes regarding fares.
10. In case of dispute, hirer may require driver to take him to Court.

(Secs. 1-3.)

ACT No. XIV of 1879.¹

[5th September, 1897.]

An Act for the regulation and control of Hackney-carriages in certain Municipalities and Cantonments.

WHEREAS it is expedient to provide for the regulation and control of hackney-carriages in certain municipalities and cantonments; It is hereby enacted as follows:—

1. This Act may be called the Hackney-carriage Act, 1879 :

and it shall come into force at once ;

but nothing herein contained shall affect any power conferred by any law relating to ² municipalities, or any rule made in exercise of any such power.

Short title.
Commence-
ment.
Saving.

2. In this Act—

“hackney-carriage” means any wheeled vehicle drawn by animals and used for the conveyance of passengers which is kept, or offered, or plies, for hire ; and

Interpreta-
tion clause.

“committee” means a municipal committee, or a body of municipal commissioners, constituted under the provisions of any ²enactment for the time being in force.

3. ³[The Lieutenant-Governors of the United Provinces of Agra and Oudh, the Punjab and Burma and the Chief Commissioners of the Central Provinces], ⁴ Assam, Ajmer and Coorg, may, by notification in the official Gazette, apply this Act to any municipality in the territories administered by them respectively.

Application
of Act to
municipali-
ties.

When this Act has been so applied to any municipality, the committee of such municipality may, from time to time, make rules for the regulation and control of hackney-carriages within the limits of such municipality, in the manner in which, under the law ² for the time being in force, it makes rules or bye-laws for the regulation and control of other matters within such limits.

Power of
committees
to make
rules.

Every rule made under this section shall, when confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe, have the force of law. Provided that the Local Government may, at any time, rescind any such rule.

Confirmation
and publica-
tion of rules.
Power of
Local Govern-
ment to
rescind rules.

¹ For Statement of Objects and Reasons, see Gazette of India, 1879, Pt. V, p. 52, and for Proceedings in Council, see *ibid*, Supplement, pp. 49, 78 and 1141.

² For the law relating to municipalities in Coorg, see the Coorg Municipal Regulation, 1907 (2 of 1907), *in/ra*, p. 149.

³ These words were substituted for the words “The Lieutenant-Governors of the North-Western Provinces and the Punjab, and the Chief Commissioner of Oudh, the Central Provinces, British Burma” by the Repealing and Amending Act, 1903 (1 of 1903), Bengal Code, Vol. I, Ed. 1905, p. 18.

⁴ The Chief Commissioner of Assam is now Lieutenant-Governor of Eastern Bengal and Assam, see Proclamation No. 2831 P., dated the 1st September 1905, General Statutory Rules and Orders, Vol. I, p. 14.

(Secs. 4-6.)

Power to
make rules
for canton-
ments.

4. The Local Government of any of the said territories may, from time to time, subject to the control of the Governor General in Council, make rules for the regulation and control of hackney-carriages in any military cantonment situated in the territory administered by it.* * * *

All rules made under this section, when published for such time and in such manner as the authority making the same may, from time to time, prescribe, shall have the force of law.

Power to
extend oper-
ation of
rules beyond
limits of
municipality
or canton-
ment.

5. The authority making any rules under this Act may extend their operation to any railway-station, or specified part of a road, not more than six miles from the local limits of the municipality or cantonment concerned :

Provided that such extension shall be made, in the case of a municipality, with the sanction of the Local Government, and, in the case of a cantonment situate in British India, subject to the control of the Governor General in Council.

When any rules have been made under this Act for any municipality, the Local Government may, subject to the control of the Governor General in Council, extend the operation of such rules to any cantonment the boundary of which is not more than six miles distant from the boundary of such municipality.

What rules
under sec-
tions 3 and
4 may pro-
vide for.

6. The rules to be made under section 3 or section 4 may, among other matters,—

- (a) direct that no hackney-carriage, or no hackney-carriage of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a license granted in that behalf ;
- (b) direct that no person shall act as driver of a hackney-carriage except under a license granted in that behalf ;
- (c) provide for the issue of the licenses referred to in clauses (a) and (b), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor ;
- (d) regulate the description of animals, harness and other things to be used with licensed carriages, and the condition in which such carriages, and the animals, harness and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise ;
- (e) provide for the inspection of the premises on which any such carriages, animals, harness and other things are kept ;
- (f) fix the time for which such licenses shall continue in force, and the events (if any) upon which within such time they shall be subject to revocation or suspension ;

¹ The words " and the Governor General in Council may from time to time make rules for the regulation and control of hackney-carriages in any place in India, but not in British India, in which British troops are cantoned " were repealed by the Cantonments Act, 1889 (13 of 1889), General Acts, Vol. V, p. 335.

(Secs. 7-9.)

- (g) provide for the numbering of such carriages ;
- (h) determine the times at which, and the circumstances under which, any person keeping a hackney-carriage shall be bound to let or refuse to let such carriage to any person requiring the same ;
- (i) appoint places as stands for hackney-carriages and prohibit such carriages waiting for hire except at such places ;
- (j) limit the rates or fares, as well for time as distance, which may be demanded for the hire of any hackney-carriage ; and prescribe the minimum speed at which such carriages when hired by time shall be driven ;
- (k) limit the number of persons, and the weight of property, which may be conveyed by any such carriage ;
- (l) require the owner or person in charge of any such carriage to keep a printed list of fares in English and such other language as may be prescribed, affixed inside such carriage in such place as may be determined by the rules, and prohibit the destruction or defacement of such list ;
- (m) require drivers to wear a numbered badge or ticket, and to produce their licenses when required by a Magistrate or other person authorized by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges ; and
- (n) provide for the deposit of property found in such carriages, and the payment of a fee by the owner of such property on the delivery thereof to him.

7. Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees. Penalty for breach of rules.

8. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall in any municipality be credited and debited respectively to the municipal fund, and, in any cantonment where there is a cantonment-fund, to such fund. Disposal of fees and payment of expenses.

9. If any dispute arises between the hirer of any hackney-carriage and the owner or driver of such carriage as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen ; and such Magistrate or bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or bench thinks fit. Power of Magistrate to decide disputes regarding fares.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.¹

¹ As to recovery of fines, see the General Clauses Act, 1897 (10 of 1897), s. 25, General Acts, Vol. VI, p. 316.

The decision of any Magistrate or bench in any case under this section shall be final.

When any such case is heard by a bench, any difference of opinion arising between the members of such bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

In case of
dispute, hirer
may require
driver to take
him to Court.

10. If, at the time any dispute mentioned in section 9 arises, any Magistrate or bench of Magistrates having jurisdiction in respect of such dispute is sitting within the local limits to which the rules apply, the hirer of the carriage may require the driver thereof to take him in the same to the Court of such Magistrate or bench for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

THE VACCINATION ACT, 1880.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
Application.
2. Interpretation-clause.
3. Extension of Act to municipalities.
4. Extension to cantonments.
5. Power to withdraw local area from operation of Act.
6. Prohibition of inoculation.
Inoculated persons not to enter without certificate local area subject to Act.
7. Vaccination-circles :
Vaccinators :
Superintendent of vaccination.
8. Private vaccinators.
9. Unprotected children to be vaccinated.
Vaccinator to vaccinate children, or deliver certificates of postponement.
10. Inspection after vaccination.
11. Procedure when vaccination is successful.

(Sec. 1.)

12. Procedure when vaccination is unsuccessful.
13. Procedure when child is unfit for vaccination.
Renewal of postponement certificates.
14. Certificate of insusceptibility of successful vaccination.
15. What lymph to be used.
16. No fee to be charged except by private vaccinator.
Proviso.
17. Duties of Superintendent of vaccination.
Notice to parent or guardian neglecting to comply with Act.
18. Order by Magistrate when notice not complied with.
Procedure when order not obeyed.
Magistrates to be non-official Natives.
19. Power to make rules for municipalities.
20. Power to make rules for cantonments.
21. What rules under sections 19 and 20 may provide for.
22. Punishment of offences.
23. Municipal funds to receive fines and meet expenditure.

ACT No. XIII OF 1880.¹

An Act to give power to prohibit inoculation, and to make the vaccination of children compulsory, in certain Municipalities and Cantonments.

WHEREAS it is expedient to give power to prohibit inoculation, and make Preamble.
the vaccination of children compulsory, in certain municipalities and cantonments ; It is hereby enacted as follows :—

1. This Act may be called the Vaccination Act, 1880 : and Short title,
it shall apply only to such municipalities and cantonments situate in the Application,
territories administered respectively by the Lieutenant-Governors of the
2North-Western Provinces and the Punjab and the Chief Commissioners of
Oudh, the Central Provinces, 3British Burma, 4Assam, Ajmere and Coorg as
it may be extended to in manner hereinafter⁵ provided.

¹ For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V, p. 80 ; for Report of the Select Committee, see *ibid.*, p. 295 ; and for Proceedings in Council, see *ibid.*, 1879, Supplement, p. 1225 ; *ibid.*, 1880, pp. 566 and 1204.

² These titles (Lieutenant-Governor, N.-W. Provinces, and Chief Commissioner, Oudh) have now merged in that of "Lieutenant-Governor of the United Provinces of Agra and Oudh," see the United Provinces (Designation) Act, 1902 (7 of 1902), General Acts, Vol. VII, p. 200, and Proclamation No. 996, dated the 22nd March, 1902, Gazette of India, 1902, Pt. I, p. 228.

³ This reference to British Burma should now be read as referring to Lower Burma, see the Burma Laws Act, 1898 (13 of 1898), s. 7, Burma Code. The Chief Commissioner is now Lieutenant-Governor of Burma, see Proclamation of 9th April, 1897, in Gazette of India, 1897, Pt. I, p. 261.

⁴ Assam is now part of the Province of Eastern Bengal and Assam and the Chief Commissioner is now Lieutenant-Governor of that Province, see Proclamation No. 2831 P., dated the 1st September, 1905, General Statutory Rules and Orders, Vol. I, p. 14.

⁵ See ss. 3 and 4.

(Secs. 2-3.)

Interpreta-
tion-clause.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) the expression “municipal commissioners” means a body of municipal Commissioners or a municipal committee constituted under the provisions of any enactment for the time being in force :

(2) “parent” means the father of a legitimate child and the mother of an illegitimate child :

(3) “guardian” includes any person who has accepted or assumed the care or custody of any child :

(4) “unprotected child” means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under this Act to be insusceptible to vaccination :

(5) “inoculation” means any operation performed with the object of producing the disease of small-pox in any person by means of variolous matter :

(6) “vaccination-circle” means one of the parts into which a municipality or cantonment has been divided under this Act for the performance of vaccination :

(7) “vaccinator” means any vaccinator appointed under this Act to perform the operation of vaccination, or any private person authorized by the Local Government in manner hereinafter provided to perform the same operation ; and includes a “Superintendent of vaccination” :

(8) “vaccination-season” means the period from time to time² fixed by the Local Government for any local area under its administration by notification in the official Gazette, during which alone vaccination may be performed under this Act.

Extension of
Act to muni-
cipalities.

3. A majority in number of the persons present at a meeting of the municipal commissioners specially convened in this behalf may apply to the Local Government to extend³ this Act to the whole or any part of a municipality, and thereupon the Local Government may, if it thinks fit by notification published in the official Gazette, declare its intention to extend this Act in the manner proposed.

Any inhabitant of such municipality or part thereof who objects to such extension may, within six weeks from the date of such publication, send his objection in writing to the Secretary to the Local Government, and the Local Government shall take such objection into consideration. When six weeks from the said publication have expired, the Local Government, if no such objections have been sent as aforesaid, or (when such objections have been so

¹ For the law relating to municipalities in Coorg, see the Coorg Municipal Regulation, 1907 (2 of 1907), *infra*, p. 149.

² For notification fixing the period for the vaccination season in certain municipalities, see Coorg Local Rules and Orders, Ed. 1903, p. xxvii.

³ For notifications extending the Act to certain municipalities, see Coorg Local Rules and Orders, Ed. 1905 p. xxvii.

(Secs. 4-10.)

sent) if in its opinion they are insufficient, may by like notification effect the proposed extension.

4. The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, extend this Act to the whole or any part of a military cantonment.

5. The Local Government may, by notification in the official Gazette, withdraw any local area in a municipality, or, with the previous sanction of the Governor General in Council, any local area in a cantonment, from the operation of this Act.

6. In any local area to which the provisions of this Act apply, inoculation shall be prohibited; and no person who has undergone inoculation shall enter such area before the lapse of forty days from the date of the operation, without a certificate from a medical practitioner, of such class as the Local Government may from time to time by written order authorize to grant such certificates, stating that such person is no longer likely to produce small-pox by contact or near approach.

7. Every local area to which this Act applies shall be a vaccination-circle or shall in manner hereinafter provided be divided into a number of such circles;

one or more vaccinators shall be appointed in manner hereinafter provided for each such circle; and

one or more Superintendents of vaccination shall be appointed in manner hereinafter provided for each such local area.

8. The Local Government may by written license authorize private vaccinators to perform vaccination in any vaccination-circle, and may suspend or cancel any such license.

9. When any unprotected child, having attained the age of six months has resided for a period of one month during the vaccination-season in any local area to which the provisions of this Act apply, and has not at the expiration of such period attained the age of a boy of fourteen years, and if a girl of eight years, the parent or guardian of such child shall take it, or cause it to be taken, to a vaccinator to be vaccinated, or send for a vaccinator to vaccinate it.

Such vaccinator shall vaccinate the child and deliver to its parent or guardian a memorandum stating the date on which the vaccination has been performed and the date on which the child is to be inspected in order to ascertain the result of the operation, or shall, if he finds such child in a state unfit for vaccination, deliver to its parent or guardian a certificate under his hand to the effect that the child is in a state unfit for vaccination for the whole or part of the current vaccination-season.

10. The parent or guardian of every child which has been vaccinated under section 9 shall, on the date of inspection stated in the memorandum, take

the child, or cause it to be taken, to a vaccinator for inspection, or get it inspected at his own house by a vaccinator; and

such vaccinator shall then append to the memorandum a certificate stating that the child has been inspected and the result of such inspection.

Procedure when vaccination is successful.

11. When it is ascertained at the time of inspecting a child under section 10 that the vaccination has been successful, a certificate shall be delivered by the vaccinator to the parent or guardian of such child to that effect, and such child shall thereafter be deemed to be protected.

Procedure when vaccination is unsuccessful.

12. When it is ascertained as aforesaid that the vaccination has been unsuccessful, the parent or guardian shall, if the vaccinator so direct, cause the child to be forthwith again vaccinated and subsequently inspected in manner hereinbefore provided.

Procedure when child is unfit for vaccination.

13. A certificate granted under section 9 showing the unfitness of a child for vaccination shall remain in force for the period stated therein, and on the termination of that period, or, if that period terminates after the vaccination-season is over, when the next vaccination-season begins, the parent or guardian of such child shall take the child, or cause it to be taken, to a vaccinator to be vaccinated, or procure its vaccination at his own house by a vaccinator:

Provided that, if the child is still found to be in a state unfit for vaccination, the certificate granted under section 9 shall be renewed.

Renewal of postponement certificates. Certificate of insusceptibility of successful vaccination.

14. If the Superintendent of vaccination is of opinion that a child which has been three times unsuccessfully vaccinated is insusceptible of successful vaccination, he shall deliver to the parent or guardian of such child a certificate under his hand to that effect; and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

What lymph to be used.

15. The vaccination of a child shall ordinarily be performed with such lymph as may be prescribed by the rules to be made under this Act:

Provided that,—

1st, if animal-lymph is so prescribed and the parent or guardian of any child desires that such child shall be vaccinated with human lymph, it shall be so vaccinated; and

2nd, if in any local area in which animal-lymph is procurable human lymph is so prescribed, and the parent or guardian of any child desires that such child should be vaccinated with animal-lymph, and tenders to the vaccinator the amount of such fee, not exceeding one rupee, as may be fixed by such rules in this behalf, such child shall be so vaccinated.

No fee to be charged except by private vaccinator. Proviso.

16. No fee shall be charged by any vaccinator except a private vaccinator to the parent or guardian of any child for any of the duties imposed on such vaccinator by or under the provisions of this Act:

Provided that it shall be lawful for a vaccinator to accept a fee for vaccinating a child by request of the parent or guardian elsewhere than in the circle for which such vaccinator is appointed.

(Secs. 17-20.)

17. The Superintendent of vaccination, in addition to the other duties imposed on him by or under the provisions of this Act, shall ascertain whether all unprotected children, under the age of fourteen years if boys, and under the age of eight years if girls, within the local area under his superintendence have been vaccinated; and, if he has reason to believe that the parent or guardian of any such child is bound by the provisions hereinbefore contained to procure the vaccination of such child or to present it for inspection, and has omitted so to do, he shall personally go to the house of such parent or guardian, and there make enquiry, and shall, if the fact is proved, forthwith deliver to such parent or guardian, or cause to be affixed to his house, a notice requiring that the child be vaccinated, or (as the case may be) that it be presented for inspection, at a time and place to be specified in such notice.

Duties of Superintendent of vaccination.

Notice to parent or guardian neglecting to comply with Act.

18. If such notice is not complied with, the Superintendent of vaccination shall report the matter to the Magistrate of the district, or such Magistrate as the Local Government or the Magistrate of the district may from time to time appoint in this behalf; and the Magistrate receiving such report shall summon the parent or guardian of the child and demand his explanation, and shall, if such explanation is not satisfactory, make an order in writing directing such parent or guardian to comply with the notice before a date specified in the order.

Order by Magistrate when notice not complied with.

If on such date the order has not been obeyed, the Magistrate shall summon the parent or guardian before him, and, unless just cause or excuse is shown, shall deal with the disobedience as an offence punishable under section 22.

Procedure when order not obeyed.

The Magistrates appointed under this section shall, as far as is conveniently practicable, be Natives of India, and not paid servants of the Government.

Magistrates to be non-official

19. When this Act has been applied to any municipality or any part thereof, the Municipal Commissioners may, from time to time, make rules consistent with this Act for the proper enforcement of this Act within the limits to which it applies. Such rules shall be made in the manner in which, under the law for the time being in force, the Commissioners make rules or bye-laws for the regulation of other matters within the limits of the municipality, and shall, when confirmed by the Local Government and published in the official Gazette, have the force of law:

Natives. Power to make rules for municipalities.

Provided that the Local Government may at any time rescind or modify any such rule.

20. When this Act has been applied to any cantonment or any part thereof, the Local Government may, from time to time, subject to the control of the Governor General in Council, make such rules.

Power to make rules for cantonments.

¹ For the law relating to municipalities in Coorg, see the Coorg Municipal Regulation, 1907 (2 of 1907), *infra*, p. 149.

² For notifications confirming vaccination rules for certain Municipalities, see Coorg Local Rules and Orders, Ed. 1905, p. xxviii.

What rules under sections 19 and 20 may provide for.

21. The rules to be made for any local area under sections 19 or 20 may, among other matters, provide for—

- (a) the division of such local area into circles for the performance of vaccination ;
- (b) the appointment of a place in each vaccination-circle as a public vaccine-station, and the posting of some distinguishing mark in a conspicuous place near such station ;
- (c) the qualifications to be required of public vaccinators and Superintendents of vaccination ;
- (d) the authority with which their appointment, suspension and dismissal shall rest ;
- (e) the time of attendance of public vaccinators at the vaccine-stations, and their residence within the limits of the vaccination-circles ;
- (f) the distinguishing mark or badge to be worn by them ;
- (g) the amount of fee chargeable by private vaccinators, and their guidance generally in the performance of their duties ;
- (h) the facilities to be afforded to people for procuring the vaccination of their children at their own houses ;
- (i) the grant and form of certificates of successful vaccination, of unfitness for vaccination or of insusceptibility of vaccination ;
- (j) the nature of the lymph to be used and the supply of a sufficient quantity of such lymph ;
- (k) the fee to be paid for vaccination with animal-lymph under section 15 ;
- (l) the fee to be paid to a public vaccinator for vaccinating a child beyond the vaccination-circle at the request of the parent or guardian of the said child ;
- (m) the preparation and keeping of registers showing—
 - the names of children born in such local area on or after the date of the application of this Act ;
 - the names of unprotected children born in such local area previous to the application of this Act, and who are, at the time this Act is applied, under the age of fourteen years if boys, and of eight years if girls ;
 - the names of unprotected boys and girls respectively under those ages brought within such local area at any time after the application of this Act and who have resided there for a month ;
 - the result of each vaccination or its postponement, and the delivery of certificates, if any ;
- (n) the assistance to be given by the municipal commissioners and municipal servants in the preparation of these registers, and in other matters ; and
- (o) the preparation of vaccination-reports and returns.

22. Whoever commits any of the undermentioned offences (that is to say) :—

- (a) violates the provisions of section 6,
- (b) neglects without just excuse to obey an order made under section 18,
- (c) breaks any of the rules made under section 19 or 20, or
- (d) neglects without just cause to obey an order made under section 18 after having been previously convicted of so neglecting to obey a similar order made in respect of the same child, shall be punished as follows (that is to say) :—

in the case of the offence mentioned in clause (a) with simple imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both;

in the case of the offences mentioned in clauses (b) and (c), with fine which may extend to fifty rupees; and

in the case of the offence mentioned in clause (d), with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

23. The amount of all fees and fines realized, and the amount of all expenditure incurred, under this Act, in any municipality shall respectively be credited to and paid from the municipal fund.

Municipal funds to receive fines and meet expenditure.

THE INDIAN EASEMENTS ACT, 1882.

CONTENTS.

PREAMBLE.

PRELIMINARY.

SECTIONS.

1. Short title.
Local extent.
Commencement.
2. Savings.
3. Repeal of parts of the Indian Limitation Act, 1877.

CHAPTER I.

OF EASEMENTS GENERALLY

4. "Easement" defined.
Dominant and servient heritages and owners.

SECTIONS.

5. Continuous and discontinuous, apparent and non-apparent, easements.
6. Easement for limited time or on condition.
7. Easements restrictive of certain rights—
 - (a) Exclusive right to enjoy.
 - (b) Rights to advantages arising from situation.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. Who may impose easements.
9. Servient owners.
10. Lessor and mortgagor.
11. Lessee.
12. Who may acquire easements.
13. Easements of necessity and *quasi* easements.
14. Direction of way of necessity.
15. Acquisition by prescription.
16. Exclusion in favour of reversioner of servient heritage.
17. Rights which cannot be acquired by prescription.
18. Customary easements.
19. Transfer of dominant heritage passes easement.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. Rules controlled by contract or title.
 - Incidents of customary easements.
21. Bar to use unconnected with enjoyment.
22. Exercise of easement.
 - Confinement of exercise of easement.
23. Right to alter mode of enjoyment.
24. Right to do acts to secure enjoyment.
 - Accessory rights.
25. Liability for expenses necessary for preservation of easement.
26. Liability for damage from want of repair.
27. Servient owner not bound to do anything.
28. Extent of easements.
 - Easement of necessity.

SECTIONS.

Other easements—

- (a) right of way ;
 - (b) right to light or air acquired by grant ;
 - (c) prescriptive right to light or air ;
 - (d) prescriptive right to pollute air and water ;
 - (e) other prescriptive rights.
29. Increase of easement.
 30. Partition of dominant heritage.
 31. Obstruction in case of excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

32. Right to enjoyment without disturbance.
33. Suit for disturbance of easement.
34. When cause of action arises for removal of support.
35. Injunction to restrain disturbance.
36. Abatement of obstruction of easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

37. Extinction by dissolution of right of servient owner.
38. Extinction by release.
39. Extinction by revocation.
40. Extinction on expiration of limited period or happening of dissolving condition.
41. Extinction on termination of necessity.
42. Extinction of useless easement.
43. Extinction by permanent change in dominant heritage.
44. Extinction on permanent alteration of servient heritage by superior force.
45. Extinction by destruction of either heritage.
46. Extinction by unity of ownership.
47. Extinction by non-enjoyment.
48. Extinction of accessory rights.
49. Suspension of easement.
50. Servient owner not entitled to require continuance.
Compensation for damage caused by extinguishment.
51. Revival of easements.

(Preliminary. Secs. 1-2.)

CHAPTER VI.

LICENSES.

SECTIONS.

52. " License " defined.
53. Who may grant license.
54. Grant may be express or implied.
55. Accessory licenses annexed by law.
56. License when transferable.
57. Grantor's duty to disclose defects.
58. Grantor's duty not to render property unsafe.
59. Grantor's transferee not bound by license.
60. License when revocable.
61. Revocation express or implied.
62. License when deemed revoked.
63. Licensee's rights on revocation.
64. Licensee's rights on eviction.

ACT No. V OF 1882¹.[17th February, 1882.]

An Act to define and amend the law relating to Easements and Licenses.

Preamble. WHEREAS it is expedient to define and amend the law relating to Easements and Licenses; It is hereby enacted as follows:—

PRELIMINARY.

- Short title.** 1. This Act may be called the Indian Easements Act, 1882.
- Local extent.** It ² extends to the territories respectively administered by the Governor of Madras in Council and the Chief Commissioners of the Central Provinces and Coorg;
- Commencement.** and it shall come into force on the first day of July, 1882.
- Savings.** 2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed; or to derogate from—
- (a) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation;

¹ For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V, p. 494; for Report of Select Committee, see *ibid*, 1881, Pt. V, p. 1021; and for Proceedings of Council relating to the Bill, see *ibid*, 1881, Suppl., pp. 687, 766; and *ibid*, 1882, Suppl., p. 172.

² The Act was extended to the territories respectively administered by the Government of Bombay in Council and the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh by Act 8 of 1891, U.P. Code, Vol. I.

(Preliminary.—Sec. 3. Chap. I.—Of Easements generally. Secs. 3-4.)

- (b) any customary or other right (not being a license) in or over immoveable property which the Government, the public or any person may possess irrespective of other immoveable property; or
- (c) any right acquired, or arising out of a relation created, before this Act comes into force.

XV of 1877.

3. Sections 26 and 27 of the ¹ Indian Limitation Act, 1877, and the definition of "easement" contained in that Act, are repealed in the territories to which this Act extends. All references in any Act or Regulation to the said sections, or to sections 27 and 28 of ²Act No. IX of 1871, shall, in such territories, be read as made to sections 15 and 16 of this Act.

CHAPTER I.

OF EASEMENTS GENERALLY.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof the servient owner.

Explanation.—In the first and second clauses of this section, the expression "land" includes also things permanently attached to the earth: the expression "beneficial enjoyment" includes also possible convenience, remote advantage, and even a mere amenity; and the expression "to do something" includes removal and appropriation by the dominant owner, for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(a) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(b) A, as the owner of a certain house, has the right to go on his neighbour B's land and to take water for the purposes of his household out of a spring therein. This is an easement.

(c) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(d) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field, or to take, for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(e) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. The right is not an easement.

(f) A is bound to cleanse a watercourse running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

¹ See the reprint as modified up to 1st December, 1900.

² Repealed by the Indian Limitation Act, 1877 (XV of 1877).

(Chap. I.—Of Easements generally. Secs. 5-7.)

Continuous and discontinuous, apparent and non-apparent, easements.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no such sign.

Illustrations.

(a) A right annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(b) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(c) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(d) A right annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exerciseable only at a certain place, or at certain times, or between certain hours, or for a particular purpose, or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

Easements restrictive of certain rights. Exclusive right to enjoy.

7. Easements are restrictions of one or other of the following rights (namely):—

(a) the exclusive right of every owner of immoveable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto;

(b) the right of every owner of immoveable property (subject to any law for the time being in force) to enjoy without disturbance by another the natural advantages arising from its situation.

Rights to advantages arising from situation.

Illustrations of the Rights above referred to.

(a) The exclusive right of every owner of land in a town to build on such and subject to any municipal law for the time being in force.

(b) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(c) The right of every owner of a house that his physical comfort shall not be interfered with materially and unreasonably by noise or vibration caused by any other person.

(d) The right of every owner of land to so much light and air as pass vertically thereto.

(e) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent and adjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the "subjacent and adjacent soil" mentioned in this illustration

(Chap. II.—The Imposition, Acquisition and Transfer of Easements. Sec. 8.)

means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(f) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(g) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(h) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force or temperature; the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(i) The right of every owner of upper land that water naturally rising in, or falling on, such land, and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(j) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land, and for the purposes of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed Who may impose easements.

Illustrations.

(a) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(b) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(c) A, B and C are co-owners of certain land. A cannot, without the consent of B and C, impose an easement on the land or on any part thereof.

(Chap. II.—*The Imposition, Acquisition and Transfer of Easements. Secs. 9-12.*)

(d) A and B are lessees of the same lessor, A, of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

Servient owners.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant owner, impose an easement on the servient heritage which would lessen such utility.

Illustrations.

(a) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: Provided that A's supply is not thereby diminished.

(b) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: Provided that A's right of way is not thereby obstructed.

Lessor and mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased, any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may acquire easements.

12. An easement may be acquired by the owner of the immoveable property for the beneficial enjoyment of which the right is created, or on his behalf, by any person in possession of the same.

One or two or more co-owners of immoveable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

No lessee of immoveable property can acquire, for the beneficial enjoyment of other immoveable property of his own, an easement in or over the property comprised in his lease.

(Chap. II.—The Imposition, Acquisition and Transfer of Easements. Sec. 13.)

13. Where one person transfers or bequeaths immoveable property to another,—

Easements of necessity and quasi easements.

- (a) if an easement in other immoveable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement ; or
- (b) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement ;
- (c) if an easement in the subject of the transfer or bequest is necessary for enjoying other immoveable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement ; or
- (d) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator, shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

- (e) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or
- (f) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (a), (c) and (e), are called easements of necessity.

Where immoveable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(a) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold.

(b) A, the owner of two fields, sells one to B, and retains the other. The field retained was at the date of the sale used for agricultural purposes only, and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(Chap. II.—The Imposition, Acquisition and Transfer of Easements. Sec. 13.)

(c) A sells B a house with windows overlooking A's land, which A retains. The light which passes over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(d) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(e) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(f) A, is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(g) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(h) A, the owner of two adjoining houses Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z as it was enjoyed when the sale took effect.

(i) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(j) A, the owner of two adjoining buildings, sells one to B, and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building.

(k) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(l) Under the ¹ Land Acquisition Act, 1870, a Railway Company compulsorily acquires X of 1870. a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(m) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

¹ See now the Land Acquisition Act, 1894 (1 of 1894), as modified up to 1st August, 1903.

(Chap. II.—The Imposition, Acquisition and Transfer of Easements.
Secs. 14-15.)

(n) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

14. When ¹ [a right] to a way of necessity is created under section 13, ^{Direction of way of necessity.} the transferor, the legal representative of the testator or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

15. Where the access and use of light or air to and for any building have ^{Acquisition by prescription.} been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II.—Nothing is an interruption within the meaning of this section unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said

¹ The words "a right" were substituted for the word "right" by the Repealing and Amending Act, 1891 (12 of 1891), see the reprint showing the schedules as modified up to 31st May, 1902.

(Chap. II.—*The Imposition, Acquisition and Transfer of Easements.*
Secs. 16-17.)

period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government this section shall be read as if, for the words "twenty years", the words "sixty years" were substituted.

Illustrations.

(a) A suit is brought in 1883 for obstructing a right of way. The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him, claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862, to 1st January, 1882. The plaintiff is entitled to judgment.

(b) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed "as an easement" for twenty years.

(c) In a like suit the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed "as of right" for twenty years.

Exclusion in favour of reversioner of servient heritage.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustrations.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years; but B shows that during ten of these years C had a life-interest in the land; that on C's death B became entitled to the land and that within two years after C's death he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which cannot be acquired by prescription.

17. Easements acquired under section 15 are said to be acquired by prescription and are called prescriptive rights.

(Chap. II.—The Imposition, Acquisition and Transfer of Easements. Secs. 18-19. Chap. III.—The Incidents of Easements. Sec. 20.)

None of the following rights can be so acquired :—

- (a) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed ;
- (b) a right to the free passage of light or air to an open space of ground ;
- (c) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise ;
- (d) a right to underground water not passing in a defined channel.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements. Customary easements.

Illustrations.

(a) By the custom of a certain village every cultivator of village land is entitled as such to graze his cattle on the common pasture. A having become the tenant of a plot of uncultivated land in the village breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(b) By the custom of a certain town no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place. Transfer of dominant heritage passes easement.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed. Rules controlled by contract or title.

And, when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident. Incidents of customary easements.

(Chap. III.—The Incidents of Easements. Secs. 21-23.)

Bar to use unconnected with enjoyment. 21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage.

Illustrations.

(a) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(b) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

Exercise of easement. Confinement of exercise of easement. 22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and, when the exercise of an easement can without detriment to the dominant owner, be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined.

Illustrations.

(a) A has a right of way over B's field. A must enter the way at either end and not at any intermediate point.

(b) A has a right annexed to his house to cut thatching-grass in B's swamp. A when exercising his easement must cut the grass so that the plants may not be destroyed.

Right to alter mode of enjoyment. 23. Subject to the provisions of section 22 the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(a) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(b) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(c) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse-liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature, of the pollution.

(d) A, a riparian owner, acquires, as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

(Chap. III.—The Incidents of Easements. Secs. 24-27.)

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Rights to do acts to secure enjoyment.
Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(a) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(b) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(c) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(d) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(e) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(f) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(g) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

25. The expenses incurred in constructing works, or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work.²

27. The servient owner is not bound to do anything for the benefit of the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement: but he must not do any act tending to restrict the easement or to render its exercise less convenient.

Illustrations.

(a) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the watercourse or scour the sewer.

¹ But see s. 36, *infra*, as to abatement of obstruction of easement.

² But see s. 50, *infra*, as to extinguishment or suspension of easement.

(Chap. III.—The Incidents of Easements. Secs. 28-29.)

(b) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(c) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(d) A, in respect of his mill, is entitled to a watercourse through B's land. B must not drive stakes so as to obstruct the watercourse.

(e) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

Extent of easements.	28. With respect to the extent of easements and the mode of their enjoyment the following provisions shall take effect:—
Easement of necessity.	An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed.
Other easements.	The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired.
	In the absence of evidence as to such intention and purpose—
Right of way.	(a) a right of way of any one kind does not include a right of way of any other kind :
Right to light or air acquired by grant.	(b) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made :
Prescriptive right to light or air.	(c) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening is that quantity of light or air which has been accustomed to enter that opening during the whole of the prescriptive period irrespectively of the purposes for which it has been used :
Prescriptive right to pollute air or water.	(d) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose : and
Other prescriptive rights.	(e) the extent of every other prescriptive right and the mode of its enjoyment must be determined by the accustomed user of the right.
Increase of easement.	29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased,

(Chap. III.—The Incidents of Easements. Secs. 30-31.)

and if the dominant heritage is diminished by diluvion the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(a) A, the owner of a mill, has acquired a prescriptive right to divert to his mill part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(b) A has acquired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(c) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

30. Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden on the servient heritage: Provided that such annexation is consistent with the terms of the instrument, decree or revenue-proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

Partition of
dominant
heritage.

Illustrations.

(a) A house to which a right of way by a particular path is annexed is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(b) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage, to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(c) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

31. In the case of excessive user of an easement the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: Provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Obstruction
in case of ex-
cessive user.

Illustration.

A, having a right to the free passage over B's land of light to four windows 6 feet by 4, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

(Chap. IV.—The Disturbance of Easements. Secs. 32-34.)

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

Right to en-
joyment
without
disturbance.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry but for the obstruction.

Suit for dis-
turbance of
easement.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: Provided that the disturbance has actually caused substantial damage to the plaintiff.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section unless it falls within the first Explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on his accustomed business in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(a) A places a permanent obstruction in a path over which B, as tenant of C's house, has a right of way. This is substantial damage to C, for it may affect the evidence of reversionary right to the easement.

(b) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about 10 feet from the ground, so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause
of action
arises for re-
moval of
support

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation unless and until substantial damage¹ is actually sustained.

¹ As to meaning of "substantial damage." see s. 33, Expl. I, *supra*.

(Chap. IV.—*The Disturbance of Easements. Secs. 35-36. Chap. V.—The Extinction, Suspension and Revival of Easements. Secs. 37-38.*)

1877.

35. Subject to the provisions of the ¹Specific Relief Act, 1877, sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

Injunction to restrain disturbance.

- (a) if the easement is actually disturbed—when compensation for such disturbance might be recovered under this chapter;
- (b) if the disturbance is only threatened or intended—when the act threatened or intended must necessarily, if performed, disturb the easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

Abatement of obstruction of easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Extinction by dissolution of right of servient owner.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

Illustrations.

(a) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(b) A, in 1860, lets Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(c) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(d) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage-debt. The easement is not thereby extinguished.

38. An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner.

Extinction by release.

¹ General Acts, Vol. III, p. 5.

(Chap. V.—*The Extinction, Suspension and Revival of Easements.*
Secs. 39-41.)

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

- (a) where the dominant owner expressly authorizes an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority;
- (b) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(a) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(b) A grants B an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C. B then purports to release the easement. The release is ineffectual.

(c) A, having the right to discharge his eavesdroppings into B's yard, expressly authorizes B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(d) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(e) A, having a projecting roof by means of which he enjoys an easement to discharge eavesdroppings on B's land, permanently alters the roof, so as to direct the rain-water into a different channel and discharge it on C's land. The easement is impliedly released.

Extinction by revocation. 39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction on expiration of limited period or happening dissolving condition. 40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

Extinction on termination of necessity. 41. An easement of necessity is extinguished when the necessity comes to an end.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

(Chap. V.—The Extinction, Suspension and Revival of Easements.
Secs. 42-46.)

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction
of useless
easement.

43. Where, by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

Extinction
by permanent
change in
dominant
heritage.

- (a) it was intended for the beneficial enjoyment of the dominant heritage to whatever extent the easement should be used ; or
- (b) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it ; or
- (c) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement :

Extinction
on permanent
alteration of
servient heri-
tage by supe-
rior force.

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage ; and the provisions of section 14 apply to such way.

Illustrations.

(a) A grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(b) Access to a path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Extinction
by destruc-
tion of either
heritage.

Illustration.

A has a right of way over a road running along the foot of a sea-cliff. The road is washed away by a permanent encroachment of the sea. A's easement is extinguished.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Extinction
by unity of
ownership.

Illustrations.

(a) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(b) The dominant owner acquires only part of the servient heritage : the easement is not extinguished, except in the case illustrated in section 41.

(Chap. V.—The Extinction, Suspension and Revival of Easements. Sec. 47.)

(c) The servient owner acquires the dominant heritage in connection with a third person: the easement is not extinguished.

(d) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages: the easements are not extinguished.

(e) The joint owners of the dominant heritage jointly acquire the servient heritage: the easement is extinguished.

(f) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(g) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

Extinction
by non-
enjoyment.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner:

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the ¹ Indian Registration Act, 1877, III of 1877, a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

- (a) where the cessation is in pursuance of a contract between the dominant and servient owners;
- (b) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period; or
- (c) where the easement is a necessary easement.

¹ See the reprint as modified up to 1st November, 1902.

(Chap. V.—*The Extinction, Suspension and Revival of Easements.*
Secs. 48-51.)

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purposes of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Extinction
of accessory
rights.

Illustration.

A has an easement to draw water from B's well. As accessory thereto he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Suspension
of easement.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to protect the servient heritage from such damage.

Servient
owner not
entitled to
require
continuance.

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension.

Compensation
for damage
caused by ex-
tinguishment.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement, and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section 45 revives (a) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion; (b) when the destroyed heritage is a servient building and before twenty years have expired such building is rebuilt upon the same site; and (c) when the destroyed heritage is a dominant building and before twenty years have

Revival of
easements.

(Chap. VI.—Licenses. Secs. 52-56.)

expired such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENCES.

"License" defined.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may be express or implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory licenses annexed by law.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License when transferable.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

(Chap. VI.—Licenses. Secs. 57-62.)

Illustrations.

(a) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immovable property of B. The right cannot be transferred.

(b) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not aware. Grantor's duty to disclose defects.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee. Grantor's duty not to render property unsafe.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license. Grantor's transferee not bound by license. License when revocable.

60. A license may be revoked by the grantor, unless—

- (a) it is coupled with a transfer of property and such transfer is in force ;
- (b) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

61. The revocation of a license may be express or implied. Revocation express or implied.

Illustrations.

(a) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(b) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

62. A license is deemed to be revoked—

- (a) when, from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license : License when deemed revoked.
- (b) when the licensee releases it, expressly or impliedly, to the grantor or his representative :
- (c) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires, or the condition is fulfilled :
- (d) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right :
- (e) where the licensee becomes entitled to the absolute ownership of the property affected by the license :

(Chap. VI.—Licenses. Secs. 63-64.)

Ferries. (Secs. 1-2.)

[1886 : Act III.]

- (f) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable :
- (g) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist :
- (h) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee :
- (i) in the case of an accessory license, when the interest or right to which it is accessory ceases to exist.

Licensee's
rights on
revocation.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's
rights on
eviction.

64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

ACT No. III OF 1886.¹

[29th January, 1886.]

An Act to amend the Northern India Ferries Act, 1878.

WHEREAS it is expedient to amend the ² Northern India Ferries Act, 1878 ; ^{XVII of} 1878.

It is hereby enacted as follows :—

1. (1) For section 8 the following shall be substituted, namely :—
[*Vide supra*, p. 16.]
- (2) For section 12, clause (b), the following shall be substituted, namely :—
[*Vide supra*, p. 17.]
- (3) In the third paragraph of section 15, for the word “ auction ” the word “ lease ” shall be substituted.

Substitution
of new sec-
tion 8, and
amendments
of sections
12 and 15.Amendment
of section 13
and substitu-
tion of new
section for
section 26.

2. (1) For the first paragraph of section 13 the following shall be substituted, namely :—

[*Vide supra*, p. 18.]

(2) In the second proviso to the said section, after the word “ boats ” the words “ which do not ply for hire or ” shall be inserted.

(3) For section 26 the following shall be substituted, namely :—

[*Vide supra*, p. 20.]

¹ For Statement of Objects and Reasons, see Gazette of India, 1885, Pt. V, p. 227, and for Proceedings in Council, see *ibid*, Suppl., p. 1257, and *ibid*, 1886, p. 224.

Act III of 1886 was extended to Coorg by notification under the Scheduled Districts Act, 1874 (14 of 1874)—see Appendix, p. 203.

Short title, the Northern India Ferries Act Amendment Act, 1878, see the Repealing and Amending Act, 1897 (5 of 1897), General Acts, Vol. VI, p. 293.

² Printed *supra*, p. 15.

THE EXCISE ACT, 1896.

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, local extent and commencement.
 2. Repeal.
 3. Definitions.
 4. Saving of Acts XVI of 1863 and XIII of 1889.
-

CHAPTER II.

PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

5. Manufacture of spirit and liquor without license prohibited.
 6. Power to establish distilleries for country spirit.
 7. Duty on spirit.
 8. Duty on fermented liquor.
 9. Power for Chief Revenue authority to make rules as to distilleries and breweries licensed under section 5.
 10. Power for Chief Revenue-authority to make rules for distilleries established under section 6.
 11. Sanction to rules under sections 9 and 10.
-

CHAPTER III.

CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

12. Prohibition, restriction and regulation of cultivation of hemp and production of intoxicating drugs.
13. Duty on cultivation of hemp and intoxicating drugs.
14. Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom.
15. Payment of warehouse-dues.

SECTIONS.

16. Period during which intoxicating drugs may remain warehoused.
17. Power to remove intoxicating drugs from one warehouse to another.
18. Possession of intoxicating drugs.
19. Power for Local Government to make rules.
20. Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue-authority to make rules.

 CHAPTER IV.

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

21. Spirit, fermented liquor and intoxicating drugs not to be sold without license.
22. Licenses how granted and cancelled.
23. Further power to cancel licenses.
24. Surrender of retail license.
25. Power for Collector to farm fees and for farmer to grant licenses.
26. Farm may be cancelled,
27. Compensation to farmers in certain cases.
28. Recovery of arrears by farmers.
29. Power for Chief Revenue-authority to regulate supply of t ari to licensed vendors.

 CHAPTER V.

POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

30. Possession of spirit, etc.
31. Spirit and fermented liquor from foreign territory subject to duty.
32. Spirit and fermented liquor from territory beyond India subject to duty.

 CHAPTER VI.

OFFICERS AND THEIR POWERS.

33. Collectors may appoint Excise-officers.
34. Recovery of arrears of fees.
35. Power of Excise-officers to inspect shops.
36. Power of Excise-officers to arrest persons carrying spirit, etc., liable to confiscation.

SECTIONS.

37. Power of Excise-officers to arrest persons in possession of article liable to confiscation and to seize article.
38. Power of Excise-officer to search on information of illicit manufacture or possession.
39. Collector may issue warrant of arrest in certain cases.
40. Collector may issue search-warrant.
41. Excise-officer to report arrest, etc., and to take person arrested to Magistrate.
42. Procedure after arrest or seizure.
43. Police to aid Excise-officers.
44. Power for Local Government to invest Police-officers with powers of Excise-officers.

CHAPTER VII.

PENALTIES.

45. For illegally manufacturing spirit or liquor.
46. For illegally introducing country spirit.
For illegally removing spirit or fermented liquor.
For illegally importing spirit or fermented liquor.
For importing spirit, fermented liquor or intoxicating drug without paying duty.
47. For contravening rules prescribed by Chief Revenue-authority.
48. For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting or transporting intoxicating drugs.
49. For illicitly selling spirit, etc.
50. For permitting drunkenness, etc., in shop.
51. For illegally possessing spirit or liquor.
52. For refusing to produce license and for breach of rules and conditions.
53. For conniving at illicit manufacture or sale of spirit, etc.
54. For Police neglecting to aid Excise-officers.
55. For vexatious search or seizure
56. For delay in reporting arrest, etc., or in taking person arrested to Magistrate.
57. Prosecutions restricted.
58. Confinement in what jail.
59. Attempts and abetment.
60. Disposal of fines, etc., as rewards.
61. Magistrate to pass order of confiscation.

(Chap. I.—Preliminary. Sec. 1.)

CHAPTER VIII.
MILITARY CANTONMENTS.

SECTIONS.

62. Manufacture and sale of spirits, etc., in military cantonments.
63. Application of Act to military cantonments.

CHAPTER IX.

MISCELLANEOUS.

64. Collector subject to control of Commissioner.
65. Additional power for Chief Revenue-authority to make rules.
66. Power for Local Government to exempt articles and persons.

THE SCHEDULE.

ACT No. XII OF 1896.¹

[19th March 1896.]

An Act to amend the law relating to the Excise-revenue in force in Northern India, Burma, and Coorg.

WHEREAS it is expedient to amend the law in force in Northern India, Burma, and Coorg relating to the production, sale, possession and import of spirit, fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Excise Act, 1896.

(2) It extends to the territories administered respectively by the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh, the Lieutenant-Governor of the Punjab, and the Chief Commissioners of the Central Provinces, ³ Burma, ⁴ * * * Coorg, and Ajmere and Merwara; and

(3) It shall come into force at once.

Title, local extent and commencement.

¹ For Statement of Objects and Reasons, see Gazette of India, 1896, Pt. V, p. 9; for Report of the Select Committee, see *ibid*, p. 153, and for Proceedings in Council, see *ibid*, Pt. VI, pp. 16, 94 and 156.

For the law in force in Bombay, see the Bombay Abkari Act, 1878 (Bom. Act 5 of 1878), Bombay Code, Vol. II, Ed. 1907, and for that in force in Madras, see the Madras Abkari Act, 1886 (Mad. Act I of 1886), Madras Code, Vol. II, n. 787.

² Now, the Lieutenant Governor of the United Provinces of Agra and Oudh, see Proclamation No. 996P., dated the 2nd March, 1902, Gazette of India, 1902, Pt. I, p. 228, and the United Provinces (Designation) Act, 1902 (7 of 1902), United Provinces Code, Ed. 1906, p. 527.

³ The Chief Commissioner of Burma is now Lieutenant-Governor of Burma, see Proclamation, dated 9th April, 1897, Gazette of India, 1897, Pt. I, p. 261.

⁴ The words "(inclusive of Upper Burma)" were repealed by the Burma Laws Act, 1898 (13 of 1898), see the Fifth Schedule, Burma Code, Ed. 1899, p. 286.

(Chap. I.—Preliminary. Secs. 2-3.)

2. (1) The enactments mentioned in the schedule are repealed to the Repeal extent specified in the fourth column thereof.

(2) But all rules made, powers conferred and licenses and farms granted under any of the enactments so repealed and in force at the commencement of this Act shall be deemed to have been respectively made, conferred and granted under this Act.

3. (1) In this Act—

Definitions.

(a) "Chief Revenue-authority" means,—
in the territories administered by the ² Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh,—the Board of Revenue ;
in the territories respectively administered by the Lieutenant-Governor of the Punjab and the ³ Chief Commissioner of Burma,—the Financial Commissioner ; and

in the territories respectively administered by the Chief Commissioner of the Central Provinces, Coorg and Ajmere and Merwara,—the Chief Commissioner :

(b) "Collector" includes any Revenue-officer in independent charge of a district and any officer appointed by the Local Government to discharge throughout any specified local area the functions of a Collector under this Act :

(c) "Commissioner of Revenue" means any officer appointed by the Local Government to discharge throughout any specified local area the functions of a Commissioner of Revenue under this Act :

(d) "Magistrate" means any Magistrate exercising powers not less than those of a Magistrate of the second class, or any Magistrate of the third class specially authorized in this behalf by the Magistrate of the district :

(e) "import" includes removal into one Province of British India from another :

(f) "place" includes also house, boat and raft :

(g) "tári" means the sap of any kind of palm-tree :

(h) "fermented liquor" means malt liquor, wine, pachwai and fermented tári, and in any provision of this Act shall, if the Local Government, subject to the control of the Governor General in Council, so directs, include any other fermented liquor, and also tári though it may not have perceptibly begun to ferment :

(i) "Spirit" means any liquor containing alcohol obtained by distillation :

(j) the expression "intoxicating drugs" means ganja, bhang, charas, and every preparation and admixture of the same, ¹ [and includes every other drug which the Local Government may, by notification in the local official Gazette, declare to be included in this definition, and every preparation and admixture of any such drug] :

¹ These words were added by the Excise (Amendment) Act, 1906 (7 of 1906), s. 2, *infra*, p. 80.

(Chap. I.—Preliminary. Sec. 4. Chap. II.—Production of Spirit and Fermented Liquor. Secs. 5-6.)

(k) "hemp" means any variety of the hemp plant from which intoxicating drugs can be produced :

(l) "tola" means a weight of one hundred and eighty grains Troy :

(m) "ser" means a weight of eighty tolas :

(n) the articles next hereinafter mentioned shall be deemed to be sold retail within the meaning of this Act when sold in quantities not exceeding those next hereinafter specified in respect of them, that is to say,—

foreign spirit or foreign fermented liquor, two imperial gallons or twelve reputed quart bottles :

country spirit, one ser, and in Burma one reputed quart bottle ;

country fermented liquor, four sers, and in Burma four reputed quart bottles ;

bhang, or any preparation or admixture thereof, one ser ;

ganja or charas, or any preparation or admixture thereof, five tolas.

If sold in larger quantities, they shall be deemed to be sold wholesale.

(2) In any case in which doubt arises, the Local Government may decide what, for the purposes of this Act, shall be deemed to be "country spirit," "country fermented liquor," "foreign spirit," and "foreign fermented liquor ;" and such decision shall be binding on the Courts.

4. Nothing herein contained shall affect ¹ Act XVI of 1863 (to make special provision for the levy of the Excise-duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry) or the Cantonments Act, 1889, ^{XIII of 1889.}
1889.²

Saving of Acts XVI of 1863 and XIII of 1889.

CHAPTER II.

PRODUCTION OF SPIRIT AND FERMENTED LIQUOR.

Manufacture of spirit and liquor without license prohibited.

5. No person shall construct, work or possess a distillery, still or brewery, or manufacture fermented liquor, in any district except under a license granted by the Collector or by a person authorized by the Collector to grant such license, and in accordance with the conditions (if any) contained therein.

Power to establish distilleries for country spirit.

6. The Collector may, with the previous sanction of the ³ Chief Revenue authority, from time to time—

(a) establish at any place within his district a distillery in which country spirit may be made, and discontinue any distillery so established ; and

(b) fix limits within his district within which no such spirit, unless made in the said distillery, shall be introduced without a pass from him.

¹ General Acts, Vol. I, p. 403.

² General Acts, Vol. V, p. 335.

³ For rules, see under s. 65, *infra*.

(Chap. II.—Production of Spirit and Fermented Liquor. Secs. 7-9.)

7. No spirit shall be removed from any distillery licensed under section 5 or established under section 6 until— Duty on spirit.

- (a) such duty as the Local Government may from time to time ¹ fix in respect of such spirit has been paid, or
- (b) a bond for such duty has been executed, or
- (c) duty in respect of the materials used in making such spirit has been levied at such rates and in such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time direct.

Explanation.—Duty may be fixed or made payable under this section at different rates according to the places to which any spirit is to be removed for consumption.

8. No fermented liquor shall be removed from a brewery licensed under section 5 until— Duty on fermented liquor.

- (a) duty has been paid thereon at the rate for the time being leviable under the ² Indian Tariff Act, 1894, on like liquor imported by sea into any part of British India except Aden and Perim, or at such lower rate as the Local Government, having regard to the circumstances of the brewery or of the local area in which the brewery is situate, may from time to time prescribe, or
- (b) a bond for such duty has been executed.

9. The Chief Revenue-authority may, from time to time, make ³ rules Power for Chief Revenue-authority to make rules as to distilleries and breweries licensed under section 5.

as to—

- (a) the granting of licenses for distilleries, stills and breweries under section 5;
- (b) the notices to be given by the proprietor of a licensed distillery or licensed brewery when he commences and discontinues work;
- (c) the size and description of the stills in such distillery;
- (d) the storing and passing out of the spirit made in such distillery, or of the fermented liquor made in such brewery, and the contents of the passes;
- (e) the inspection and examination of such distillery or brewery, and the warehouses connected therewith, and of the spirit or fermented liquor made and stored therein;
- (f) the furnishing of statements of the spirit and the stills, coppers, casks and other utensils in such distillery, or of the fermented liquor and the mashtuns, underbacks, wort-receivers, coppers, heating tanks, coolers and collecting, fermenting and other vessels, in such brewery.

¹For notifications under s. 7, see Coorg Local Rules and Orders, Pt. II, p. 121.

² See the reprint, as modified up to 1st February, 1906.

³ For general rules under s. 9 together with s. 65, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 121.

(Chap. II.—*Production of Spirit and Fermented Liquor.* Secs. 10-11.)

(Chap. III.—*Cultivation and Control of Intoxicating Drugs.* Sec. 12.)

Power for Chief Revenue-authority to make rules for distilleries established under section 6.

10. The Chief Revenue-authority may, from time to time, make ¹ rules as to—
- (a) the management of distilleries established under section 6, and, in particular, the conditions on which any materials to be used in making spirit may be brought into such distillery;
 - (b) the conditions on which spirit may be made in such distilleries; and
 - (c) the storing and passing out of the spirit so made and the contents of the passes.

Sanction to rules under sections 9 and 10.

11. Except in the territories respectively administered by the Chief Commissioners of the Central Provinces, Coorg and Ajmere and Merwara, the sanction of the Local Government is required to validate rules under sections 9 and 10.

CHAPTER III.

CULTIVATION AND CONTROL OF INTOXICATING DRUGS.

Prohibition, restriction and regulation of cultivation of hemp and production of intoxicating drugs.

12. (1) *In Burma, the cultivation of hemp and the preparation of intoxicating drugs are prohibited except under, and in accordance with, a license granted by such officer as the Local Government may from time to time appoint in this behalf.*

(2) In the other territories to which this Act extends, the Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by ² notification in the official Gazette, in respect of the whole or any part of the territories administered by it,—

- (a) prohibit, absolutely or except under, and subject to the conditions of, a license granted by such officer as the Local Government may from time to time appoint in this behalf, the cultivation of the hemp plant and the production or preparation of intoxicating drugs from the hemp plant so cultivated, and place the cultivation of the hemp plant and the production or preparation and storage of such intoxicating drugs as aforesaid under such supervision as may be deemed necessary to secure payment of the duty (if any) imposed under this Act;
- (b) restrict and regulate, in such manner as may by rule be prescribed, the collection by any person of the spontaneous growth of the hemp plant and the preparation of intoxicating drugs from the spontaneous growth so collected; and

¹ For rules under this section, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 121.

² For notifications issued under sub-section 2 of s. 12 see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 133.

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Secs. 13-15.)

- (c) prohibit, absolutely or otherwise than by certain specified routes and under specified conditions, the import and transport of intoxicating drugs ;

and may, in like manner, cancel or vary any such notification.

13. The Local Government, with the previous sanction of the Governor General in Council, may from time to time, by ¹ notification in the official Gazette, in respect of the whole or any part of the territories administered by it,— Duty on cultivation of hemp and intoxicating drugs.

- (a) impose such duty, not exceeding two hundred rupees per acre, as it may think fit, on the cultivation of hemp ; or
- (b) impose such duty, not exceeding twenty rupees per ser, as it may think fit, on intoxicating drugs produced or prepared in, or imported into, or exported from, or transported from place to place within, any of the territories to which this Act extends, or any part thereof ;

and may, in like manner, alter or abolish any duty imposed under this section.

14. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time,— Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom.

- (a) establish or license bonded or other warehouses for the storage of intoxicating drugs, and
- (b) direct that, subject to such conditions (if any) as it may, from time to time, impose, the levy of the duty (if any) payable under section 13 on intoxicating drugs in transit to or from, or stored in, such warehouses shall be postponed until such time as may by rule be fixed in this behalf.

15. (1) If intoxicating drugs be lodged in a warehouse established under the last foregoing section, the owner shall pay monthly, on receiving a bill or written demand for the same from the Collector or other officer deputed by the Collector in this behalf, warehouse-dues at such rates as the Chief Revenue-authority may fix. Payment of warehouse-dues.

(2) If any bill for warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Collector may, in discharge of such demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select.

(3) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold and, next, the demand in respect of which the drugs were sold, and shall then pay the surplus (if any) to the owner of the drugs on his application :

¹ For notifications issued under this section, see *Local Rules and Orders, 1905, Pt. II, p. 133.*

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Secs. 16-18.)

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector :

Provided also that the application for such surplus (if any) as aforesaid be made within one year from the date of the sale of the drugs, or that sufficient cause be shown for not making it within such period.

Period during which intoxicating drugs may remain warehoused.

16. Any intoxicating drugs warehoused under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of two years from the date on which they were so deposited. The owner of any drugs remaining in a warehouse on the expiry of such period shall forthwith clear the same :

Provided that, when the license for a warehouse licensed under this Act is cancelled and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

Power to remove intoxicating drugs from one warehouse to another.

17. (1) Any owner of intoxicating drugs warehoused under this Act may, at any time within two years from the date on which the drugs were so warehoused, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed by the same or another Local Government, and whether under this Act or under any other enactment for the time being in force.

Possession of intoxicating drugs.

18. (1) *In Burma no person shall have in his possession any intoxicating drugs except under, and in accordance with the terms of, a general exemption granted by the Local Government, or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf.*

¹ [(2) In the other territories to which this Act extends, no person shall have in his possession—

(a) any drugs which the Local Government has, by notification under section 3, sub-section (1), clause (j), declared to be included in the definition of "intoxicating drugs," except under, and in accordance with the terms of, a general exemption granted by the Local Government, or a license granted by such officer as the Local Government may, from time to time, appoint in this behalf, or

¹ This sub-section was substituted by the Excise (Amendment) Act, 1906 (7 of 1906), s. 3, *infra*, p. 80. The original sub-section was as follows:—

"(2) In the other territories to which this Act extends, no person shall have in his possession any larger quantity of any intoxicating drugs than that specified in section 3, sub-section (1), clause (n), in respect of such drugs, unless he is permitted to collect, cultivate, manufacture or sell the same, or holds a pass therefor from the Collector or some other officer empowered by the Local Government to grant such passes."

(Chap. III.—Cultivation and Control of Intoxicating Drugs. Secs. 19-20.)
Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.
Sec. 21.)

(b) any quantity of any intoxicating drugs mentioned in section 3, sub-section (1), clause (n), greater than the amount therein specified in respect of such drugs, unless he is permitted to collect, cultivate, manufacture or sell the same, or holds a pass therefor from the Collector or some other officer empowered by the Local Government to grant such passes.]

19. The Local Government, with the previous sanction of the Governor General in Council, may, from time to time, by notification in the official Gazette, make ¹ rules consistent with this Act—

- (a) to regulate the time, place and manner of payment of the duties (if any) imposed under section 13,
- (b) to carry into effect the provisions of section 12, section 14 and section 18 or any of them, and
- (c) generally, to carry into effect the provisions of this Chapter.

20. The Collector or any other officer empowered by the Local Government in this behalf may from time to time, ² grant licenses or passes to persons desirous of possessing or transporting intoxicating drugs, and the Chief Revenue-authority, with the previous sanction of the Local Government, may make rules to regulate the grant of such licenses or passes.

Power for Local Government to make rules.
Power for Collector or other authorized officer to grant licenses and passes for the possession or transport of intoxicating drugs and for Chief Revenue-authority to make rules.

CHAPTER IV.

SALE OF SPIRIT, FERMENTED LIQUOR AND INTOXICATING DRUGS.

21. No spirit, fermented liquor or intoxicating drug shall be sold except under, and in accordance with the terms of, a license granted under the provisions hereinafter ³ contained :

Spirit, fermented liquor and intoxicating drugs not to be sold without license.

Provided as follows :—

- (a) nothing in this section applies to the sale of any foreign spirit or foreign fermented liquor legally procured by any person for his private use and sold by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his decease ;

¹ For rules issued under this section, see Coorg Local Rules and Orders, Ed. 1905, Pt. I, p. 133.

² For Notification issued under this section, see rules as to the cultivation of the hemp plant issued in conjunction with s. 12, *supra*.

³ For rules issued under this section, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 121.

(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.
Secs. 22-23.)

- (b) any officer empowered in this behalf by the Chief Revenue-authority may grant to travelling merchants, subject to such rules and restrictions as such authority may from time to time prescribe, a general license authorizing them to sell foreign spirit and foreign fermented liquor wholesale in any district which they may visit in the course of their travels, without taking out a fresh license for that district ;
- (c) any person making or producing country spirit or country fermented liquor, in accordance with the provisions of this Act, may, subject to any rules from time to time made by the Local Government in this behalf, sell such spirit or liquor to any person licensed under this Act as a retail vendor of such spirit or liquor ;
- (d) any person authorized to cultivate the hemp plant may sell any intoxicating drug prepared from his plants to any person to whom he is permitted by the conditions of his license to sell the same, or to any person authorized to purchase the same by the order in writing of the Collector :

Licenses how
granted and
cancelled.

¹[Provided also that, where the Local Government has declared, by notification under section 3, sub-section (1), clause (j), any drug to be included in the definition of "intoxicating drugs," such drug may be sold in the territories to which this Act extends under, and in accordance with the terms of, a general exemption granted by the Local Government.]

22. (1) Subject to the ² rules, made by the Chief Revenue-authority under the powers conferred by this Act, the Collector may grant licenses for the sale of foreign spirit and foreign fermented liquor, wholesale or retail, and for the retail sale of country spirit or country fermented liquor, and (*except in Burma*) of intoxicating drugs, within his district or any part thereof or at any place therein.

Further
power to
cancel licen-
ses.

(2) Licenses for the sale of country spirit and country fermented liquor and intoxicating drugs, wholesale, and licenses for the sale, *in Burma*, of intoxicating drugs, retail, shall be granted only by such officer as the Local Government from time to time appoints in this behalf.

(3) Any license granted under this section may be cancelled by the Collector for any cause specified therein.

23. (1) Whenever the Collector considers that the license of a vendor of country spirit, country fermented liquor or intoxicating drugs should be cancelled for any cause other than those specified in such license, he shall remit a sum equal to the amount of the license-fee for fifteen days, and shall either give fifteen days' previous notice of his intention to cancel the license, or shall,

¹This proviso was added by the Excise (Amendment) Act, 1906 (7 of 1906), s. 4, *infra*, p. 80.

²For such rules in conjunction with ss. 12, 13, 19, 20 and 65, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 133.

(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs.
Secs. 24-28.)

in addition to remitting such sum as aforesaid, make such compensation for default of notice as the Commissioner of Revenue or the Chief Revenue-authority directs.

(2) On the expiration of such notice or the payment of such additional compensation, the Collector may cancel the said license.

24. (1) Any retail vendor licensed under this Act may surrender his license on the expiration of one month's previous notice given by him to the Collector of his intention to surrender the same and on payment of such sum, not exceeding the amount of the license-fee for six months, as the Collector may fix in this behalf. Surrender of retail license.

(2) If the Collector is satisfied that there is sufficient reason for surrendering a license, he may remit the sum so fixed.

25. (1) ¹The Collector, with the sanction of the Chief Revenue-authority, may let in farm— Power for Collector to farm fees and for farmer to grant licenses.

(a) the fees leviable in any district or part of a district on licenses for the retail sale of any description of country spirit or country fermented liquor or (*except in Burma*) of intoxicating drugs ;

(b) the right to manufacture, in any district or part of a district in which no distillery is established under section 6, country spirit or country fermented liquor.

(2) When the fees so leviable or the right to manufacture such spirit or liquor, or both, are or is let in farm, the farmer may, subject to such reservations or restrictions as the Collector, with the sanction of the Chief Revenue-authority, may from time to time make or impose, grant licenses for the retail sale, or for the manufacture, or for both, as the case may be, of such articles within the local limits of his farm, and shall file in the Collector's office a list of all the licenses granted by him in such form and on such day or days in each year as the Chief Revenue-authority may, from time to time, prescribe in this behalf.

26. The Collector, with the sanction of the Chief Revenue-authority, may cancel any farm granted under this Act. Farm may be cancelled.

27. If any such farm be cancelled for any cause other than a breach on the part of the farmer of the conditions of the farm, or if any reservation or restriction with respect to the grant of licenses be made or imposed within the term of the farm, the farmer shall be entitled to receive for any loss which he sustains thereby such compensation as the Chief Revenue-authority may determine. Compensation to farmers in certain cases.

28. Every farmer under this Act may use the same means and processes for the recovery of any arrear of fees due to him from any retail vendor as may Recovery of arrears by farmers.

¹ For Notification, see Coorg Local Rules and Orders. Ed. 1905, Pt. II, p. 121.

(Chap. IV.—Sale of Spirit, Fermented Liquor and Intoxicating Drugs. Sec. 29.)

(Chap. V.—Possession and Import of Spirit and Fermented Liquor. Secs. 30-31.)

be lawfully used by the local landholders for the recovery of arrears of rent due to them from their tenants.

Power for Chief Revenue-authority to regulate supply of tári to licensed vendors.

29. The Chief Revenue-authority may, from time to time, make¹ rules to regulate the mode in which tári shall be supplied to licensed vendors of the same.

CHAPTER V.

POSSESSION AND IMPORT OF SPIRIT AND FERMENTED LIQUOR.

Possession of spirit, etc.

30. (1) No person shall have in his possession any quantity of any spirit or fermented liquor larger than that specified in section 3, sub-section (1), clause (n), in respect of such spirit or liquor, unless he is permitted to manufacture or sell the same, or he holds a pass therefor from the Collector or from some other officer empowered by the Local Government to grant such passes.

(2) Nothing in this section extends to—

(a) any foreign spirit or foreign fermented liquor in the possession of any common carrier or warehouseman as such, or purchased by any person for his private use and not for sale, or

(b) tári intended to be used for the manufacture of gur or molasses.

Spirit and fermented liquor from foreign territory subject to duty.

31. (1) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of ²British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof,—

(a) if the Local Government has fixed a duty under clause (a) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or,

(b) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into ²British India by sea.

(2) The provisions of sub-section (1) with respect to spirit shall apply to fermented liquor also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the

¹ For rules, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 121.

² See s. 3 (27) of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. VI, p. 316.

(Chap. V.—Possession and Import of Spirit and Fermented Liquor. Sec. 32.)
(Chap. VI.—Officers and their Powers.—Secs. 33-37.)

VIII of 1894. ¹ Indian Tariff Act, 1894, or such lower duty as the Local Government, having regard to the rate or rates of duty for the time being leviable under clause (a) of section 8, may from time to time prescribe.

(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final.

32. (1) The Governor General in Council may, from time to time, by notification in the Gazette of India, impose such duty as he thinks fit on any spirit or fermented liquor brought by land from beyond the limits of ²India into any territory to which this Act extends or into any specified part thereof, and may alter or abolish any duty so imposed.

Spirit and fermented liquor from territory beyond India subject to duty.

(2) When any duty is imposed under this section, the Governor General in Council may by rule prescribe the time, place and manner of payment of the same.

CHAPTER VI.

OFFICERS AND THEIR POWERS.

33. The Collector may appoint persons, by name or by virtue of their office, to be officers for the collection of the excise-revenue and for the prevention of offences against this Act, and the officers so appointed shall, in addition to their ordinary designations (if any), be styled Excise-officers.

Collectors may appoint Excise-officers.

34. The Collector may recover any amount due to the Government under this Act or the rules made hereunder, by distress and sale of the moveable property of the person from whom such amount is due or of his surety, or by any other process for the time being in force for the recovery of arrears of land-revenue due from landholders or from farmers of land or their sureties.

Recovery of arrears of fees.

35. Any Excise-officer may enter and inspect at any time by day or by night the shop or premises in which any manufacturer or vendor licensed under this Act carries on the manufacture of country spirit, or the sale of country spirit, country fermented liquor or intoxicating drugs.

Power of Excise-officers to inspect shops.

36. Any Excise-officer may stop and detain any person carrying any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act, and may seize such spirit, liquor or drug, together with any vessels, packages or coverings in which it is contained, and any animals and conveyances used in carrying it, and may also arrest the person in whose possession such spirit, liquor or drug is found.

Power of Excise-officers to arrest persons carrying spirit, etc., liable to confiscation.

37. Any Excise-officer in the receipt of a monthly salary of not less than ten rupees, or who receives an annual remuneration equivalent to such salary,

Power of Excise-officers to

¹ See the reprint, as modified up to 1st February, 1906.

² See s. 3 (27) of the General Clauses Act, 1897 (10 of 1897), General Acts, Vol. I, p. 316.

(Chap. VI.—Officers and their Powers. Secs. 38-41.)

arrest persons in possession of article liable to confiscation and to seize article.

may arrest any person having in his possession any article liable to confiscation under this Act or engaged in the unlawful sale of any spirit, fermented liquor or intoxicating drug, and may seize such article, spirit, liquor or drug.

Power of Excise-officer to search on information of illicit manufacture or possession.

38. Whenever any Excise-officer in receipt of such monthly salary or annual remuneration as aforesaid has reason to believe, from information given by any person (which information shall be taken down in writing), that in any place spirit is unlawfully manufactured, or any article liable to confiscation under this Act is kept or concealed, such officer may, after sunrise and before sunset (but always in the presence of an officer of Police in the receipt of a monthly salary of not less than ten rupees, unless the Excise-officer is himself such an officer of Police), enter into such place and in case of resistance may break open any door and force and remove any other obstacle to such entry, and may seize and carry away such spirit or article, and may also arrest the occupier of the place, with all other persons concerned in the manufacture of such spirit or in the keeping and concealing of such article.

Collector may issue warrant of arrest in certain cases.

39. The Collector may issue his warrant for the arrest of any person whom he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, to be engaged in the unlawful sale of spirit or fermented liquor or intoxicating drugs, or to have in his possession any article liable to confiscation under this Act.

Collector may issue search-warrant.

40. (1) The Collector may issue his warrant for the search of any place in which he has reason to believe, either from information in writing or from the proceedings in any other case under this Act or any other law, that spirit is unlawfully manufactured, or that any spirit, fermented liquor or intoxicating drug liable to confiscation under this Act is kept or concealed.

(2) Such warrant may be executed by any Excise-officer in the receipt of a monthly salary of not less than ten rupees at the time and in the manner prescribed in section 38.

(3) Whenever the Collector thinks that the search should be made after sunset and before sunrise on any particular day, he shall issue a warrant specially authorizing the search to be so made. Such warrant may be executed by any Excise-officer as aforesaid in the manner prescribed in section 38, and shall cease to be in force at sunrise on the day next following.

Excise-officer to report arrest, etc., and to take person arrested to Magistrate.

41. Whenever an Excise-officer arrests any person, or seizes any article liable to confiscation under this Act, or enters any place for the purpose of searching for any such article, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, seizure or search to his official superior, and, unless acting under the warrant of the Collector, shall take the person arrested or the article seized with all convenient despatch to the Magistrate for trial or adjudication.

(Chap. VI.—Officers and their Powers. Secs. 42-44. Chap. VII.—
Penalties. Secs. 45-46.)

42. Whenever any person is arrested or any article is seized under the warrant of a Collector issued under this Act, the officer making such arrest or seizure shall, within twenty-four hours thereafter, take the person arrested or the article seized to the Collector, and the Collector, after such enquiry as he thinks necessary, shall send such person or article to the nearest Magistrate, or shall order the immediate discharge of such person or the release of such article.

43. All Police-officers are required to aid the Excise-officers in the due execution of this Act, upon request made by such Excise-officers.

44. (1) The Local Government may, from time to time, invest either by name or in virtue of his office—

(a) any Police-officer with the powers conferred on Excise-officers by section 36 of this Act;

(b) any Police-officer in charge of a station or any Police-officer of or above the grade of head-constable or sergeant with the powers conferred on Excise-officers by sections 37 and 38 of this Act.

(2) Every officer so invested shall, for all purposes connected with the exercise of these powers, be deemed to be an Excise-officer within the meaning of this Act.

CHAPTER VII.

PENALTIES.

45. (1) Whoever in contravention of section 5 constructs, works or possesses a distillery, still or brewery, or makes fermented liquor, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

(2) All spirit and liquor made in contravention of section 5 and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

46. (1) Any person who—

(a) without a special pass from the Collector introduces, into the limits fixed for the consumption of spirit made at a distillery established under section 6, any country spirit manufactured at another place, or

(b) in contravention of section 7 or section 8 or of any rule made under section 9 or section 10, removes any spirit from a distillery or any fermented liquor from a brewery, or

¹For powers conferred on Police-officers, see Coorg Local Rules and Orders, Ed. 1905, Pt. II, p. 141.

(Chap. VII.—Penalties. Secs. 47-51.)

- For illegally importing spirit or fermented liquor.
- (c) in contravention of section 31, brings any spirit or fermented liquor into any territory to which this Act extends, or
- For importing spirit, fermented liquor or intoxicating drug without paying duty.
- (d) without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 32, brings any spirit or fermented liquor into any territory to which this Act extends,
- shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.
- (2) All such spirit or fermented liquor, together with the vessels containing the same, and any animals and conveyances used in carrying it, shall be liable to confiscation.
- For contravening rules prescribed by Chief Revenue-authority.
47. Any person who, except in cases herein otherwise provided for, wilfully contravenes any rule made under section 9 or section 10 shall be punished with fine not exceeding one hundred rupees.
- For illegally cultivating hemp or collecting the spontaneous growth of hemp, or preparing, possessing, importing, exporting, or transporting intoxicating drugs.
48. (1) Any person who, in contravention of any provision of Chapter III or any rule thereunder, or without payment of such duty (if any) as may for the time being be payable in pursuance of a notification under section 13,—
- (a) cultivates hemp, or
- (b) collects the spontaneous growth of the hemp plant, or
- (c) prepares any intoxicating drug, or
- (d) possesses any intoxicating drug, or
- (e) imports, exports or transports any intoxicating drug,
- shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.
- (2) Any intoxicating drug in respect of which an offence has been committed under this section, together with the vessels containing the same and any animals and conveyances used in carrying it, shall be liable to confiscation.
- For illicitly selling spirit, etc.
49. Any person who, in contravention of section 21, sells any spirit, fermented liquor or intoxicating drug, shall be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.
- For permitting drunkenness, etc., in shop.
50. Any person licensed to sell retail spirit, or fermented liquor, or intoxicating drugs, who permits drunkenness, riot or gaming in his shop, or permits persons of notoriously bad character to meet or remain therein, or receives any wearing-apparel or other effects in barter for spirit, fermented liquor or intoxicating drugs, shall be punished with fine which may extend to two hundred rupees.
- For illegally possessing spirit or liquor.
51. Any person who possesses any spirit or liquor, in contravention of section 30, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred

(Chap. VII.—Penalties. Secs. 52-57.)

rupees, or with both ; and the spirit or liquor, together with any vessels, packages and coverings in which it is contained, and any animals and conveyances used in carrying it, shall be liable to confiscation.

52. Any person holding a license under this Act and refusing to produce the same on the demand of any Excise-officer, and any person who breaks any rule under this Act, or any condition of a license granted under this Act for the breach of which rule or condition no other penalty is hereby provided, shall be punished with fine which may extend to fifty rupees.

For refusing to produce license and for breach of rules and conditions.

53. (1) Any owner or occupier of land, and any agent of any such owner or occupier, who authorizes or connives at the illegal manufacture of spirit or the sale of spirit or fermented liquor or intoxicating drugs shall for every such offence be punished with imprisonment for a term which may extend to four months, or with fine which may extend to one thousand rupees, or with both.

For conniving at illicit manufacture or sale of spirit, etc.

(2) Any person invested with local jurisdiction who authorizes or connives at the illegal sale of any spirit, fermented liquor or intoxicating drug within the local limits of such jurisdiction shall be punished with fine which may extend to five hundred rupees.

54. Any Police-officer who, without lawful excuse, neglects or refuses to aid an Excise-officer as required by section 43, and any officer in charge of a police-station who, on application made by an Excise-officer desiring to act under section 38, fails to attend a search himself, or to depute a subordinate officer of the required rank, shall be punished with fine which may extend to five hundred rupees.

For Police neglecting to aid Excise-officers.

55. Any Excise-officer who,—

- (a) without reasonable grounds of suspicion searches, or causes to be searched, any place, or
 - (b) vexatiously and unnecessarily seizes the moveable property of any person on the pretence of seizing or searching for any article liable to confiscation under this Act, or
 - (c) vexatiously and unnecessarily arrests any person, or
 - (d) commits any other excess not required for the execution of his duty,
- shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.
- For vexatious search or seizure.

56. Any Excise-officer who, in contravention of section 41 or section 42, neglects to report the particulars of an arrest, seizure or search, or delays taking to the Magistrate or Collector, as the case may be, any person arrested or any article seized under this Act, shall be punished with fine which may extend to two hundred rupees.

For delay in reporting arrest, etc., or in taking person arrested to Magistrate.

57. A Court shall not take cognizance of an offence punishable under any one of the following sections, namely, 45, 46, 47, 48, 49, 51, 52 and 53, except in the complaint or report of the Collector or an Excise-officer ; and a Court

Prosecutions restricted.

(Chap. VII.—Penalties. Secs. 58-61. Chap VIII.—Military Cantonments. Secs. 62-63. Chap. IX.—Miscellaneous. Sec. 64.)

shall not take cognizance of any offence punishable under this Act unless the prosecution is instituted before the expiry of six months next after the commission of such offence.

Confinement
in what jail.

58. Every person imprisoned for an offence under section 47 or section 52 shall be confined in the civil jail, and every person imprisoned for an offence under any other section shall be confined in the criminal jail.

Attempts
and abet-
ment.

59. Whoever attempts to commit any offence punishable under this Act or abets, within the meaning of the ¹ Indian Penal Code, the commission of any such offence shall be punished with the punishment provided for **XLV of 1860.** such offence.

Disposal of
fines, etc.,
as rewards.

60. Any Magistrate before whom any person is convicted of any offence under sections 45, 46, 47, 48, 49, 51 or 53, may award to any person who has contributed in any way to such conviction the whole or any portion of any fine imposed upon the offender and paid by him or realized from his property.

Magistrate
to pass order
of confisca-
tion.

61. Any article liable to confiscation under this Act may, on the application of an Excise-officer, be confiscated by the order of any Magistrate within the local limits of whose jurisdiction it is found.

CHAPTER VIII.

MILITARY CANTONMENTS.

Manufacture
and sale of
spirits, etc.,
in military
cantonments.

62. Within the limits of any military cantonment, and within such distance from those limits as the Local Government in any case prescribes, no licenses for the manufacture of spirit, or for the sale of spirit or fermented liquor, shall be granted, nor shall the fees leviable on licenses for the retail sale of such spirit or liquor, or the right to manufacture such spirit or liquor, be let in farm, unless with the knowledge and consent of the Commanding Officer; and upon his requisition any such license which has been granted, either by the Collector or by a farmer, within such distance or limits shall be immediately cancelled.

Application
of Act to
military
cantonments.

63. In all other respects the provisions of this Act shall have effect within such limits or distance.

CHAPTER IX.

MISCELLANEOUS.

Collector
subject to
control of

64. (1) The Collector shall in all proceedings under this Act be subject to the control of the Commissioner of Revenue, and all orders passed by a Col-

¹ See the reprint, as modified up to 1st April, 1903.

(Chap. IX.—Miscellaneous. Secs. 65-66. The Schedule.)

lector under this Act shall be appealable to such Commissioner in manner provided by the rules for the time being in force relating to appeals from the orders of Collectors.

(2) The Chief Revenue-authority may revise any order passed by a Collector under this Act or by a Commissioner under this section.

65. The Chief Revenue-authority may, from time to time, make ¹ rules consistent with this Act—

- (a) as to the period for which any license or farm under this Act shall be granted ;
- (b) as to the fee payable for any such license or farm, and the time or times at which it shall be payable ;
- (c) as to the security to be given by any licensee or farmer under this Act ;
- (d) as to the form of any license or farming lease and of the counterpart thereof (if any) to be taken from such licensee or farmer, and the conditions which may be inserted therein ;
- (e) as to the disposal of things confiscated under this Act ;
- (f) as to the duties of Excise-officers, and
- (g) to provide generally for carrying out the provisions of this Act.

66. The Local Government may, from time to time, by notification in the official Gazette, exempt within any specified local area any specified articles or any specified class of persons from all or any of the provisions of this Act, and may, by like notification, cancel any such exemption.

(The Schedule.)

THE SCHEDULE.

SEE SECTION 2.

Year.	No.	Title or subject.	Extent of repeal.
1881	XXII	The Excise Act, 1881	The whole.
1885	VI	Amending the Excise Act, 1881 :	Ditto.
"	IX	Amending the Excise Act, 1881, and other Acts.	So much as relates to the Excise Act, 1881.
1887	II	Ditto ditto .	Ditto ditto.
1888	XVIII	Financial Commissioner, Burma .	So much of section 7 and the schedule as relates to the Excise Act, 1881.

¹ For rules made under this Act, see Coorg Local Rules and Orders, Ed. 1905, p. 121.

THE SCHEDULE—*contd.*

Year.	No.	Title or subject.	Extract or repeal.
1889	XIII	The Cantonments Act, 1889	So much of section 2 and the schedule as relates to the Excise Act, 1881.
1890	XIII	Amending the Excise Act, 1881, and other Acts.	Sections 2 to 5 (both inclusive).
"	XX	The North-Western Provinces and Oudh Act, 1890.	Section 43.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to the Excise Act, 1881.
1893	X	Amending the Excise Act, 1881	The whole.

ACT No. VII OF 1906.¹

[31st August, 1906.]

An Act to amend the Excise Act, 1896.

WHEREAS it is expedient to amend the Excise Act, 1896; It is hereby XII of 1896, enacted as follows:—

Short title.

1. This Act may be called the Excise (Amendment) Act, 1906.

Amendment of section 3 (1) (j), Act XII, 1896.

2. In section 3, sub-section (1), clause (j), of the Excise Act, 1896, to the XII of 1896, definition of "intoxicating drugs" the following shall be added, namely:—

[*Supra*, p. 63.]

Amendment of section 18 (2), Act XII, 1896.

3. For section 18, sub-section (2) of the said Act, the following sub-section shall be substituted, namely:—

[*Supra*, p. 68.]

Addition of proviso to section 21, Act XII, 1896.

4. To section 21 of the said Act the following proviso shall be added, namely:—

[*Supra*, p. 70.]

Repeals.

5. *The United Provinces Excise Law Amendment Act, 1906, and section 2 of the Burma Excise Law Amendment Act, 1904, are hereby repealed,* U. P. Act I of 1906.

Provided that any rules or orders which may have been issued under the Excise Act, 1896, as amended by either of the enactments hereby repealed shall be deemed to have been issued under the Excise Act, 1896, as amended by this Act. Bnr. Act III of 1904.

¹ For Statement of Objects and Reasons, see Gazette of India, 1906, Pt. V, p. 28; and for Proceedings in Council see *ibid*, 1906, Pt. VI, pp. 61 and 119.

ACT No. IV OF 1907.¹

[20th March, 1907.]

An Act to repeal and amend certain Enactments relating to abolished rates and cesses.

WHEREAS certain rates and cesses leviable in the territories specified in the Schedule have been abolished and it is therefore expedient to repeal or amend the enactments specified in the said Schedule ; It is hereby enacted as follows :—

1. This Act may be called the Repealing and Amending (Rates and Cesses) Short title Act, 1907.

2. The enactments specified in the Schedule shall be repealed or modified to the extent and in the manner mentioned in the third column thereof.

Enactments in Schedule repealed or modified.

THE SCHEDULE.

Number, year and short title.	Sections.	Extent of repeal or modification.
2*	*	* * *
<i>F.—The Chief Commissionership of Coorg.</i>		
Regulation I of 1899 (The Coorg Land and Revenue Regulation, 1899).	24	The whole of sub-section (2) to be repealed.
	25 and 26	The whole of both sections to be repealed.
	115	The words "including the village-officers' cess" to be omitted.
	119	The words "or paid out of the proceeds of the village-officers' cess" to be omitted.
	145	In clause (xvi) the words "or arising out of the liability of an assignee to pay out of assigned land-revenue or of a person who would be liable for land-revenue, if it had not been released, compounded for or redeemed to pay on the land-revenue for which he would but for such release, composition for redemption be liable, such a percentage for the remuneration of a village-officer as may be prescribed by rules for the time being in force under this Regulation" to be omitted.
3*	*	* * *

¹ For Statement of Objects and Reasons, see Gazette of India, 1906, Pt. V, p. 51 ; and for Proceedings in Council, see *ibid.*, 1906, Pt. VI, p. 128, and *ibid.*, 1907, p. 32.

² Parts A, B, C, D, and E of the Schedule relate to Madras, Bombay, Bengal, Punjab and Central Provinces, respectively, and are therefore omitted.

³ Part G of the Schedule relates to Ajmere-Merwara, and is therefore omitted.

PART III.
 ACT OF THE GOVERNOR OF FORT ST. GEORGE
 IN COUNCIL IN FORCE IN COORG.

THE MADRAS COFFEE-STEALING PREVENTION ACT, 1878.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Commencement and local extent.
Power to modify or annul notification.
3. Interpretation-clause.
4. Coffee not to be taken from labourer.
5. Coffee not to be taken from other than labourer unless particulars entered in book.
Section not to apply to coffee taken for *bonâ fide* personal consumption.
6. Books to be produced on police-officer's requisition.
7. Conditions under which coffee may be taken from a carrier.
8. Penalty for breach of section 4, 5, 6 or 7.
9. Penalty in case of labourer being found in possession of green coffee for which he cannot account.
10. Coffee not to be carried without permission of owner or agent.
Permission to be in writing, etc.
Penalty for breach of this section.
11. Hours of gathering or removing coffee.
Penalty for breach of above provision.
Section 10 and this section not to apply to ordinary operations of curing.
12. Procedure if gathering, etc., was done to commit theft.
13. Substituted or additional punishment for second offence under section 9.
Proviso.
14. Fines to be paid into public treasury.
Magistrate may grant rewards to informers.

MADRAS ACT No. VIII OF 1878. ¹

[28th September, 1878.]

An Act to prevent Thefts of Coffee.

Preamble. WHEREAS it is expedient to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving or disposing of stolen coffee in the neighbourhood of coffee-plantations or estates; It is enacted as follows:—

Short title. 1. This Act may be called the Madras Coffee-stealing Prevention Act, 1878.

Commencement and local extent. 2. This Act shall take effect in such districts, divisions or parts of districts or within such localities or limits within the Presidency of Fort St. George, and from such date as the Governor in Council may from time to time direct by notification published in the official Gazette.

Power to modify or annul notification. The Governor in Council may from time to time modify or cancel such direction by notification similarly published.

Interpretation-clause. 3. In this Act—
“labourer” means and includes all persons (except resident managers) temporarily or permanently employed on a coffee-estate in any capacity, whether agricultural, menial or otherwise howsoever;

“carrier” means and includes all persons for the time being employed in the transport of coffee, whether by portorage, pack-animals, boat, cart or otherwise, and whether as contractors, drivers or otherwise;

“coffee-estate” means and includes any land on which coffee is growing;

“coffee” means and includes all coffee not roasted or otherwise prepared for immediate consumption.

Coffee not to be taken from labourer. 4. It shall not be lawful for any one to purchase, take in barter or exchange or receive coffee from any labourer employed on a coffee-estate.

Coffee not to be taken from other than labourer, unless particulars entered in book. 5. It shall not be lawful for any one to purchase, take in barter or exchange or receive coffee from any person other than a labourer employed on a coffee-estate, unless the person so purchasing, taking in barter or exchange or receiving such coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction specifying—

(a) the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange or received;

(b) the date of the transaction; and

(c) the quantity and description of the coffee so purchased, taken in barter or exchange or received:

¹ Madras Act VII of 1878 was extended to Coorg by notification under the Scheduled Districts Act, 1871—see Appendix, p. 205.

For Statement of Objects and Reasons see Fort St. George Gazette, Suppl., 28th January, 1878, p. 3; for Report of the Select Committee, see *ibid.*, dated 13th August, 1878, p. 3, and for Proceedings in the Madras Council see *ibid.*, dated 12th February, 1878, p. 27. Suppl., dated 13th August, 1878, p. 100; *ibid.*, dated 20th August, 1878, p. 100.

The Amending Act (Mad. Act 2 of 1900) has not been extended to Coorg.

(Secs. 6-10.)

Provided that this section shall not apply to coffee purchased, taken in barter or exchange or received from any person other than a labourer employed on a coffee-estate, and intended *bonâ fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange or receiving the same as aforesaid.

Section not to apply to coffee taken for *bonâ fide* personal consumption.

6. All books required by section 5 to be kept by persons purchasing coffee shall be produced upon the requisition of any police-officer not below the rank of an officer in charge of a police-station, generally or specially authorized by any Magistrate to require the production of such books.

Books to be produced on police officer's requisition.

7. It shall not be lawful for any one to purchase or take in barter or exchange coffee from any carrier, or for any carrier to sell or give in barter or exchange any coffee, unless the person so purchasing or taking in barter or exchange such coffee shall, besides making the entry required by section 5 of this Act, also enter or cause to be entered in the book mentioned in the said section 5 the marks (if any) on the bags or other packages in which such coffee may be contained, and unless the entries required by this section and by the said section 5 be also correctly signed by such carrier in his own name, and attested by a police-officer or the headman of the village within which the transaction takes place; for which attestation no fee shall be chargeable.

Conditions under which coffee may be taken from a carrier.

8. Any person committing any breach of the provisions contained in section 4, 5, 6 or 7 of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty for breach of section 4, 5, 6 or 7.

9. Any cooly maistry or other labourer employed on a coffee-estate found with green gathered coffee in his possession, and failing to account satisfactorily for such possession, shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty in case of labourer being found in possession of green coffee for which he cannot account.

10. No person shall carry or remove coffee from any coffee-estate, premises or place, or upon any road, highway or footway, without the express permission of the owner or of his authorized agent.

Coffee not to be carried without permission of owner or agent.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars :—

Permission to be in writing, etc.

(a) the quantity of the coffee to be carried or removed;

(b) the number, description and marks of the packages in which such coffee is secured;

(c) the place or destination to which the coffee is to be carried or removed; and

(d) the names of the consignor and consignee.

(Secs. 11-14.)

Penalty for breach of this section.

Any person committing any breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees.

Hours of gathering or removing coffee.

11. No coffee shall be gathered, moved, loaded or unloaded on any coffee-estate between sunset and sunrise.

Penalty for breach of a above provision.

Any person committing a breach of this provision, or abetting (within the ^{XLV} of meaning of the ¹ Indian Penal Code), such breach, shall, on conviction by ^{1860.} a Magistrate, be liable to pay a fine not exceeding five hundred rupees :

Section 10 and this section not to apply to ordinary operations of curing.

Provided that nothing in section 10 or in this section shall apply to the ordinary operations of curing the crop on the estate, such as pulping or storing.

Procedure if gathering, etc., was done to commit theft.

12. If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence under the provisions of sections 378 and 379, or sections 107, 108 and 109 of the ¹ Indian Penal Code, as the case may be.

^{XLV} of 1860.

Substituted or additional punishment for second offence under section 9.

13. It shall be at the discretion of the Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under section 9 of this Act, to substitute or add corporal punishment under the provisions of ² Act No. VI of 1864 (*an Act to authorize the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf, for or to the penalties provided by this Act :

Provis.

Provided that such substituted or additional punishment shall be awarded only in respect of the offence itself, and not as an alternative penalty for non-payment of fine.

Fines to be paid into public treasury.

14. All fines paid or levied under this Act shall be paid into the public treasury :

Magistrate may grant rewards to informers.

Provided that the Magistrate trying any case under this Act may grant the whole or any portion of any fine levied therein as rewards to persons furnishing such information as may have led to the conviction of offenders under this Act.

¹ See the reprint, as modified up to 1st April, 1903.

² See the reprint, as modified up to 1st August, 1905.

PART IV.
REGULATIONS UNDER THE GOVERNMENT OF
INDIA ACT, 1870 (33 VICT., CAP. 3), IN FORCE
IN COORG.

THE COORG TEMPLE FUNDS MANAGEMENT REGULATION,
1892.

CONTENTS.

SECTIONS.

1. Title, application and commencement.
2. Interpretation-clause.
3. Committee of management and its constitution.
4. Appointment and election of members of committee.
5. Power for Chief Commissioner to make rules.
6. Eligibility of members of committee for election or re-election.
7. Resignation of members of committee.
8. Removal of members of committee.
9. Casual vacancies.
10. Incapacity of member of committee to have personal interest.
11. President of committee.
12. Quorum.
13. President of meetings of committee.
14. Division of questions by majority of votes.
15. Appointment of managers.
16. Duties of manager, and accounts to be submitted by him.
17. Audit of accounts.
18. Legal proceedings.
19. Supplement to the last foregoing section.
20. Arbitration.
21. Leave for institution of suits.
22. Notification of rules, appointments, elections and vacancies.
23. Exclusion of Government servants from taking part in management of temples or funds.
24. Reference of disputes to District Judge with appeal to Judicial Commissioner.

THE SCHEDULE.

(Secs. 1-4.)

REGULATION No. IV OF 1892. ✓

[Published in the Gazette of India of 3rd December, 1892, Part I, p. 702, and in the Coorg District Gazette of 2nd January, 1893, Part I, p. 1.]

A Regulation for the Management of Temple Funds in Coorg.

WHEREAS certain temples and religious institutions in Coorg are in receipt of annual cash allowances from the Government;

And whereas it is necessary to provide for the due application of such allowances, and of certain other moneys of which the said temples and religious institutions are in receipt or possession;

It is hereby enacted as follows:—

Title, appli-
cation and
commence-
ment.

1. (1) This Regulation may be called the Coorg Temple Funds Management Regulation, 1892.

(2) It applies to the temples and institutions named in the schedule and to such ¹ other temples or institutions as the Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Coorg District Gazette, from time to time direct; and

(3) It shall come into force on such ² day as the Chief Commissioner may, by a like notification, appoint.

Interpreta-
tion-clause.

2. In this Regulation the words “funds” and “said funds” mean the muzarayi funds, that is to say:—

(a) the cash allowances for the time being paid by the Government for the maintenance of the said temples and institutions;

(b) all bequests, gifts and offerings to or for the said temples and institutions;

(c) all funds invested or in hand to the credit of the said temples and institutions at the commencement of this Regulation; and

(d) the income accruing from all lands which have been or may hereafter be granted either partially or wholly rent-free for the said temples and institutions.

Committee of
management
and its con-
stitution.

3. The said funds shall be under the management and control of a committee, which shall consist of fifteen members appointed or elected as hereinafter provided.

Appointment
and election
of members
of committee.

4. The Chief Commissioner shall appoint the members of the first committee from among the persons qualified for election as hereinafter provided, and shall divide the members so appointed into three groups of five members each, and shall so fix the term of office of each member that one member from each of such groups shall retire annually commencing from the end of the first year. All vacancies so caused and all other vacancies shall be filled by election.

¹ For such other temples to which the Regulation has been applied, see Coorg Local Rule and Orders, Ed. 1905, p. xxix.

² The 15th January, 1893, see Coorg District Gazette, 1893, Part I, p. 3.

(Secs. 5-9.)

5. The Chief Commissioner shall from time to time, as occasion may require, make rules¹ regulating—

- Power for Chief Commissioner to make rules.
- (a) the division of the said temples and institutions into three groups for the purpose of electing five members each ;
 - (b) the proportion of Coorgs to non-Coorgs in the representatives to be elected for each group ;
 - (c) the qualifications of electors and candidates for election ;
 - (d) the registration of electors ;
 - (e) the times of election and the mode of recording votes ; and
 - (f) all other matters necessary for carrying this Regulation into effect :

Provided that no person shall be qualified for election who—

- (1) is not a male Hindu of not less than twenty-five years of age, and a native of or a settled resident in Coorg ;
- (2) is unable to read and write Kanarese ;
- (3) is an insolvent ;
- (4) has been convicted of any such offence, or has been subjected by a Criminal Court to any such order, as implies, in the opinion of the District Judge, a defect of character which unfits him to be a member :

Provided also that no one shall be qualified to be an elector who is not a male Hindu of not less than twenty-five years of age and a native of or a settled resident in Coorg :

Provided also that, for the purposes of this section, all Hindus who have resided in Coorg for five years immediately before election shall be taken to be settled residents therein.

6. Except as provided in section 4, the term of office of members of committee shall be five years ; but an outgoing member shall, if otherwise qualified, be eligible for election or re-election.

Eligibility of members of committee for election or re-election.

7. Any member of committee may resign his office by letter to the District Judge, and on his resignation being accepted in writing by the District Judge he shall be deemed to have vacated his office.

Resignation of members of committee.

8. The District Judge may from time to time remove any member who refuses or without sufficient excuse neglects to act, or has absented himself from three consecutive meetings of the committee, or who is or has become incapable of acting, or has been declared an insolvent or been convicted of any such offence, or subjected to any such order, as is referred to in clause (4) of the first proviso to section 5.

Removal of members of committee.

9. Upon the occurrence of any vacancy by the resignation, removal or death of a member, a new member shall be elected to fill the place, and shall hold

Casual vacancies.

¹ For such rules see Coorg Local Rules and Orders, Ed. 1905, Pt. III, p. 143.

(Secs. 10-18.)

office for the time for which it was tenable by the member whose place he fills.

Incapacity of member of committee to have personal interest. 10. No member of committee shall be capable of being or acting as manager of, or shall hold any paid office connected with, any of the said temples and institutions.

President of committee. 11. The committee shall elect one of their own body as president.

Quorum. 12. The quorum necessary for the transaction of business at a meeting of the committee shall not be less than five.

President of meetings of committee. 13. At every meeting of the committee the president, if present, shall preside. In his absence the committee shall elect a president for that meeting.

Decision of questions by majority of votes. 14. All questions coming before the committee shall be decided by a majority of the votes of the members present. In the case of an equality of votes the president of the meeting shall have a second or casting vote.

Appointment of managers. 15. (1) The committee shall from time to time appoint one or more suitable person or persons to be manager or managers of the said temples and institutions respectively, and may for sufficient cause fine or remove any person so appointed.

(2) Nothing in sub-section (1) shall be held to empower the committee to refuse without sufficient cause to appoint as manager or managers the person or persons (if any) possessing hereditary or other rightful claims to be so appointed.

(3) The amount of fine imposable under sub-section (1) shall not exceed one month's pay of the person fined.

Duties of manager, and accounts to be submitted by him. 16. The committee shall prescribe the duties to be performed by such manager or managers respectively, and shall require the production at least once a year of full, complete and separate accounts of receipts and disbursements on behalf of such temples and institutions respectively, in such form as the committee may direct.

Audit of accounts. 17. The District Judge may from time to time call for the accounts of all or any of the said temples and institutions; and may from time to time appoint one or more auditor or auditors to audit the said accounts; and the auditor or auditors so appointed shall receive such remuneration out of all or any of the said funds as the District Judge may direct. The audited accounts shall be published in the Coorg District Gazette, and in such other manner, if any, as the District Judge may direct.

Legal proceedings. 18. The committee may institute legal proceedings in any Civil or Criminal Court in the name of its president, and the cost of such proceedings may, unless the Court shall otherwise order, be debited to the said funds; and any person interested in any of the said temples and institutions, or in the performance of the worship or service thereof, or of the trusts relating thereto, may sue in the District Court the committee in the name of its president or any particular member or members thereof by name, or any such

(Secs. 19-24.)

manager or managers as aforesaid, for any misfeasance, breach of trust or neglect of duty committed in respect of such temple, institution, worship, service or trusts by the committee or by any member or members thereof, or by any person or persons holding office as manager or managers thereunder, as the case may be ; and the said Court may direct the specific performance of any act by the committee, and may decree damages with or without costs against the committee, or against such member, members, manager or managers as aforesaid, and may also direct the removal of any member, members, manager or managers ; and no person removed by any such order shall be afterwards capable of being elected a member of committee or appointed a manager (as the case may be) without the permission in writing of the District Judge.

19. Every person having a right of attendance or having been in the habit of attending at the performance of the worship of service, or having the right or being in the habit of partaking in the benefit of any distributions of alms; at any of the said temples or institutions shall be deemed to be a person interested within the meaning of the last foregoing section. Supplement to the last foregoing section.

20. In any civil suit or proceeding under this Regulation, it shall be competent for the District Judge, with or without the consent of either party, to order any matter in dispute in such suit or proceeding to be referred for decision to one or more arbitrator or arbitrators. Whenever any such order shall be made, the provisions of Chapter XXXVII of the ¹ Code of Civil Procedure shall (except as herein provided) apply to such order and arbitration. Arbitration.

XIV of 1882.

21. (1) No suit shall be entertained under this Regulation except in accordance with an order of the District Court to be made upon a preliminary application to that Court for leave to institute such suit. Leave for institution of suits.

(2) The District Judge, after perusing the application, may either require the attendance of the parties, or may, without hearing the parties, give or refuse leave, or grant leave subject to such conditions as he may deem fit.

22. All rules made under this Regulation, and every appointment or election of a member, and every vacancy in the office of a member, shall be notified in the Coorg District Gazette. Notification of rules, appointments, elections and vacancies.

23. Except as provided in this Regulation, it shall not be lawful for the Government, or for any officer of the Government in his official capacity, to take any part in the management or control of the said funds or of the said temples and institutions. Exclusion of Government servants from taking part in management of temples or funds.

24. Except as hereinbefore otherwise provided, all disputes arising in respect of any matter provided for by this Regulation or by any rules made thereunder shall be referred to the District Judge, whose decision thereon shall be subject to appeal to the Judicial Commissioner within the prescribed period, and subject thereto shall be final. Reference of disputes to District Judge with appeal to Judicial Commissioner.

¹ For Act XIV of 1882, see the reprint, as modified up to 1st December, 1899.

THE SCHEDULE.

	Present annual allowance.	
	Rs.	A. P.
1. Onkareshwara pagoda at Merkara	4,435	6 0
2. Onkareshwara choultry	380	0 0
3. Rajahs' tombs	2,000	0 0
4. Tavunad pagoda	2,320	7 5
5. Tavunad choultry	3,956	10 7
6. Brahmadaḡa at Subramania paid at Merkara	48	0 0
TOTAL	13,140	8 0

THE COORG LAND AND REVENUE REGULATION, 1899
(I OF 1899). ✓

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Title, extent and commencement.
2. Repeal.
3. Definitions.

CHAPTER II.

REVENUE-OFFICERS.

4. Classes of Revenue-officers.
5. Chief controlling revenue-authority.
6. The Commissioner.
7. Assistant Commissioners.
8. Taluqs.

SECTIONS.

9. Subedars.
10. Power to make rules regarding appointment, removal and duties of Subedars.
11. Conferment of powers of Revenue-officer.
12. Powers of Revenue-officers.

 CHAPTER III.

APPEAL, REVIEW AND REVISION.

13. Appeals.
14. Limitation for appeals.
15. Review by Revenue-officers.
16. Computation of periods of limitation for appeals and applications for review.
17. Power to call for records and revise proceedings of Revenue-officers.

 CHAPTER IV.

PROCEDURE.

18. Power to make rules as to procedure.
19. Subordination of Revenue-officers.
20. Power of Revenue-officer to summon persons.
21. Mode of service of summons.
22. Mode of serving notices.
23. Penalty for failure to attend in certain cases.

 CHAPTER V.

PARPATTIGARS AND VILLAGE-OFFICERS.

24. Power to make rules respecting parpattigars and village-officers.
25. *Repealed.*
26. *Repealed.*
27. Restriction on attachment or assignment of emoluments.

 CHAPTER VI.

RECORDS-OF-RIGHTS AND ANNUAL RECORDS.

28. Exclusion of certain lands from the operation of this Chapter.
29. Making or revising of record-of-rights for each estate.

SECTIONS.

30. Contents of record-of-rights.
31. Annual record.
32. Report of acquisition of right as landholder or assignee of land-revenue to shanbog, and recording of such right.
33. Making that part of the annual record which relates to other persons.
34. Determination of disputes.
35. Restrictions on variations of entries in records.
36. Mutation-fees.
37. Penalty for neglect to report any acquisition of right referred to in section 32.
38. Obligation to furnish information necessary for the preparation of records.
39. Presumption in favour of entries in records-of-rights and annual records.
40. Suit for declaratory decree by person aggrieved by an entry in a record.
41. Power to make rules respecting records and other matters connected therewith.

 CHAPTER VII.

GOVERNMENT RIGHTS IN LAND AND ENCROACHMENTS ON PUBLIC OR GOVERNMENT LANDS.

42. All public roads, etc., and all lands which are not the property of others, belong to Government.
43. Summary eviction in case of encroachments upon public roads, etc., and Government land.
44. Relinquishment and re-occupation of lands.
45. Summary eviction in case of alienation of certain lands.
46. Procedure in cases of eviction from wrongful possession.
47. Rights of Government in mines, etc.

 CHAPTER VIII.

ASSESSMENT.

48. Liability of all land to assessment.
49. Notification of intended re-assessment, and instructions as to principles of assessment.
50. Mode of determining assessment.
51. Announcement of assessment.
52. Application for reconsideration of assessment.
53. Confirmation and duration of assessment.

SECTIONS.

54. Assessment to remain in force until new assessment takes effect.
55. Special assessments.

CHAPTER IX.

COLLECTION OF LAND-REVENUE AND OTHER DEMANDS.

56. Security for the revenue.
57. Time for payment of revenue.
58. Rules to regulate collection, remission and suspension of land-revenue.
59. Certified account to be evidence as to arrear.
60. Arrear of revenue.
61. Recovery of arrears.
62. Time for issue of process.
63. Form and service of notice of demand.
64. Summons to defaulter.
65. Arrest and imprisonment of defaulter.

Distrain and Sale of Moveable Property.

66. Time for making distrain.
67. Procedure in distrain.
68. Withdrawal of distrain on tender of arrear.
69. Disposal of distrained crops.
70. Distrain of crops of a tenant.
71. Treatment of distrained property.
72. Responsibility for distrained property.
73. Distrain not to be excessive.
74. Protection of necessary cattle, seed-grain and implements from distrain.
75. Time for making distrain.
76. Fraudulent transfer of property to prevent distrain.
77. Land-revenue demand first charge on the land.
78. Penalty for forcibly or clandestinely taking away distrained property.
79. Forcing of houses by distrainer.
80. Forcing of outer doors and female apartments by distrainer.
81. Punishment for unlawful entry.
82. Proclamation of sale.
83. Mode of sale.
84. Payment of purchase-money.

Attachment and Sale of Defaulter's Immoveable Property.

85. Time for making attachment.
86. Procedure in attachment.

SECTIONS.

87. Power to assume management of attached property.
88. Notice of assumption of management.
89. Duties of managing agent.
90. Liability of agent to prosecution or suit.
91. Effect of existing engagements between defaulter and tenants.
92. Payments by tenants.
93. Withdrawal of attachment on liquidation of arrear.
94. Release of property by person interested.
95. Power of Commissioner to order sale of attached property.
96. Mode of sale.
97. Notice of sale.
98. Payment of purchase-money.
99. Agents to name their principals.
100. Tender of arrear up to sunset of last office-day before sale.
101. Report of sale to Commissioner.
102. Application to set aside sale.
103. Order confirming or setting aside sale.
104. Refund of purchase-money on setting aside of sale.
105. Fresh notice after postponement or on re-sale.
106. On sale becoming absolute, possession and certificate to be granted to purchaser.
107. Application of proceeds of sale.
108. Effect on encumbrances of sale of property for an arrear due in respect thereof.
109. Effect on encumbrances of sale of property for a sum other than an arrear due in respect thereof.
110. Effect of sale on lands held revenue-free or at favourable rates.
111. Provisions with respect to rent and profits of property sold.
112. Sale of part only of property.
113. Postponement of sale on tender of security.

General.

114. Mode of enforcing payment by sureties.
115. Recovery of fees and other dues.
116. Receipts for revenue.

CHAPTER X.

SURVEYS AND BOUNDARIES.

117. Rules for demarcation of boundaries and erection of survey-marks.
118. Power of Revenue-officers to define boundaries.

SECTIONS.

- 119. Cost of erection and repair of survey-marks.
- 120. Recovery of cost incurred by the Government.
- 121. Power of Revenue-officer to enter on land for purposes of survey and demarcation.
- 122. Surveys for purpose of preparing records.
- 123. Provision of flag-holders and chainmen for those surveys.
- 124. Professional surveys.
- 125. Penalty for destruction, injury or removal of survey-marks.
- 126. Report of destruction or removal of, or injury to, survey-marks.

 CHAPTER XI.

ARBITRATION.

- 127. Power to refer to arbitration.
- 128. Order of reference and contents thereof.
- 129. Nomination of arbitrators.
- 130. Substitution of arbitrators by parties.
- 131. Nomination and substitution of arbitrators by Revenue-officers.
- 132. Process for appearance before arbitrators.
- 133. Award of arbitrators and presentation thereof.
- 134. Procedure on presentation of award.
- 135. Effect of award.

 CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

- 136. Execution of orders of Civil and Criminal Courts by Revenue-officers.
- 137. Attachment of assigned land-revenue.
- 138. Confiscation of assignment in default of service.
- 139. Recovery of cost of assessing assigned land-revenue.
- 140. Papers kept by village-officers to be deemed public documents.
- 141. Costs.
- 142. Restrictions on Revenue-officers bidding at auctions or trading or acquiring land
- 143. Power to make rules.
- 144. Rules to be made after previous publication.
- 145. Bar of suits in certain matters.

 THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

 THE SECOND SCHEDULE.—FORM OF WARRANT TO BE ISSUED BY THE
 COMMISSIONER UNDER SECTION 46.

 THE THIRD SCHEDULE.—FORM OF WARRANT TO BE ISSUED BY THE
 COMMISSIONER UNDER SECTION 65.

(Chap. I.—Preliminary. Secs. 1-3.)

REGULATION No. I OF 1899. ✓

[Published in the Gazette of India on the 25th idem; and in the Coorg District Gazette on the 1st May, 1899.]

A Regulation to amend and declare the Law in force in Coorg in respect of the Land and Revenue.

WHEREAS it is expedient to amend and declare the law in force in Coorg with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Regulation may be called the Coorg Land and Revenue Regulation, 1899.

(2) It extends to the territories for the time being administered by the Chief Commissioner of Coorg; and

(3) It shall come into force on such day¹ as the Chief Commissioner may, by notification, appoint in this behalf.

Repeal.

2. (1) On and with effect from the commencement of this Regulation, the enactments mentioned in the first schedule, in so far as they apply to, or are in force in, the said territories, and all rules and orders in force there relating to any of the matters hereinafter provided for, shall be repealed.

(2) Any enactment or document referring to any enactment or to any rule or order hereby repealed shall, as far as may be, be construed as referring to this Regulation or to the corresponding portion thereof.

Definitions.

3. In this Regulation, unless there is anything repugnant in the subject or context,—

(1) "Revenue-officer" means a person having authority under this Regulation to discharge any of the functions of a Revenue-officer:

(2) "village-officer" means any officer employed in or about the business of the revenue or of the surveys, assessment, accounts or records connected therewith, but does not include a "Revenue-officer":

(3) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of estates or other defined portions of territory:

(4) "estate" means any village or other area—

(a) for which a separate record-of-rights has been framed, or

¹ i. e., the 1st November, 1899, see Coorg District Gazette 1899, Suppl., p. 1.

(Chap. II.—Revenue-officers. Secs. 4-6.)

(b) which the Chief Commissioner may, by general rule or special order, declare to be an estate :

(5) "holding" means any area which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed :

(6) "holder" or "landholder" signifies the person who is in possession of a holding or any share or portion thereof or in the enjoyment of any part of the profits thereof and who is bound by law, contract or local usage to pay land-revenue direct to the Government, but does not include a tenant :

(7) "tenant" means a person who holds land under another person and is, or but for a special contract would be, liable to pay rent for that land to that other person :

(8) "survey-mark" includes any erection, whether of earth, stone or other material, and also any hedge, vacant strip of ground or other object, whether natural or artificial, set up, employed or specified by a Revenue-officer, in order to designate the boundary of any land :

(9) "publication," "published," "notification" and "notified" refer to publication or notification in the Coorg District Gazette :

(10) "revenue" includes land-revenue, cesses and mohatarfa, and every other sum payable to the Government in accordance with law, contract or local usage in respect of the occupancy of land, or the use of its products, or the supply of water to it for irrigation : and

(11) "moveable property" includes growing crops and ungathered products of land.

CHAPTER II.

REVENUE-OFFICERS.

4. There shall be four classes of Revenue-officers, namely ;—

- (a) the Chief Commissioner,
- (b) the Commissioner,
- (c) the Assistant Commissioner, and
- (d) the Subedar.

Classes of
Revenue-
officers.

5. The chief controlling authority in all matters connected with the land-revenue is vested in the Chief Commissioner subject to the control of the Governor General in Council, and all other Revenue-officers shall be subordinate to him.

6. (1) There shall be a Commissioner of Coorg (hereinafter referred to as "the Commissioner"), who shall exercise the powers and discharge the duties conferred or imposed on him under this Regulation or the rules thereunder, or under any other law for the time being in force, and, so far as is consistent

(Chap. II.—Revenue-officers. Secs. 7-11.)

therewith, all such other powers or duties of appeal, superintendence and control over the officers subordinate to him as may be prescribed by the Chief Commissioner.

(2) The Commissioner shall be appointed by the Governor General in Council.

Assistant
Commissioners.

7. There shall be such number of Assistant Commissioners as the Governor General in Council may from time to time sanction. They shall be appointed by the Governor General in Council, and shall be subordinate to the Commissioner, and shall perform such duties as the Commissioner may from time to time direct.

Taluqs.

8. (1) There shall be such taluqs, and each taluq shall consist of such nads and estates, as may be notified by the Chief Commissioner.

(2) The present taluqs, nads and estates, shall remain as they are for the purposes of this Regulation until altered by the Chief Commissioner.

Subedars.

9. The chief officer entrusted with the local revenue-administration of a taluq shall be called a Subedar. He shall be appointed by the Commissioner with the previous sanction of the Chief Commissioner, and shall be subordinate to the Commissioner. His duties and powers shall be confined to the limits of his taluq and shall be such as may be expressly imposed or conferred upon him by this Regulation or the rules thereunder, or by any other law for the time being in force, or as may be imposed upon or delegated to him by the Commissioner under the general or special orders of the Chief Commissioner.

Power to
make rules
regarding
appointment,
removal and
duties of
Subedars.
Conferral
of powers of
Revenue-
officer.

10. The Chief Commissioner may make¹ rules for the appointment, removal and duties of Subedars.

11. (1) The Chief Commissioner may, by notification, confer on any person—

(a) all or any of the powers² of the Commissioner under this Regulation, or

(b) all or any of the powers with which an Assistant Commissioner or a Subedar may be invested thereunder, and may, in like manner, withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Chief Commissioner may direct, and, except as otherwise directed by the Chief Commissioner, shall for all purposes connected with the exercise thereof be deemed to be a Commissioner, Assistant Commissioner or Subedar, as the case may be.

¹ For rules made under this section, see Coorg Local Rules and Orders, Ed. 1905, p. xxix (published in Coorg District Gazette, 1899, October Suppl., p. 1).

² For notifications conferring such powers, see Coorg District Gazette, 1906, Pt. I, pp. 183 and 184.

(Chap. II.—Revenue-officers. Sec. 12. Chap. III.—Appeal, Review and Revision. Secs. 13-15.)

(3) If any of the powers of the Commissioner under this Regulation are conferred on an Assistant Commissioner or a Subedar, they shall, unless the Chief Commissioner by special order otherwise directs, be exercised by him subject to the control of the Commissioner.

12. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Regulation, the Chief Commissioner may, by notification, determine the functions to be discharged under this Regulation by any class of Revenue-officers. Powers of Revenue-officers.

CHAPTER III.

APPEAL, REVIEW AND REVISION.

13. Save as otherwise provided by this Regulation, an appeal shall lie Appeals. from an original or appellate order of a Revenue-officer as follows, namely :—

- (a) to the Commissioner when the order is made by an Assistant Commissioner or by a Subedar ;
- (b) to the Chief Commissioner when the order is made by the Commissioner :

Provided that, when an original order is confirmed on first appeal, a further appeal shall not lie.

14. Save as otherwise provided by this Regulation, the period of limitation Limitation for appeals. for an appeal under the last foregoing section shall run from the date of the order appealed against and shall be as follows, that is to say :—

- (a) when the appeal lies to the Commissioner—thirty days :
- (b) when the appeal lies to the Chief Commissioner—ninety days.

15. (1) A Revenue-officer may either of his own motion or on the application of any party interested review, and on so reviewing modify, reverse Review by Revenue-officers. or confirm, any order passed by himself or by any of his predecessors in office :
Provided as follows :—

- (a) when a Revenue-officer of a class below that of Commissioner proposes to review any order, passed whether by himself or by any of his predecessors in office, he shall first obtain the sanction of the Commissioner ;
- (b) an application for the review of an order may be summarily rejected, if it is not made within ninety days from the passing of the order, unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(Chap. III.—*Appeal, Review and Revision. Secs. 16-17. Chap. IV.—
Procedure. Sec. 18.*)

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order; and

(d) an order against which an appeal has been preferred, shall not be reviewed.

(2) No appeal shall lie from an order refusing to review, or confirming on review, a previous order.

Computation of periods of limitation for appeals and applications for review.
Power to call for records and revise proceedings of Revenue-officers.

16. In the computation of the period for an appeal from, or an application for the review of, an order under this Regulation, the limitation therefor shall be that prescribed by the¹ Indian Limitation Act, 1877.

XV of 1877.

17. (1) The Chief Commissioner or the Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

(2) If in any case it shall appear to the Chief Commissioner or the Commissioner that any decision or order or proceeding in a case so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit:

Provided that he shall not under this section pass an order modifying, annulling or reversing any order or proceeding of a subordinate Revenue-officer affecting any question of right between private persons without giving those persons an opportunity of being heard.

CHAPTER IV.

PROCEDURE.

Power to make rules as to procedure.

18. (1) The Chief Commissioner may make rules consistent with this Regulation for regulating the procedure of Revenue-officers in cases in which a procedure is not prescribed by this Regulation.

(2) Such rules may provide, among other matters, for the mode of enforcing orders of ejection from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like, which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejection from, or delivery of possession of, such property.

(3) Subject to any rules made under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Regulation, to any other officer for investigation and report, and may decide the case on the report of such other officer.

¹ See the reprint as modified up to 31st December, 1900.

(Chap. IV.—Procedure. Secs. 19-23.)

19. In all official acts and proceedings every Revenue-officer shall, in the absence of any express provision of law to the contrary, be subject, as to the place, time and manner of performing his duties, to the direction and control of the officer to whom he is immediately subordinate. Subordination of Revenue-officers.

20. (1) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as such. Power of Revenue-officer to summon persons.

(2) Every person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(3) Every person attending in obedience to a summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

21. (1) Every summons shall, if practicable, be served (a) personally on the person to whom it is addressed, or, failing him, on (b) his recognized agent, or on (c) an adult male member of his family usually residing with him. Mode of service of summons.

(2) If service cannot be made as aforesaid, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof on the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the taluq in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that taluq, then by posting a copy of the summons on some conspicuous place on the land.

(3) If the summons relates to a case in which the persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue-officer so directs, be served on the person named therein by post, either in addition to, or in substitution for, any other mode of service.

22. (1) Every notice or copy of a notice issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section. Mode of serving notices.

(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 substantial injustice.

23. Whoever, being required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the nad in which he ordinarily resides, fails to comply with Penalty for failure to attend in certain cases.

(Chap. V.—Parpattigars and Village-officers. Secs. 24-27. Chap. VI.—
Records-of-rights and Annual Records Secs. 28-29.)

such requisition, shall be liable, at the discretion of the Revenue-officer, to fine which may extend to fifty rupees.

CHAPTER V.

PARPATTIGARS AND VILLAGE-OFFICERS.

Power to make rules respecting parpattigars and village-officers.

24. (1) The Chief Commissioner may make¹ rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of parpattigars and village-officers.

* * * * *

25. [Village-officers' cess.] Rep. by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), supra, p. 81.

26. [Limit of cess.] Rep. by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), supra, p. 81.

Restriction on attachment or assignment of emoluments.

27. (1) The emoluments of a parpattigar or village-officer shall not be liable to attachment in execution of a decree of any Civil Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void.

CHAPTER VI.

RECORDS-OF-RIGHTS AND ANNUAL RECORDS.

Exclusion of certain lands from the operation of this Chapter.

28. (1) Nothing in this Chapter shall apply to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(2) A Revenue-officer may, for the purposes of this section, define the limits of any such land.

Making or revising of record-of-rights for each estate.

29. (1) There shall be a record-of-rights for every estate.

(2) When it appears to the Chief Commissioner that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Chief Commissioner shall by³ notification direct that a record-of-rights be made, or that the record-of-rights be specially revised, as the case may be.

¹ For rules made under this section and in conjunction with s. 41 (b), see Coorg Local Rules and Orders, Ed. 1905, pp. xxix and xxx and addenda attached thereto (published in Coorg District Gazette, 1899, October Suppl., p. 3).

For rules as to village-officers known as Shetties, see Coorg District Gazette, 1900, p. 5.

² Sub-section (2) of s. 24 was repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), supra, p. 81.

³ For directions issued under this section, see Coorg Local Rules and Orders, Ed. 1905, p. xxx.

(Chap. VI.—Records-of-rights and Annual Records. Secs. 30-32.)

(3) The notification may direct that records-of-rights shall be made or specially revised for all or any estates in any local area.

(4) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

30. The record-of-rights for an estate shall include the following documents, Contents of record-of-rights.
namely:—

(a) statements showing, so far as may be practicable,—

- (i) the persons who are landholders, tenants or assignees of land-revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate, or to occupy land therein;
- (ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto;
- (iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a map of the estate; and

(c) such other documents as the Chief Commissioner may prescribe.

31. (1) The Commissioner shall cause to be prepared by the shanbog of Annual record. each estate, yearly or at such other intervals as the Chief Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) Such edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in section 30, clause (a), and such other documents (if any) as the Chief Commissioner may prescribe.

(3) For the purposes of the preparation of the annual record the Commissioner shall cause to be kept by the shanbog of each estate a register of mutations and such other registers as the Chief Commissioner may prescribe.

32. (1) Any person acquiring by inheritance, purchase, mortgage, gift or Report of acquisition of right as landholder or otherwise, any right in an estate as a landholder or assignee of land-revenue shall report his acquisition of the right to the shanbog of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the shanbog. assignee of land-revenue to shanbog, and recording of such right.

(3) The shanbog shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2) and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as

(Chap. VI.—Records-of-rights and Annual Records. Secs. 33-35.)

aforesaid coming to his knowledge, of which, under the foregoing sub-sections, report should have been made to the shanbog and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in the annual record of a description of the right acquired, and by the omission from that record of any entry in any record previously prepared, which by reason of the acquisition has ceased to be correct.

Making that part of the annual record which relates to other persons.

33. The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall,—

(a) if it is undisputed, be recorded by the shanbog in such manner as the Chief Commissioner may by rules made in this behalf prescribe ; and

(b) if it is disputed, be entered by the shanbog in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section.

Determination of disputes.

34. (1) If during the making, revision or preparation of any record, or in the course of any inquiry under this Chapter, a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, the Revenue-officer may, of his own motion or on the application of any party interested, but subject to the provisions of the next following section and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain, by summary enquiry, who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(3) A direction of a Revenue-officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variations of entries in records.

35. Entries in records-of-rights or in annual records, except entries made in annual records by shanbogs under section 33, clause (a), with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(a) the making of entries in accordance with facts admitted or found by inquiry under the last foregoing section to have occurred ;

(b) the making of such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties ;

(c) the making, where necessary, of new maps.

(Chap. VI.—Records-of-rights and Annual Records. Secs. 36-41.)

36. (1) The Chief Commissioner may ¹ fix a scale of fees for all or any classes of entries in any record or register prescribed under this Chapter and for copies of any such entries. Mutation-fees.

(2) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

37. Any person neglecting to make the report required by section 32 within three months from the date of his acquisition of a right referred to therein shall be liable, at the discretion of the Commissioner, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual, or ten rupees, whichever is the greater. Penalty for neglect to report any acquisition of right referred to in section 32.

38. Any person whose rights, interests or liabilities are required to be entered in any record prescribed under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or shanbog engaged in compiling the record, all information necessary for the correct compilation thereof. Obligation to furnish information necessary for the preparation of records.

39. Every entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. Presumption in favour of entries in records-of-rights and annual records.

40. Whoever considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, may institute a suit against any person denying, or interested to deny, his title to such right for a declaration of his right under Chapter VI of the 2 Specific Relief Act, 1877. Suit for declaratory decree by person aggrieved by an entry in a record.

1 of 1877.

41. The Chief Commissioner may make rules—

- (a) prescribing the language in which records and registers under this Chapter are to be kept;
- (b) ³ prescribing forms for such records and registers, and the manner in which they are to be prepared, signed and attested;
- (c) ⁴ for the survey of land so far as may be necessary for the preparation and correction of such records and registers;
- (d) for the conduct of inquiries made by Revenue-officers under this Chapter; and,
- (e) ⁴ generally, for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Power to make rules respecting records and other matters connected therewith.

¹ For notification fixing such a scale of fees, see Croog Local Rules and Orders, Ed. 1905, p. xxx.

² General Acts, Vol. III.

³ For forms prescribed under sub-section (b). see Croog District Gazette, 1899, Suppl., p. 3.

⁴ For rules under these sub-sections, see Coorg Local Rules and Orders, Ed. 1905, p. xxxi and addendum attached thereto.

(Chap. VII.—Government Rights in Land, and Encroachments on Public or Government Lands. Secs. 42-44.)

CHAPTER VII.

GOVERNMENT RIGHTS IN LAND, AND ENCROACHMENTS ON PUBLIC OR GOVERNMENT LANDS.

All public roads, etc., and all lands which are not the property of others, belong to Government.

42. All public roads or thoroughfares, the bridges, ditches, dykes and fences on or beside the same, beds of rivers, streams, nallas and tanks, and all canals and water-courses, and all standing and flowing water, and all lands wherever situated, which are not the property of individuals or of aggregates of individuals legally capable of holding property, except in so far as any rights of such individuals may be established in or over the same and save as may be otherwise provided by any law for the time being in force, are, and are hereby declared to be, with all rights in or over the same or appertaining thereto, the property of the Government; and it shall be lawful for the Commissioner to dispose of such property as aforesaid in such manner as may be¹ authorized by the Government, subject always to the rights of way and all other rights of the public or individuals legally subsisting.

Summary eviction in case of encroachments upon public roads, etc., and Government land.

43. (1) When any public road or thoroughfare, or any bridge, ditch, dyke or fence on or beside the same, or the bed of any river, stream, nalla, tank, canal or water-course, or any land, the property of the Government, has been unauthorizedly occupied by any person, the Commissioner may, after due inquiry has been made and recorded by a Revenue-officer and provided that the unauthorized occupation is of less than twelve years' standing, summarily evict the occupier and confiscate any crop he may have raised on the land, and, if not removed by him after such written notice as the Commissioner may deem reasonable, take possession of any building or other construction the occupier may have erected on the land and dispose of it as he may deem proper.

(2) The proceedings of the Commissioner under sub-section (1) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Relinquishment and re-occupation of lands.

44. (1) Any landholder or, where there are more landholders than one, such landholders may, by giving written notice to a Revenue-officer, relinquish his or their entire holding to the Government.

(2) Such relinquishment shall take effect from such date as the Chief Commissioner may by² rule direct, and the notice must be given not less than one month before such date.

¹ For rules made under this section in conjunction with ss. 55 (2) and 143 (1) (f) regarding the disposal of Government waste lands for building sites, see Notfn. No. 48, dated the 24th October, 1899, in Coorg District Gazette, 1899, Suppl., p. 24; regarding unauthorized encroachments on Government lands, see *ibid.*, 1900, Pt.-I, p. 155.

For rules for the sale of waste lands made under this section in conjunction with s. 143 (1) (f), see Coorg District Gazette, 1899, Suppl., p. 23, see also Coorg Local Rules and Orders, Ed. 1905, p. xxxi.

² For such rules, see Coorg Local Rules and Orders, Ed. 1905, p. xxxi.

(Chap. VII.—Government Rights in Land, and Encroachments on Public or Government Lands. Secs. 45-47.)

(3) Any person desirous of taking up land which has been relinquished under sub-section (1), must obtain the permission in writing of a Revenue-officer, and the Commissioner may summarily evict any person from such land if no such permission has been obtained by him.

45. Except with the permission of the Commissioner recorded in each case in writing under the ¹ general or special orders of the Chief Commissioner, the alienation of lands of which the land-revenue has been wholly or partly assigned or released, by sale, gift, mortgage or otherwise, is prohibited, and the Commissioner may summarily evict any person from such lands if so alienated, and take possession of them on behalf of the Government.

Summary
eviction in
case of alien-
ation of
certain lands.

46. (1) When under either of the three last foregoing sections or under any other law for the time being in force the Commissioner evicts any person wrongfully in possession of land, such eviction shall be made in the following manner, namely :—

Procedure in
cases of eviction from
wrongful
possession.

(a) by serving a notice on the person in possession, requiring him within such time as may appear reasonable after receipt of the said notice to vacate the land ; and,

(b) if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same.

(2) If the officer removing any person under sub-section (1) is resisted or obstructed by any person, the Commissioner shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person ; and on his appearance commit him to close custody in the office of any Revenue-officer or send him with a warrant in the form set forth in the second schedule, for imprisonment in the civil jail of the district for such period, not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

47. (1) ² Unless it is otherwise expressly provided by the terms of any grant made, or of any other instrument of transfer executed, by the Government,

Rights of
Government
in mines, etc.

¹ For order authorizing the exchange and mortgage of lands by ryots under certain circumstances, see Coorg Local Rules and Orders, Ed. 1905, p. xxxii, and Coorg District Gazette, 1905, Pt. I, p. 57.

For rules made under this section and s. 143 (1) (f) as to the alienation of certain classes of lands, see Coorg List of Local Rules and Orders, Ed. 1905, pp. xxxi and xxxii.

For orders empowering the Commissioner to sanction the mortgage of lands, of which the land-revenue has been wholly or partially assigned as security for loans by Co-operative Credit Societies for purposes for which advances are made under the Land Improvement Loans Act, 1883 (19 of 1883), and the Agriculturists Loans Act, 1884 (12 of 1884), see Coorg District Gazette, 1905, Pt. I, p. 57.

² For made rules under this section and s. 143 (1) (f) to regulate the quarrying of stone and moorum in all lands in which the right has not been granted by Government, see Coorg Local Rules and Orders, Ed. 1905, p. xxxii.

(Chap. VIII.—Assessment. Secs. 48-51.)

the right to all mines, minerals and quarries and to all earth-oil and gold washings and sandalwood trees in all lands and to all subsoil rights in banes lands, and the right to take from all lands stones or material for repair of public roads, shall vest in the Government, and the Government shall have all the powers necessary for the proper enjoyment or disposal of such right.

(2) If for the purpose of the exercise of any of the rights referred to in this section, either by the Government or by any person acquiring such rights from the Government, any land in the holding or enjoyment of others is required, such land may be acquired in accordance with the provisions of the Land Acquisition Act, 1894; and whenever, in the exercise of any of the rights aforesaid, any damage is caused to any landholder by the disturbance of the surface of such land, and such landholder and the Government are unable to agree as to the amount of compensation to be paid to the former in respect of such damage, the amount shall be determined in accordance with the said provisions. I of 1894.

CHAPTER VIII.

ASSESSMENT.

Liability
of all land to
assessment.

48. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force.

(2) The holder of every holding shall be liable for the payment of the land-revenue assessed thereon; and, where there are two or more holders of the same holding, the Commissioner shall decide who shall be primarily liable for the land-revenue.

(3) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed, is not payable to the Government.

Notifica-
tion of in-
tended re-
assessment, and
instructions
as to princi-
ples of assess-
ment.

49. (1) A general re-assessment of the land-revenue shall not be undertaken without the notification of the previous sanction of the Governor General in Council.

(2) In granting such sanction the Governor General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

Mode of
determining
assessment.

50. (1) The assessment shall be made by a Revenue-officer.

(2) Before making the assessment the Revenue-officer shall report his proposed method of assessment for the sanction of the Chief Commissioner in such form as the Chief Commissioner may prescribe.

Announce-
ment of as-
sessment.

51. (1) When the Revenue-officer has obtained the sanction of the Chief Commissioner to his proposed method of assessment, he shall make an order

(Chap. VIII.—Assessment.—Secs. 52-55.)

determining the assessment proper for each holding, and announce it in such manner as the Chief Commissioner may prescribe.

(2) At the time of announcing the assessment the Revenue-officer shall also declare the date from which it is to take effect, and, subject to the other provisions of this Regulation, it shall take effect accordingly.

52. (1) Any landholder assessed to land-revenue under the foregoing provisions may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for reconsideration of the amount, form or conditions of the assessment.

Application
for recon-
sideration of
assessment.

(2) Where the land-revenue is assigned, the assignee thereof may, within thirty days from the date aforesaid, present a like petition to the Revenue-officer.

(3) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

53. (1) No assessment of the land-revenue shall be considered final until it has been confirmed by the Chief Commissioner.

Confirmation
and duration
of assess-
ment.

(2) The Chief Commissioner may modify the assessment of any holding at any time before it is confirmed by him.

(3) The Chief Commissioner shall, when confirming an assessment under this section, fix the period for which the assessment is to be in force :

Provided that the previous sanction of the Governor General in Council to the period so fixed shall first be obtained.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (3) of the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Assessment
to remain in
force until
new assess-
ment takes
effect.

55. (1) Special assessments may be made by Revenue-officers in any of the following cases, namely :—

Special
assessments.

- (a) when land-revenue which has been released or assigned is resumed ;
- (b) when waste-lands are sold, leased or granted by the Government ;
- (c) when the assessment of any land has been annulled ;
- (d) when, in the opinion of the Chief Commissioner, assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause ;
- (e) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or other natural products of water, or on account of any of the other rights described in section 47 has not been included in an assessment made under the foregoing provisions of this Chapter ; or
- (f) when water the right to which vests in the Government or which has been available in consequence of the construction, improvement or repair of any irrigation or other work by the Government

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 56-58.)

is made use of by landholders and other persons for the irrigation of land.

(2) The Chief Commissioner may make rules for the guidance of Revenue-officers in making such special assessments.¹

(3) The foregoing provisions of this Chapter with respect to general assessments, shall, subject to such modifications thereof as the Chief Commissioner may, by rules under the last foregoing sub-section, prescribe, regulate the procedure of Revenue-officers in making such special assessments.

CHAPTER IX.

COLLECTION OF LAND-REVENUE AND OTHER DEMANDS.

Security for the revenue.

56. (1) The land-revenue for the time being assessed on a holding shall be the first charge upon the rents, profits and produce thereof, and of any other holding in the possession of the same holder.

(2) Except with the previous consent of the Commissioner, the rents, profits or produce of a holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce and any arrear of land-revenue due in respect of the holding have been paid.

Time for payment of revenue.

57. Revenue shall be paid to the Commissioner, or to an officer empowered by the Commissioner in this behalf, on or before the day on which it falls due according to the kistbandi or other engagement, or, where no particular day is fixed, then within the time when the payment falls due according to local usage :

Provided that the Chief Commissioner may, by ² notification, alter and fix the amount of the several kists or instalments and the dates at which they are to become payable.

Rules to regulate collection, remission and suspension of land-revenue.

58. (1) The Chief Commissioner may make ³ rules consistent with this Regulation to regulate the collection, remission and suspension of land-revenue, and may, by such rules, determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

(2) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Chief Commissioner may by rule in this behalf prescribe.

¹ For rules made under this sub-section in conjunction with s. 42 and s. 143 (1) (f), see Coorg Local Rules and Orders, Ed. 1905, p. xxxii.

² For such a Notification, see Coorg Local Rules and Orders, Ed. 1905, p. xxxiii.

³ For such rules, see Coorg Local Rules and Orders, Ed. 1905, p. xxxiii.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 59-62.)

(3) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Commissioner specially authorizing the institution of the suit.

59. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter. Certified account to be evidence as to arrears

60. (1) When an instalment or a part of an instalment of revenue is not paid on or before the day prescribed by or under section 57, the Commissioner may at once levy the instalment, or the part of the instalment, as the case may be, in addition to such charge by way of penalty and as costs of process as may be authorized by ¹ rules made by the Chief Commissioner, with the previous sanction of the Governor General in Council, in this behalf. Arrear of revenue.

(2) Any sum leviable under sub-section (1) shall, for the purposes of this Chapter, be deemed to be an arrear, and the landholder from whom it is leviable, to be a defaulter.

61. An arrear may be recovered by any one or more of the following processes, namely:— Recovery of arrears.

- (a) by serving a written notice of demand on the defaulter ;
- (b) by serving a summons on the defaulter requiring him, in default of payment of the arrear on or before a day to be specified in the summons, to appear before, and explain the default to, the Commissioner or the Subedar of the taluq in which the arrear accrued, as the summons may direct ;
- (c) by the arrest and imprisonment of the defaulter ;
- (d) by distraint and sale of any moveable property belonging to the defaulter, or of the growing crops or ungathered products of the land in respect of which the arrear is due, whether those crops or products do or do not belong to the defaulter ;
- (e) by attachment, or by attachment and sale, of any land or other immoveable property belonging to the defaulter.

62. (1) A notice of demand may be issued on or after the day following that on which the arrear becomes leviable. Time for issue of process.

(2) Except by the special written order of the Commissioner, a summons under clause (b), or a warrant of arrest under clause (c), or a process of distraint or attachment under clause (d) or clause (e), of the last foregoing section shall not be issued for the recovery of an arrear unless a notice of demand for the arrear or for some part thereof has been served on the defaulter at least seven days previously.

¹ For rules regarding the costs of process for the recovery of arrears of revenue see Coorg Local Rules and Orders, Ed. 1905, p. xxxiii.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 63-65.)

Form and
service of
notice of
demand.

63. (1) A notice of demand shall be in writing signed by the officer issuing it and shall set forth—

- (a) the name of the defaulter ;
- (b) the land in respect of which the arrear is due ;
- (c) the amount of the arrear and particulars thereof ;
- (d) the time allowed for payment of that amount ; and
- (e) a warning to the defaulter that, if he fails to pay the amount within that time, he shall be liable, as a defaulter, to have his moveable property distrained and his land or other immoveable property attached.

(2) The time set forth in the notice as the time allowed for payment of the arrear shall be fixed with reference to the distance of the land in respect of which the arrear is due from the place at which the payment is to be made.

(3) A notice of demand shall be served by delivering a copy to the defaulter or to some adult male member of his family at his usual place of residence, or to his authorized agent, or by posting a copy thereof on some conspicuous part of his last known place of residence or on some conspicuous part of the land in respect of which the arrear is due.

Summons to
defaulter.

64. (1) At any time after the expiration of seven days from the date of the service of a notice of demand, or sooner, if the Commissioner makes a special written order in this behalf, a summons may be issued to a defaulter requiring him, in default of payment of the arrear on or before a day to be specified in the summons, to appear before, and explain the default to, the Commissioner or the Subedar of the taluq in which the arrear accrued, as the summons may direct.

(2) The summons shall set forth the matters stated in section 63, sub-section (1), clauses (b) and (c), and shall be served in the manner prescribed for the service of a notice of demand.

Arrest and
imprison-
ment of
defaulter.

65. (1) In any case in which a defaulter summoned to appear before the Commissioner under the last foregoing section fails to appear, the Commissioner may issue a warrant directing an officer named therein to arrest the defaulter and bring him before him.

(2) When a defaulter appears before the Commissioner under this or the last foregoing section, the Commissioner may keep him under personal restraint for a period not exceeding ten days, and then, if the arrear is still unpaid, may send him with a warrant, in the form set forth in the third schedule, to the officer in charge of the civil jail, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Commissioner may think fit.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 66-70.)

Distraint and Sale of Moveable Property.

66. When the arrear has not been paid in pursuance of the terms of the notice of demand and no arrangement for securing the payment thereof has been entered into to the satisfaction of the Commissioner, or of an officer empowered by the Commissioner in this behalf, the Commissioner, or an officer empowered by the Commissioner in this behalf, may order the distraint and sale of such moveable property as is described in section 61, clause (d). Time for making distraint.

67. (1) An order under the last foregoing section shall set forth—

- (a) the matters stated in section 63, sub-section (1), clauses (b) and (c), and
- (b) a warning to the defaulter that such property as may be distrained will be brought to sale under this Chapter unless the arrear is discharged.

Procedure in distraint.

(2) A copy of the order signed by, or on behalf of, the officer making it shall be given to the distrainer and shall be his authority for making the distraint, unless, before it is made, the defaulter pays the arrear to him or satisfies him that the arrear has been paid to the Government.

(3) As soon as may be after the making of a distraint, and at the latest within three days thereafter, the distrainer shall serve on the defaulter a copy of the order with an endorsement thereon specifying the property which has been distrained, and the place where that property is.

(4) The copy so endorsed shall be served on the defaulter in the manner prescribed for the service of a notice of demand.

(5) When the copy of the order has been so served, the distrainer shall transmit an inventory of the property distrained to the nearest officer empowered under this Chapter to sell distrained property, in order that the property may be publicly sold for the discharge of the arrear.

68. Where a defaulter tenders to the distrainer payment of the arrear after the distraint of his property and before the sale thereof, the distrainer shall receive the arrear and forthwith release the property. Withdrawal of distraint on tender of arrear.

69. (1) When a distrainer attaches growing crops or ungathered products of land, he may cause them to be sold when fit for reaping or gathering, or may, in his discretion, cause them to be reaped or gathered in due season and stored in proper places until they are sold. Disposal of distrained crops.

(2) In the latter case the expense of reaping or gathering and storing the crops or products shall be defrayed by the owner upon his redeeming them, or from the proceeds of the sale in the event of the crops or products being sold.

70. (1) When growing crops or ungathered products belonging to a tenant have been distrained for the recovery of an arrear, the tenant may pay the arrear and deduct the amount thereof from any rent due from him, then or afterwards, to the defaulter. Distraint of crops of a tenant.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 71-77.)

(2) When crops or products belonging to a tenant have been sold, the tenant may deduct the value thereof from any rent due from him, then or afterwards, to the defaulter in respect of the land on which the crops or products were grown.

Treatment of
distrained
property.

71. (1) A distrainer shall not work distrained cattle or suffer them to be worked, or make use of distrained goods or effects or suffer them to be made use of.

(2) Necessary food for distrained cattle shall be provided by the distrainer, and the cost thereof shall be defrayed by the owner upon his redeeming the cattle, or from the proceeds of the sale in the event of the cattle being sold.

Respon-
sibility
for distrained
property.

72. (1) Where distrained cattle or goods are lost or damaged by reason of necessary precautions for their due preservation not having been taken, or of their having been worked or made use of, as the case may be, in contravention of the last foregoing section, the amount of the loss or damage shall, on the application of the owner of the property, be determined by the Commissioner and be recoverable by him under this Chapter as an arrear from the officer whose neglect or act occasioned the loss or damage, and the amount when recovered shall be paid to the person injured.

(2) An order refusing an application under sub-section (1), or determining on such an application the amount of any loss or damage, shall, subject to the result of any appeal preferred to the Chief Commissioner within thirty days from the date of the order, be final.

Distrain not
to be exces-
sive.

73. The property distrained shall be, as nearly as possible, proportionate to the amount of the arrear.

Protection of
necessary
cattle, seed-
grain and
implements
from dis-
traint.

74. (1) Such cattle, seed-grain and agricultural implements as may be required by the defaulter for the purpose of cultivation shall be exempt from distraint.

(2) If the question arises whether or not any cattle, seed-grain or implements should be held to be exempt from distraint under sub-section (1), it shall be referred to the Commissioner, whose decision thereon shall be final.

Time for
making dis-
traint.

75. Distraint shall be made after sunrise and before sunset.

Fraudulent
transfer of
property to
prevent
distrain.

76. (1) Where a defaulter makes a fraudulent transfer of property for the purpose of preventing distraint for an arrear, any Civil Court of competent jurisdiction shall, upon the application of the distrainer and proof of the fraudulent nature of the transfer, cause the property to be delivered up to the distrainer.

(2) Nothing in sub-section (1) shall be construed to bar a prosecution under the¹ Indian Penal Code.

Land-revenue
demand first
charge on the
land. ‡

77. The title of the Government to the revenue due in respect of any land and to any charge leviable in respect thereof under section 60 shall be held to prevail over any claim to growing crops or ungathered products on the land,

XLV of 1.

¹ See the reprint as modified up to 1st April, 1903.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 78-81.)

or any claim to any crops or products reaped or gathered on the land during the year in respect of which an arrear is due or any claim to the proceeds of any such growing or reaped crops or ungathered or gathered products in the possession or under the control of the defaulter or of any Court, whether the claim to the crops or products, or to the proceeds thereof, is founded upon a sale, mortgage, decree, or otherwise howsoever.

78. (1) Where it is proved to the satisfaction of a Civil Court of competent jurisdiction that distrained property has been forcibly or clandestinely taken away, the Court may, upon the application of the distrainer, cause the property to be restored to him.

Penalty for forcibly or clandestinely taking away distrained property.

(2) Nothing in sub-section (1) shall be construed to bar a prosecution under ^{CLV of 1860.} the ¹ Indian Penal Code.

79. The distrainer may force open any stable, cow-house, granary, godown, out-house or other like building, and may enter any dwelling-house of which the outer door is open, and break open the door of any room in that dwelling house for the purpose of distraining property belonging to a defaulter and deposited therein :

Forcing of houses by distrainer.

Provided that the distrainer shall not, except as provided in the next following section, break open or enter any apartment which is appropriated for the residence of women and by the usage of the country is considered private.

80. (1) Where a distrainer is of opinion that the property of a defaulter is deposited in a dwelling-house of which the outer door is shut, or within an apartment which is appropriated for the residence of women and by the usage of the country is considered private, the distrainer shall represent his opinion to the officer in charge of the nearest police-station.

Forcing of outer doors and female apartments by distrainer.

(2) On such representation, the officer in charge of the station shall send to the spot a police-officer, in whose presence the distrainer may break open the outer door of the dwelling-house.

(3) The distrainer may also in the presence of the police-officer sent to the spot under sub-section (2), after requiring the removal of women from an apartment which is appropriated for their residence and by the usage of the country is considered private, and after furnishing means for their removal in a suitable manner, enter the apartment for the purpose of distraining the defaulter's property deposited therein ; but the property, if found, shall be immediately removed from the apartment, which shall thereupon be left free for the former occupants.

81. If, in contravention of the last foregoing section, a distrainer breaks open the outer door of a dwelling-house or enters an apartment which he has reason to believe is appropriated for the residence of women and by the usage of the country considered private, he shall be punishable with imprisonment

Punishment for unlawful entry.

¹ See the reprint as modified up to 1st April, 1903.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 82-85.)

for a term which may extend to six months, or with fine which may extend to five hundred rupees.

Proclamation of sale.

82. (1) The officer empowered under this Chapter to sell distrained property shall cause to be posted on the outer door of the defaulter's house or at the place where the property was distrained, an inventory of the property to be sold, with a notice specifying the place where, and the day and hour on and at which, the property is to be sold, and shall cause proclamation of the intended sale to be made by posting a copy of the inventory and notice on the village meeting-place, or by beat of drum or other customary mode at the place where the arrear accrued and at such other place or places (if any) as the Commissioner, or an officer empowered by the Commissioner in this behalf, may think fit.

(2) Unless the property distrained is, in the opinion of the officer empowered as aforesaid, perishable, the sale shall not take place till after the expiration of fifteen days from the day on which the inventory and notice were posted on the outer door of the defaulter's house or at the place where the property was distrained.

Mode of sale.

83. (1) At the appointed time the property shall be put up in one or more lots as the officer conducting the sale deems advisable, and shall be sold to the highest bidder.

(2) Where the purchase-money exceeds the amount of the arrear, the surplus shall be paid to the defaulter.

Payment of purchase-money.

84. (1) The property shall be paid for in ready money at the time of sale or as soon after as the officer conducting the sale appoints, and the purchaser shall not be permitted to take away any part of the property until he has paid the purchase-money in full

(2) Where the purchaser fails to pay the purchase-money as required under sub-section (1), the property shall be re-sold, and the defaulting purchaser shall be liable for any loss arising, as well as for the expenses incurred, on the re-sale.

(3) Such loss and expenses as aforesaid may be recovered from the defaulting purchaser as if they were an arrear under this Chapter.

(4) Where the property on the re-sale is sold for a higher price than at the former sale, the balance shall be credited to the defaulter.

Attachment and Sale of Defaulter's Immoveable property.

Time of making attachment.

85. When the arrear has not been paid in pursuance of the terms of the notice of demand and no arrangement for securing the payment thereof has been entered into to the satisfaction of the Commissioner, or of an officer empowered by the Commissioner in this behalf, the Commissioner, or an officer empowered by the Commissioner in this behalf, may order the attachment of the defaulter's land or other immoveable property.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 86-90.)

86. (1) The attachment shall be made by posting a notice thereof on some conspicuous part of the property. Procedure in attachment.

(2) The notice shall set forth—

- (a) the matters stated in section 63, sub-section (1), clauses (b) and (c);
- (b) a description of the property attached; and
- (c) a warning to the defaulter that, unless the arrear is paid on or before a day to be specified in the notice, the property will be liable to be brought to sale.

(3) The attachment shall be further notified by beat of drum on the property and by posting a copy of the notice on a conspicuous place in the nad office and publishing the notice, if the Commissioner so directs, in the local official Gazette.

87. (1) The Commissioner or other officer ordering the attachment may, at the time of the attachment or at any time during the attachment, assume the management of the property attached. Power to assume management of attached property.

(2) In that case the Commissioner shall appoint an agent with a proper establishment to manage the property, and shall give the agent a certificate of appointment, with written instructions under his signature, and the expenses of management shall be defrayed out of the income of the property:

Provided that, where the property is too inconsiderable to admit of its being charged with the expense of maintaining an agent and his establishment, it shall be committed to the care of such officer as the Commissioner may appoint, and that officer shall be subject to all the provisions of this Chapter with respect to agents.

88. Notice of the assumption of management shall forthwith be served on the defaulter in the manner prescribed for the service of a notice of demand, and shall be notified by beat of drum on the property and by posting a copy of the notice to the defaulter on a conspicuous place in the nad office and publishing the notice, if the Commissioner so directs, in the local official Gazette. Notice of assumption of management.

89. (1) The agent shall during the continuance of the management collect the rents and profits due, or accruing due, upon the property. Duties of managing agent.

(2) The agent shall also keep accounts of all his receipts and disbursements, and shall submit the accounts and pay over the balance to the Commissioner, or to an officer empowered by the Commissioner in this behalf, monthly or whenever he is required by the Commissioner or by such officer to do so, and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies thereof at his own expense without payment of any fee.

90. The defaulter may proceed by prosecution or suit against the agent in respect of any criminal or illegal act done by him to the injury of the defaulter or his property, and tenants shall have the same remedies against the agent to prosecution or suit. Liability of agent to prosecution or suit.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 91-94.)

the agent in respect of any act done by him as they would have had against the defaulter if the act had been done by the defaulter.

Effect of existing engagements between defaulter and tenants.

91. (1) Engagements made between the defaulter and his tenants shall, subject to the provisions of sub-section (2), be binding upon the Government during the attachment.

(2) Engagements so made—

- (a) exclusively with a view to defeat or delay the effect of the attachment, or
- (b) by way of lease at rates lower than the usual rates and not in good faith for the erection of factories or buildings or for the purpose of bringing waste-land into cultivation, or
- (c) after the attachment,

shall be void as against the Government if the Commissioner so declares :

Provided that any person aggrieved by a declaration of the Commissioner under this sub-section may institute a suit against the Government to establish the validity of the engagement, and that all charges and incumbrances upon property which has been attached, shall be postponed to the payment of the revenue and expenses consequent on the accrual of any arrear thereof.

Payments by tenants.

92. Payments made by tenants before the date of the promulgation of the notice of the assumption of management to the defaulter, or to any person on his behalf, on account of rent or profits actually due at the time when the payments were made, shall be valid as against the Government ; and all such payments made after the date of the promulgation of that notice or falling due after but made before that date, shall be void as against the Government, which may recover, as arrears of rent, the full amount of the payments from the tenants by whom they were made, leaving such tenants to sue the defaulter in a Civil Court.

Withdrawal of attachment on liquidation of arrear.

93. All sums received from the property attached, after payment of the current revenue and expenses of management, shall be carried to the credit of the defaulter in discharge of the arrear due at the time of the assumption of management ; and, as soon as the arrear has been so liquidated, the attachment shall be withdrawn and a full account rendered to the defaulter of all receipts and disbursements during its continuance.

Release of property by person interested.

94. Any person claiming an interest in property which has been or is about to be attached for the recovery of an arrear, may obtain its release by paying the arrear, and, where the property has been attached and expenses of management have been incurred, those expenses, and any such payment, if made by a tenant, may be deducted from any rent then or afterwards due from him to the defaulter, and, if made by a mortgagee or other incumbrancer, shall constitute a debt from the defaulter to him and be a charge upon the property, but shall only take priority over other charges according to the date at which the payment was made.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 95-98.)

95. If the Commissioner is of opinion that immoveable property attached under this Chapter, whether or not management thereof has been assumed, should be sold, he may order the sale, and thereupon the provisions of the next following sections shall apply.

Power of Commissioner to order sale of attached property.

96. (1) The sale of the property shall be by public auction to the highest bidder.

Mode of sale.

(2) The time and place of sale shall be fixed by the Commissioner, or by an officer empowered by the Commissioner in this behalf, and the time may be either before or after the expiration of the year in which the arrear accrued.

(3) The Commissioner or officer aforesaid may from time to time postpone the sale.

97. (1) Before the sale the Commissioner, or an officer empowered by the Commissioner in this behalf, shall issue a notice thereof in English and in Kanarese, stating whether the property is to be sold for the recovery of an arrear due in respect thereof or for the recovery of any other sum than such an arrear, and specifying the name of the defaulter, the amount of the arrear and the period in respect of which the arrear is due, the position and extent of the property and of the buildings (if any) thereon, the amount of the revenue assessed on the property or on its several parts, and the time, place and condition of sale.

Notice of sale.

(2) The notice shall be posted for one month at least before the sale on a conspicuous place in the Commissioner's office, the taluk office and the nad office, and on some conspicuous part of the property.

(3) In the case of a coffee-estate exceeding fifty acres in extent, and in any other case in which it may appear to the Commissioner to be desirable, a notice of the intended sale shall also be published at least one month before the sale in the Coorg District Gazette or in one or more of the newspapers having a circulation in Coorg.

98. (1) A sum equal to fifteen per cent. of the purchase-money of the property shall on the day of the sale be deposited by the purchaser with the officer conducting the sale; and, where the remainder of the purchase-money is not paid within thirty days from that day, the sum so deposited shall be liable to forfeiture by order of the Commissioner, and may, by a like order, be applied in reduction of the arrear for the recovery of which the sale was held.

Payment of purchase-money.

(2) Where the purchaser refuses or omits to deposit the sum, or to complete within thirty days from the day of the sale the payment of the remaining purchase-money, the property shall be re-sold at the risk and expense of the recusant or defaulting purchaser, and the loss (if any) and expense which may attend his refusal or omission may be recovered from him as if they were an arrear under this Chapter.

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 99-103.)

(3) Where the property on the re-sale is sold for a higher price than at the former sale, the increase shall be credited to the defaulter.

Agent to name their principals.

99. (1) Any person bidding at a sale may be required by the officer conducting the sale to state whether he is bidding on his own behalf or as an agent, and in the latter case to produce a written authority signed by his principal.

(2) If the person does not comply with the requisition, his bid may be rejected.

Tender of arrear up to sunset of last office day before sale.

100. (1) The defaulter, or any person acting on his behalf or claiming an interest in the property may, at any time before sunset on the last office day preceding the day fixed for the sale, pay to the officer who is to conduct the sale the full amount of the arrear and of the expenses of management (if any), and thereupon the sale shall be stayed.

(2) Any such payment made by a tenant, or by a mortgagee or other incumbrancer, shall be deemed to be a payment made under section 94.

Report of sale to Commissioner.

101. Every sale of immoveable property under this Chapter shall be reported to the Commissioner by the officer conducting it.

Application to set aside sale.

102. (1) At any time within the thirty days from the date of the sale application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake or fraud in publishing or conducting it.

(2) But, except as provided in the next following section, a sale shall not be set aside on the ground of irregularity or mistake unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury thereby.

(3) If the application be allowed, the Commissioner shall set aside the sale and direct a fresh one.

Order confirming or setting aside sale.

103. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale; and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale:

Provided that, if the Commissioner has reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

(2) An order of the Commissioner setting aside a sale under this section shall be final.

(3) An order of the Commissioner confirming a sale under this section shall be final—

(a) on the expiration of thirty days from the date thereof, if an appeal

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 104-108.)

therefrom is not preferred to the Chief Commissioner within that period;

- (b) on the disposal of an appeal so preferred when the appellate order of the Chief Commissioner confirms the order of the Commissioner.

104. Whenever a sale of property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Refund of purchase-money on setting aside of sale.

105. A sale made after postponement, and a re-sale consequent on a purchaser's default under section 98 or on the setting aside of a sale, shall be made after the issue and promulgation of a fresh notice in the manner hereinafter prescribed for the sale.

Fresh notice after postponement or on re-sale.

106. (1) After an order of the Commissioner confirming a sale has become final in manner aforesaid, the Commissioner shall put the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

On sale becoming absolute, possession and certificate to be granted to purchaser.

(2) Till the purchaser is put into possession, the property shall remain under attachment.

(3) The certificate granted under sub-section (1) shall be deemed to effect a valid transfer of the property, but need not be registered as a conveyance.

(4) Any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser shall be dismissed with costs.

(5) The person named in the certificate as the purchaser of any immoveable property shall be liable for all instalments of revenue falling due in respect of the property after the order confirming the sale has become final.

107. (1) When the purchaser has been put into possession of the property sold, the proceeds of the sale shall be applied in the first place to the payment of any arrears due to the Government from the defaulter on the day on which the order confirming the sale became final, whether those arrears are of revenue or of sums recoverable as arrears of revenue, and the surplus (if any) shall be paid to the person whose property has been sold, or, if the property was owned by more than one person, then to those persons either collectively or according to the extent of their respective interests, as the Commissioner thinks fit.

Application of proceeds of sale.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

108. (1) Subject to the provisions of this section with respect to engagements made between the defaulter and his tenants, immoveable property brought to sale under this Chapter for the recovery of an arrear due in respect thereof shall be sold free of all incumbrances, and all grants and contracts

Effect on incumbrances of sale of property for an arrear due

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 109-111.)

in respect thereof.

previously made by any person other than the purchaser in respect of the property shall become void as against the purchaser.

(2) The provisions of section 91 with respect to the validity or invalidity, as against the Government, of such engagements as are referred to in that section shall, so far as they can be made applicable, apply, as against the purchaser, to such engagements as have been made between the defaulter and his tenants :

Provided that an engagement, which has not before the sale been declared under that section to be void, shall not be liable to be set aside otherwise than by suit at the instance of the purchaser.

Effect on incumbrances of sale of property for a sum other than an arrear due in respect thereof.

109. When immoveable property is brought to sale under this Chapter for the recovery of any other sum than an arrear due in respect thereof, such property shall, except in the cases hereinafter excepted, be sold free of all encumbrances, and all grants and contracts previously made by any person other than the purchaser in respect of the property shall become void as against the purchaser.

Exception 1.—Engagements made between the defaulter and his tenants shall be subject to the provisions of section 108, sub-section (2), and shall not, except as therein provided, be rendered invalid by any sale under this section.

Exception 2.—No encumbrance, grant or contract created or made in good faith and entered before the notification of attachment in the record-of-rights as amended in accordance with the provisions of Chapter VI, shall be rendered invalid by any sale under this section.

Effect of sale on lands held revenue-free or at favourable rates.

110. When jama or unbli land, or other land held wholly or partially free of revenue, is sold under this Chapter, whether for the recovery of an arrear due in respect thereof or for the recovery of any other sum, the privileges attaching to the tenure of the land with respect to the assessment of land-revenue shall be extinguished by the sale :

Provided that in the case of land the revenue of which is assigned to a temple or other institution, the assignment to the temple or institution shall not be affected thereby.

Provisions with respect to rent and profits of property sold.

111. (1) The person named in a certificate as purchaser of any immoveable property shall be entitled to any rent or profits falling due in respect of the property after the day on which the order confirming the sale has become final,

¹ This section was substituted by s. 2 of the Coorg Land and Revenue (Amendment) Regulation, 1908 (1 of 1908), *infra*, p. 196.

The original section was as follows :—

“When immoveable property is brought to sale under this Chapter for the recovery of any other sum than an arrear due in respect thereof, the interests of the defaulter alone therein, as those interests existed immediately before the attachment of the property was notified, shall be sold, and no incumbrances created, or grants or contracts made, by him in good faith before the notification of the attachment shall be rendered invalid by the sale.”

(Chap. IX.—Collection of Land-revenue and other Demands. Secs. 112-115.)

notwithstanding that payment thereof may have been made on or before that day.

(2) So long after that day as any demand of the Government against the defaulter or the property remains unsatisfied, the Government shall be entitled to any arrears of rent or profits which fell due in respect of the property on or before that day.

(3) When all such demands have been satisfied, the defaulter shall be entitled to such of those arrears as may then be outstanding, and may recover them by any process, except attachment of crops or products, which may be used by a landholder for the recovery of arrears of rent or profits.

(4) The defaulter shall also be entitled to any balance of the rents or profits of the property which, after satisfaction of all such demands as aforesaid, may remain in the possession of the Government after the day on which the order confirming the sale has become final.

112. Subject to the foregoing provisions of this Chapter, the whole or any part of the immoveable property of a defaulter may be sold in discharge of an arrear:

Provided that, where the property consists of a farm which is readily divisible into compact blocks, no more of the property shall be sold than may be sufficient to discharge the arrear with expenses of management (if any).

113. (1) If a defaulter tenders security, the Commissioner, or an officer empowered by the Commissioner in this behalf, may accept it, and postpone the sale of the defaulter's immoveable property upon such conditions and such time as the Commissioner or such officer may appoint.

(2) In the event of default being made in the performance of any of those conditions, the Commissioner or such officer as aforesaid may, after the issue and promulgation of a fresh notice as required by section 105, sell the property and proceed against the defaulter or his surety or both for the recovery of any balance of the arrear and the expenses of management (if any).

General.

114. All the remedies prescribed by this Chapter in the case of a defaulter may be employed against his surety, and the Commissioner, or an officer empowered by the Commissioner in this behalf, may enforce those remedies simultaneously with, or either previously or subsequently to, their enforcement against the principal:

Provided that no more than the arrear and the expenses of management (if any) shall be realized from both.

115. Fees, fines, costs and other charges, payable under this Regulation or the rules thereunder, and all moneys falling due to

¹ The words "including the village-officers' cess" were omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), *supra*, p. 81.

(Chap. XI.—Collection of Land-Revenue and other Demands, Sec. 116.)

(Chap. X.—Surveys and Boundaries. Secs. 117-120.)

the Government under any grant, lease or contract which provides that they shall be so recoverable, may be recovered in the same manner as an arrear of revenue under this Chapter.

Receipts for revenue.

116. (1) Every person making a payment of revenue shall be entitled to a receipt therefor signed by the Commissioner or by an officer empowered by the Commissioner in this behalf.

(2) The receipt shall state the name of the person making the payment and the subject-matter in respect of which the payment is made, and, in the case of land-revenue, shall describe the land on which the revenue was due and set forth the names of the persons entered in respect thereof in the settlement account.

CHAPTER X.

SURVEYS AND BOUNDARIES.

Rules for demarcation of boundaries and erection of survey-marks.

117. (1) The Chief Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated, and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

Power of Revenue-officers to define boundaries.

118. (1) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Regulation, or on the application of any person interested, define the limits of any estate, village, holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (1) the Revenue-officer may cause survey marks to be erected on any boundary already determined by, or by order of, any Court, Survey-officer, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Cost of erection and repair of survey-marks.

119. Survey-marks shall be erected and kept in repair by, or at the cost of, the persons interested in the land for the indication of the limits of which they are required:

Provided that the Chief Commissioner may in any case direct that the cost of erection shall be borne by the Government 1* * * * *

Recovery of cost incurred by the Government.

120. If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired,

¹ The words "or paid out of the proceeds of the village-officers' cess" were omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), *supra*, p. 81.

(Chap. X.—Surveys and Boundaries. Secs. 121-125.)

and may apportion the cost among the persons interested in the land in such manner as he deems just, certifying the same to the Commissioner.

121. Every Revenue-officer and every person acting under the order of a Revenue-officer may, in the discharge of any duty under this Regulation, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

Power of Revenue-officer to enter on land for purposes of survey and demarcation.

122. (1) When any land is being surveyed in pursuance of rules under section 41, clause (c), a Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

Surveys for purpose of preparing records.

(2) If a person to whom such notice or proclamation as aforesaid is addressed fails to comply with the requisition, he shall be liable, in the discretion of the Revenue-officer, to fine which may extend to ten rupees.

123. (1) For the purposes of the survey of any land in pursuance of rules under section 41, clause (c), the landholders interested shall be bound to provide fit persons to act as flag-holders and chainmen.

Provision of flag-holders and chainmen for those surveys.

(2) If the landholders fail to provide such persons or to provide them in sufficient number, the Revenue-officer may employ such persons as he considers necessary and apportion the cost among the landholders interested in such manner as he deems just, certifying the same to the Commissioner.

124. (1) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Chief Commissioner may publish a notification stating—

Professional surveys.

(a) the local area to be surveyed and the nature of the survey;

(b) the names or official designations of the officers by whom the survey is to be made; and

(c) the kind of survey marks to be erected by those officers.

(2) From the date of such notification the officers specified therein and the persons acting under their orders shall have, for the purposes of the survey, the powers conferred on Revenue-officers by section 121.

125. (1) If any person wilfully destroys or injures, or without lawful authority removes, a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine, not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of the Revenue officer, be necessary to defray the expenses of restoring the same and of rewarding the person (if necessary) who gave information of the destruction, injury or removal.

Penalty for destruction, injury or removal of survey-marks.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

XLV of 1860.

¹ See the reprint as modified up to 1st April, 1903.

(Chap. X.—*Surveys and Boundaries*—Sec. 126.)(Chap. XI.—*Arbitration*. Secs. 127-130.)

Report of destruction or removal of, or injury to, survey-marks.

126. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected on the estate.

CHAPTER XI.

ARBITRATION.

Power to refer to arbitration.

127. (1) A Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Regulation.

(2) The Commissioner may, without the consent of the parties, refer to arbitration any dispute arising before him under this Regulation with respect to—

(a) any matter of which an entry is to be made in any record or register under Chapter VI; or

(b) the limits of any estates or of any holding, field or other portion of an estate; or

(c) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (1) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(2) The number of arbitrators which each party may nominate shall be the same and shall not exceed two.

(3) If, from any cause, arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. (1) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(2) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(3) An order under sub-section (2) shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged, or refuses or becomes incapable to act, the party may nominate another person in his stead.

(Chap. XI.—Arbitration. Secs. 131-134.)

131. In any of the following cases, namely:—

- (a) if either of the parties fails to nominate an arbitrator under section 129, sub-section (1), within the period fixed in the order of reference, or
- (b) if the nomination of an arbitrator has been disallowed under section 129, sub-section (2), and another arbitrator is not nominated within the time specified in the order under that sub-section or having been so nominated his nomination is also disallowed, or
- (c) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or
- (d) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged, or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

132. (1) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine, as he may issue in any proceeding under this Regulation before himself.

(2) Every such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (1), either in person or by agent, as the arbitrators may require.

(3) Every person attending in obedience to such process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

133. (1) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(2) The arbitrators shall present the award to the Revenue-officer in person, unless that officer permits them to present it by agent.

134. (1) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(2) Where a date has been fixed for the consideration of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(Chap. XI.—Arbitration. Sec. 135. Chap. XII.—Supplemental Provisions. Secs. 136-139.)

(3) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award

135. (1) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(2) If the reference to arbitration was made with the consent of the parties and if the Revenue-officer accepts the award, his decision shall be final.

(3) If the reference to arbitration was made without the consent of the parties, or if the Revenue-officer modifies or rejects the award, an appeal shall lie from his decision as if arbitrators had not been appointed.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Execution of orders of Civil and Criminal Courts by Revenue-officers.

136. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land shall be addressed to the Commissioner or such Revenue-officer as the Commissioner may appoint in this behalf, and be executed by the Commissioner or such officer as aforesaid in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Chief Commissioner.

Attachment of assigned land-revenue.

137. (1) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable, to pay it to a Revenue-officer and the Revenue-officer to hold it subject to the further orders of the Court.

(2) A payment to a Revenue-officer under sub-section (1) shall be an effectual discharge to the person making it.

Confiscation of assignment in default of service.

138. If a landholder bound to render service in consideration of his holding land wholly or partially free of revenue fails to render such service to the satisfaction of the Commissioner, the Commissioner may determine the portion of the land-revenue which is represented by the service in respect of which the landholder is in default, and, with the previous sanction of the Chief Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

139. (1) When land of which the land-revenue has been assigned in whole or in part, is re-assessed, the assignee shall be liable to pay such share of the cost of making the re-assessment as the Chief Commissioner may determine to be just.

(2) Such share may be recovered by the Commissioner by deduction of the amount thereof from the land-revenue due to the assignee.

(Chap. XII.—Supplemental Provisions. Secs. 140-143.)

140. (1) Any record or paper which a village-officer is required by law or by any rule under this Regulation to prepare or keep shall be deemed to be the property of the Government.

Papers kept by village-officers to be deemed public documents.

[of 1872.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the ¹Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

141. A Revenue-officer may give and apportion the cost of any proceeding under this Regulation in such manner as he thinks fit: Costs.

Provided that, if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

142. No Revenue-officer or person employed in a Revenue-office shall—

(a) purchase, or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer has ordered to be sold; or, Restrictions on Revenue-officer's bidding at auctions or trading or acquiring land.

(b) in contravention of any rules made by the Chief Commissioner in this behalf, engage in trade or acquire otherwise than by inheritance any right or interest in land within the territories to which this Regulation extends.

143. (1) The Chief Commissioner may, in addition to the other rules which may be made by him under this Regulation, make rules, not inconsistent with this Regulation or with any other enactment for the time being in force,— Power to make rules.

(a) ²prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;

(b) ³regulating the procedure in cases where persons are entitled to inspect records of revenue-offices, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(c) prescribing forms for such books, entries, statistics and accounts as the Chief Commissioner may think necessary to be kept, made or compiled in revenue-offices or submitted to any authority;

¹ See the reprint as modified up to 1st September, 1906.

² For rules under clause (a) as to the number of persons to be employed in the service and execution of processes and their remuneration and duties, see *Coorg Local Rules and Orders*, Ed. 1905, p. xxxiii.

³ For rules under clause (b) regulating the procedure for the inspection of records and prescribing the fees payable for search copies, see *ibid.*

(Chap. XII.—Supplemental Provisions. Secs. 144-145.)

(d) declaring what shall be the language of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English ;

¹(e) permitting and regulating the partition of interests in land, carrying out such partition and giving any directions consequent thereon, in cases in which the cognizance of the Civil Courts is barred by clause (xv) of section 145 ;

²(ee) providing for the execution of decrees of the Civil Courts for the partition of interests in agricultural land by Revenue-officers and prescribing the procedure to be observed in the execution of such decrees ; and

(f) ³generally, for carrying out the purposes of this Regulation.⁴

(2) Rules made by the Chief Commissioner under sub-section (1), clause (e) ⁵[or ee], shall not take effect until they have been sanctioned by the Governor General in Council.

Rules to be made after previous publication.

144. Every power to make rules under this Regulation is subject to the control of the Governor General in Council, and to the condition, except in the case of rules under section 143, sub-section (1), clause (c), of the rules being made after previous publication.

Bar of suits in certain matters.

145. Except as otherwise provided by this Regulation, no suit shall be brought in any Civil Court in respect of any of the following matters, namely —

(i) the limits of any land which has been defined by a Revenue-officer as land to which this Regulation does or does not apply ;

(ii) any claim to compel the performance of any duties imposed by this Regulation or by any other enactment for the time being in force on any Revenue-officer as such ;

(iii) any claim to the office or emoluments of parpattigar or village-officer, or in respect of any injury caused by exclusion from such office or to compel the performance of the duties or a division of the emoluments thereof ;

(iv) any notification directing the making or revision of a record-of-rights ;

(v) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record ;

¹ Clauses (e) and (ee) were substituted by the Coorg Land and Revenue (Amendment) Regulation, 1907 (4 of 1907), s. 2 (1), *infra*, p. 196.

The original clause was as follows :—

“(e) permitting and regulating the partition of interests in land, carrying out such partition and giving any directions consequent thereon.”

² For rules under clause (ee) see Coorg District Gazette, 1907, Pt. I, p. 155.

³ For rules under clause (f) regarding the holding of lands by servants of Government or their wives or members of their families living with or dependent on them, see *ibid.*

⁴ For rules in conjunction with ss. 4² and 55 (2), see note to s. 42, *supra*.

⁵ For rules for the sale of waste lands under this clause in conjunction with s. 42, see *ibid.*

The word and letters were inserted by the Coorg Land and Revenue (Amendment) Regulation, 1907 (4 of 1907), s. 2 (2), *infra*, p. 196.

(Chap. XII.—Supplemental Provisions. Sec. 145.)

- (vi) the correction of any entry in a record-of-rights, annual record or register of mutations;
- (vii) any notification of a general assessment having been sanctioned by the Governor General in Council;
- (viii) the claim of any person as to liability for an assessment of land-revenue or of any other revenue under this Regulation;
- (ix) the amount of land-revenue to be assessed on any holding under this Regulation;
- (x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Regulation, or any cess, charge or rate to be assessed on any holding under this Regulation or under any other enactment for the time being in force;
- (xi) any claim to hold free of revenue or at favourable rates any land, mills, fisheries or natural products of land or water;
- (xii) any claim connected with or arising out of the collection of the land-revenue by the Government or the enforcement by the Government of any process for the recovery thereof;
- (xiii) any claim to set aside on any ground, other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;
- (xiv) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Regulation;
- ¹(xv) any claim for the partition of an estate or holding or any question as to the allotment of land, when such estate, holding or land is one of which the land-revenue has been wholly or partly assigned or released, or which is held as joint family property by persons of the Coorg race, or any claim for the distribution of land-revenue on partition, or any other question connected therewith, not being a question as to the partibility of, or the title to, the property of which partition is sought.
- (xvi) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue.² * * * * *

¹ Clause (xv) was substituted by the Coorg Land and Revenue (Amendment) Regulation, 1907 (4 of 1907), s. 3, *infra*, p. 196.

The original clause was as follows:—

“(xv) any claim for the partition of an estate or holding or any question as to the allotment of land or the distribution of land-revenue on partition, or any other question connected therewith not being a question as to the title to the property of which partition is sought.”

² The words “or arising out of the liability of an assignee to pay out of assigned land-revenue or of a person who would be liable for land-revenue, if it had not been released, compounded for or redeemed, to pay on the land-revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a village-officer as may be prescribed by rules for the time being in force under this Regulation” in clause (xvi) of section 145 were omitted by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), *supra*, p. 81.

(The First Schedule.—Enactments repealed. The Second Schedule.—Form of Warrant to be issued by the Commissioner under section 46.)

THE FIRST SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Year.	No.	Short title or subject.	Extent of repeal.
<i>(a) Acts of the Governor General in Council.</i>			
1860	XXVIII	An Act for the establishment and maintenance of boundary-marks, etc.	So much as has not been repealed.
1891	XII	The Repealing and Amending Act, 1891.	So much of the second schedule as relates to Act XXVIII of 1860.
<i>(b) Act of the Governor of Bombay in Council.</i>			
1879	V	The Bombay Land-revenue Code, 1879.	Sections 95 to 97, 118 to 123, 125, 126, 188 to 191 and 207.
<i>(c) Regulations made under the Government of India Act, 1870 (33 Viet., c. 1).</i>			
1889	I	The Coorg Revenue Regulation, 1889.	The whole.
1893	IV	The Coorg Land-records and Village-service Regulation, 1893.	The whole.
1894	II	The Coorg Land-records and Village-service Regulation, 1894.	The whole.

THE SECOND SCHEDULE.

FORM OF WARRANT TO BE ISSUED BY THE COMMISSIONER UNDER SECTION 46.



To the Officer in charge of the Civil Jail at
 Whereas *A. B.* of
 has resisted (or obstructed) *C. D.* in removing *E. F.* (or himself, that is, the said *A. B.*) from certain land in the estate of _____, in the
 taluk, and whereas it is necessary, in order to prevent
 the continuance of such obstruction (or resistance), to commit the said *A. B.*

(The Third Schedule.—Form of Warrant to be issued by the Commissioner under section 65.)

to close custody; you are hereby required, under the provisions of section 46 of the Coorg Land and Revenue Regulation, 1899, to receive the said *A. B.* into the jail under your charge, and that to keep him in safe custody for _____ days.

Dated this _____ day of _____

(Signature of Commissioner.) -

THE THIRD SCHEDULE.

FORM OF WARRANT TO BE ISSUED BY THE COMMISSIONER UNDER SECTION 65.

Seal.

To the Officer in charge of the Civil Jail at

Whereas *A. B.* of _____, taluk _____,

	Rs.	is a defaulter on account of an arrear of revenue which
Land-revenue	.	has accrued as shewn in the margin; This is to order
Rates and cesses	.	you, under the provisions of section 65 of the Coorg
Other items	.	Land and Revenue Regulation, 1899, to imprison him
Total	.	in the Civil Jail for _____ days or until he pay
		the said arrear, whichever is first.

Dated this _____ day of _____

(Signature of Commissioner.) -

NOTE.—The Coorg Land and Revenue Regulation, 1900 (5 of 1900), only makes an addition to s. 26 of the Coorg Land and Revenue Regulation, 1899 (1 of 1899), and the whole section has since been repealed by the Repealing and Amending (Rates and Cesses) Act, 1907 (4 of 1907), *supra*, p. 81. It is, therefore, not republished.

REGULATION No. VI OF 1900. ✓

[Published in the Gazette of India on the 18th August; and in the Coorg District Gazette on the 1st October, 1900.]

A Regulation to provide for the formation of a District Board and District Fund in Coorg.

WHEREAS it is expedient to provide for the formation of a District Board and District Fund in Coorg; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Regulation may be called the Coorg District Fund Regulation, 1900.

(2) It extends to the territories for the time being administered by the Chief Commissioner of Coorg; and

(3) It shall come into force on such day¹ as the Chief Commissioner may, by notification in the Coorg District Gazette, appoint in this behalf.

Coorg District Board and Fund.

2. There shall be formed a Board, to be called the Coorg District Board, and a Fund, to be called the Coorg District Fund, and there shall be placed to the credit of the Coorg District Fund—

(a) the proceeds of the special rate imposed under this Regulation;

(b) the proceeds of any house-tax for the time being imposed upon non-agriculturists;

(c) the income derived from primary school fees; and

(d) any other moneys allotted by the Government for the purposes of the said Fund.

Imposition of special rate on holders of land.

3. The Chief Commissioner, with the previous sanction of the Governor General in Council, may, by notification in the Coorg District Gazette,² impose upon all holders of land in Coorg a special rate which shall not exceed two annas in every rupee of assessment to land-revenue and shall be payable on the dates fixed for the payment of the land-revenue.

Assessment on revenue-free land.

4. In the case of revenue-free lands or lands held partly free from assessment to land-revenue, such as jagir, jama, jodi, umbli and banes, the special rate imposed under section 3 shall be levied on the full land-revenue to which such lands would be assessed if they were not wholly or partly free from assessment to land-revenue:

Provided that the rate shall not be levied in respect of uncultivated banes without the previous sanction of the Chief Commissioner.

Recovery.

5. The amount payable by each holder of land on account of the special rate imposed under section 3 shall be recoverable in the manner provided

¹ 9th April, 1901, see Coorg District Gazette, 1901, Pt. I, p. 84.

² For imposition of special rate on holders of land, see Coorg District Gazette, 1901, Pt. I, p. 84.

for the recovery of arrears of revenue by the Coorg Land and Revenue Regulation, 1899.

I of 1899.

Bar of suits.

6. No suit shall be brought in any Civil Court in respect of the assessment, collection or application of the special rate imposed under section 3.

Appeal.

7. Any order of the Commissioner under this Regulation shall be appealable to the Chief Commissioner within three months from the date thereof, and the decision of the Chief Commissioner thereon shall be final.

Abolition of certain taxes.

8. The following taxes, namely,—

(a) the dhuli-tax,

(b) the plough-tax, and

(c) the house-tax imposed on agriculturists,

shall, on and with effect from the commencement of this Regulation, cease to be recoverable save as regards any arrears which may have accrued in respect of such taxes before such commencement.

Rules.

9. The Chief Commissioner, with the sanction of the Governor General in Council, may, by notification in the Coorg District Gazette, make² rules to regulate—

(a) the constitution, powers and duties of the Coorg District Board;

(b) the administration by the said Board of the Coorg District Fund;
and

(c) the control to be exercised by the Commissioner in respect of the administration of the said Fund.

REGULATION No. I OF 1901. ✓

[Published in the Gazette of India on the 9th February; and in the Coorg District Gazette on the 1st March, 1901.]

A Regulation to consolidate and amend the law relating to the Courts in the Province of Coorg.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Province of Coorg; It is hereby enacted as follows :—

I.—PRELIMINARY.

Short title and commencement.

1. (1) This Regulation may be called the Coorg Courts Regulation, 1901; and

(2) It shall come into force at once.

¹ *Supra*, p. 113.

² For such rules, see Coorg Local Rules and Orders, Ed. 1905, p. xxxiv.

(II.—Civil Justice. Secs. 2-8.)

II.—CIVIL JUSTICE.

2. Besides the Courts established under any other enactment for the time Grades fo being in force, there shall be five grades of Civil Courts in the Province of Courts. Coorg, namely :—

- (1) the Court of the Munsif ;
- (2) the Court of the Assistant Commissioner ;
- (3) the Court of the Subordinate Judge ;
- (4) the Court of the Commissioner ;
- (5) the Court of the Judicial Commissioner.

3. The Governor General in Council may appoint the Judicial Commission- Appointment of Judicial Commissioner, Commissioner, Subordinate Judge and Assistant Commissioner.

4. (1) The Chief Commissioner may appoint Munsifs.

(2) Every person appointed by the Chief Commissioner to be a Munsif Appointment of Munsifs. shall, in the taluk or other local area to which he may be posted, have the powers of a Court of a Munsif.

5. The Chief Commissioner may, with the previous sanction of the Governor General in Council,¹ fix, and with the like sanction vary, the number of Courts of Munsifs and Assistant Commissioners' Courts.

6. The Chief Commissioner may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, fix, and with the like sanction, by like notification, vary the local limits of the original jurisdiction of each of the Courts of Munsifs and Assistant Commissioners. Power to fix and vary local limits of Courts of first and second grades.

7. (1) The Court of the Judicial Commissioner shall, for the purposes of all enactments relating to civil jurisdiction for the time being in force, be deemed to be the High Court for the Province of Coorg. High Court, District Court and control of Civil Courts.

(2) The Court of the Commissioner shall for the said Province be deemed to be the principal Civil Court of original jurisdiction and the District Court, XIV of 1882, within the meaning of the ¹ Code of Civil Procedure.

(3) The control over all the Civil Courts in the said Province is vested in the Commissioner, subject to the general control of the Judicial Commissioner.

XIV of 1882. 8. Subject to the provisions of section 15 of the ²Code of Civil Procedure,— Original jurisdiction of various grades of Courts.

- (a) the jurisdiction of the Commissioner and the Subordinate Judge extends to all original suits ;

¹ For notification issued under this section, see Coorg Local Rules and Orders, Ed. 1905, p. xxxiv.

² See the reprint as modified up to 1st December, 1899.

(II.—Civil Justice. Secs. 9-11.)

- (b) the jurisdiction of an Assistant Commissioner extends to all original suits in which the amount or value of the subject-matter in dispute does not exceed three thousand rupees ;
- (c) the jurisdiction of a Munsif extends to all original suits in which the amount or value of the subject-matter in dispute does not exceed five hundred rupees :

Provided that the Chief Commissioner may, by notification in the official Gazette, extend the jurisdiction of any Munsif to all original suits in which the amount or value of the subject-matter in dispute does not exceed one thousand rupees.

9. Subject to any law for the time being in force, appeals shall lie as follows :—

- (a) from the decrees and orders of Munsifs in original suits and proceedings, to the Commissioner :

Provided that the Commissioner may, subject to the orders of the Judicial Commissioner, refer any appeals so preferred to the Subordinate Judge ;

- (b) from all decrees and orders of Assistant Commissioners in original suits and proceedings, and from decrees and orders of the Subordinate Judge in original suits and proceedings of which the amount or value of the subject-matter does not exceed three thousand rupees, to the Commissioner ;
- (c) from the decrees and orders of the Subordinate Judge in original suits and proceedings of which the amount or value of the subject-matter exceeds three thousand rupees, and from all the decrees and orders of the Commissioner in original suits and proceedings, to the Judicial Commissioner.

Appeals from decrees passed by Subahdars or Parpattigars before commencement of Regulation. Second appeals to Judicial Commissioner in certain cases.

10. For the purposes of the last preceding section, all decrees and orders passed before the commencement of this Regulation by Subahdars or Parpattigars invested with jurisdiction under section 10 of the ¹Coorg Courts Regulation, 1881, shall be deemed to have been passed by Munsifs.

II of 1881.

11. Notwithstanding anything contained in section 585 of the ²Code of Civil Procedure in any case in which the decision of the Court of the Commissioner or Subordinate Judge passed in appeal reverses or modifies the decree or order of the Court of original jurisdiction and is not declared by any law for the time being in force to be final, the Court of the Judicial Commissioner may admit a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the Lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice.

XIV of 1882.

¹ Rep. by this Regulation, see s. 20, *infra*, p. 140.

² See the reprint as modified up to 1st December, 1899.

(II.—Civil Justice. Secs. 12-15.)

Second appeal in suits of the nature cognizable in Small Cause Courts.

12. Notwithstanding anything contained in section 586 of the same Code, a second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes when the amount or value of the subject-matter of the original suit exceeds three hundred rupees :

Provided that the Court of the Judicial Commissioner may admit a second appeal in such suits when the amount or value exceeds one hundred rupees, if, on a perusal of the grounds of appeal and of copies of the judgments of the Lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice.

Distribution of business among subordinate Courts.

13. The Commissioner may direct the business in the Courts subordinate to him to be distributed among such Courts in such way as he thinks fit :

Provided that no Court shall try any suit in which the amount or value of the subject-matter exceeds the jurisdiction conferred on it under this Regulation.

Presiding officer of Court not to try suit in which he is interested.

14. Except with the consent of the parties, no presiding officer of any Court having jurisdiction under this Regulation shall try any suit, appeal or proceeding to or in which he is a party or personally interested or any appeal against a decree or order passed by himself, or shall adjudicate upon any matter connected with or arising out of such suit, appeal or proceeding.

Procedure when Judge is interested, etc.

15. (1) When any such suit, appeal or proceeding comes before the presiding officer of any Court subordinate to the Judicial Commissioner, he shall forthwith, unless all the parties request him to proceed with the case himself, transmit the record to the Court to which he is immediately subordinate, with an explanation of his reasons for so doing. Such Court shall thereupon try the case itself, or transfer it for trial to a subordinate Court of competent jurisdiction.

¹ [(2) When an appeal or an application for revision is preferred to the Judicial Commissioner in respect of any decree or order which was passed by him in another capacity, or in which he is personally interested, he shall, unless all the parties request him to dispose of the case himself, transfer it for disposal to the High Court at Madras, or to such officer as the Governor General in Council may appoint to be an Additional Judicial Commissioner for the disposal thereof.]

(3) When an Additional Judicial Commissioner is appointed under subsection (2), he shall, in disposing of ² [any case] transferred to him thereunder, have all the powers of the Judicial Commissioner under this Regulation.

¹ This sub-section was substituted by the Coorg Courts (Amendment) Regulation, 1905 (4 of 1905), *intra*, p. 141.

The original clause was as follows :—

“(2) When an appeal is preferred to the Judicial Commissioner from any decree or order which was passed by him in any other capacity, or in which he is personally interested, he shall, unless all the parties request him to dispose of the appeal himself, transfer it for disposal to the High Court at Madras, or to such officer as the Governor General in Council may appoint to be an Additional Judicial Commissioner for the disposal thereof.”

² The words “any case” were substituted for the words “the appeal” by the Coorg Courts (Amendment) Regulation, 1905 (4 of 1905), *intra*, p. 141.

III.—CRIMINAL JUSTICE

Judicial Commissioner's Court to be deemed to be, except as regards European British subjects, High Court for Coorg.

16. The Court of the Judicial Commissioner shall, except with reference to proceedings against European British subjects, or persons charged jointly with European British subjects, be deemed to have, throughout the Province of Coorg, the powers conferred by the¹ Code of Criminal Procedure, 1898, V of 1898, or by any other enactment relating to criminal jurisdiction for the time being in force in the said Province, on a High Court, other than a High Court established by Royal Charter.

IV.—MISCELLANEOUS.

Rules regarding, and disciplinary powers over, ministerial officers.

17. (1) The Judicial Commissioner may, from time to time, make rules regulating the appointment, suspension, removal and punishment of the ministerial officers of all the Courts subordinate to him.

(2) Subject to such rules, the presiding officer of any Court may punish any ministerial officer of his Court who is guilty of misconduct or neglect in the performance of the duties of his office, with fine which may extend to one month's salary of the offender.

(3) Any fine imposed under this section shall, if the order imposing it so directs, be recovered from the offender's salary.

Power for Chief Commissioner to invest Munsifs with Small Cause Court jurisdiction.

18. The Chief Commissioner may, with the previous approval of the Governor General in Council, by² notification in the local official Gazette, invest, within such limits as he may appoint, any Munsif with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits up to any amount not exceeding one hundred rupees.

Judicial Commissioner empowered to hold Court within or without limits of Coorg.

19. The Judicial Commissioner may, for the purpose of the exercise of any jurisdiction conferred on him under this Regulation, hold his Court at such place, either within or without the limits of the Province of Coorg, as he from time to time thinks fit.

Repeals.

20. The enactments mentioned in the schedule are repealed to the extent specified in the fourth column thereof.

¹ See the reprint of the Code as modified up to 1st April, 1903.

² For such a notification, see Coorg Local Rules and Orders, Ed. 1905, p. xxxiv.

142 (Courts. Schedule.—Enactments repealed.) [1901 : Reg. I.
 1905: Reg. IV.] (Courts amendment. Secs. 1-3.
 1907: Reg. II.] Municipal.

SCHEDULE.

ENACTMENTS REPEALED.

(See section 20.)

Year.	No.	Short title.	Extent of repeal.
1	2	3	4
1881	II	The Coorg Courts Regulation, 1881 . . .	The whole.
1885	I	The Coorg Courts Regulation, 1885 . . .	The whole.
1893	I	The Coorg Courts Repealing Regulation, 1893	The whole.

REGULATION No. IV OF 1905.

[Published in the Gazette of India on the 2nd September, 1905 ; and in the
 Coorg District Gazette on the 2nd October, 1905.]

A Regulation to amend the Coorg Courts Regulation, 1901.

1 of 1901.

WHEREAS it is expedient to amend the Coorg Courts Regulation, 1901 ;
 It is hereby enacted as follows :—

1. This Regulation may be called the Coorg Courts (Amendment) Regula- Short title.
 tion, 1905.

1 of 1901.

2. For sub-section (2) of section 15 of the Coorg Courts Regulation, 1901,
 the following shall be substituted, namely :—

[Supra, p. 139.]

Amend-
 ment of
 section 15,
 sub-section
 (2), Regu-
 lation I,
 1901.
 Amend-
 ment of
 section 16,
 sub-section
 (3).

3. In sub-section (3) of the said section, for the words “ the appeal ” the
 words “ any case ” shall be substituted.

THE COORG MUNICIPAL REGULATION, 1907 (II OF 1907).

CONTENTS.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and extent.
2. Definitions.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

SECTIONS.

3. Proposal to create, alter the limits of, or abolish, municipality.
4. Contents of notification under section 3.
5. Creation, alteration of limits, or abolition, of municipality.
6. Effect of including local area in municipality.
7. Effect of excluding local area from municipality or withdrawing whole area of municipality from Regulation.

CHAPTER III.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

8. Number and appointment of members of committee.
9. Term of office of members.
10. Incorporation of committee.
11. Member of committee to be municipal commissioner.
12. Appointment of president and vice-president.
13. Removal of president, vice-president and members of committee.
14. Delegation of powers.

Conduct of Business.

15. Ordinary and special meetings.
16. Time and place for holding meetings.
17. Chairman of meeting.
18. Quorum.
19. Vote of majority decisive.
20. Record and publication of proceedings.
21. By-laws for conduct of business.
22. Extraordinary powers of president and vice-president in case of emergency.

Joint Committees.

23. Joint committees.

Defects in Constitution and Irregularities.

24. Vacancies and irregularities not to invalidate proceedings.

Officers and Servants.

SECTIONS.

25. Appointment of secretary.
26. Employment of other officers and servants.
27. Power to call for reduction of establishment or of cost of establishment and dismissal of unfit persons.
28. Pensions, gratuities and leave-allowances of Government officials serving committees.
29. Leave-allowances, pensions, gratuities and annuities of officers or servants other than Government officials.

Contracts.

30. Authority to contract.
31. Mode of entering into contracts.
32. Penalty on member, officer or servant of committee being interested in contract made with committee.

Privileges and Liabilities.

33. Bar of suit in absence of notice.
34. Liability of members for loss, waste or misapplication.

CHAPTER IV.

TAXATION AND MUNICIPAL FUND.

Taxation.

35. Taxes which may be imposed.
36. Assessment of Government houses or building in certain cases.
37. Limitation upon taxes in certain cases.
38. Procedure in imposing taxes.
39. Tax not invalid for defect or form.
40. Power of committee to abolish or reduce or exempt from tax.
41. Power of Chief Commissioner to abolish or reduce tax.
42. Duty of furnishing true information regarding liability to taxation.
43. Recovery of taxes.
44. Power to charge fees.
45. Appeals against taxation.
46. Limitation of appeal.
47. Taxation not to be questioned except under this Regulation.

Municipal Fund and Property.

SECTIONS.

48. Constitution of municipal fund.
49. Application of fund.
50. Custody and investment of municipal fund.
51. Property vested in committee.
52. Acquisition of land under Act I of 1894.

CHAPTER V.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

53. Power to acquire land for building sites adjoining new streets.
54. Power to close streets.
55. Power to permit temporary occupation of streets or land.
56. Power to attach brackets for lamps.
57. Names of streets and numbers of buildings.
58. Roofs and external walls not to be made of inflammable materials.
59. Power to regulate line of buildings.
60. Power to regulate new building.
61. Removal of projections and overhanging structures.
62. Exemption of Government buildings or lands from the operation of sections 53 to 61.

Bathing and Washing Places.

63. Bathing and washing places.

Deposit of offensive Matter and Slaughter-places.

64. Removal and deposit of offensive matter.
65. Places for slaughter of animals.
66. Slaughter of animals for other purposes.
67. Special provisions with respect to disposal of dead bodies of animals.
68. Definition of "animal".

Burial and Burning Places.

69. Powers in respect of burial and burning places.
70. Removal of corpses.

Inflammable Materials.

SECTIONS.

71. Inflammable materials.

Powers of Entry and Inspection.

72. Powers in respect of drains, privies and cess-pools.
73. Powers of entry on building or land.
74. Power to enter for discovery of animals or vehicles liable to taxation.
75. Power in respect of places used for sale or storage of articles for human consumption, as slaughter-houses, or for sale of drugs.
76. Power of entry in certain cases for purposes connected with scavenging.
77. Power in respect of inflammable or explosive material when stored in excess of authorized quantity.
78. Precautions to be observed in entering dwelling.

Water-pipes, Privies and Drains.

79. Troughs and pipes for rain-water.
80. Provision of privies or cess-pools.
81. Repair and closing of privies, drains or cess-pools.
82. Unauthorised building over drains.
83. Removal of drains, latrines or cess-pools near any source of water-supply.
84. Power to require drainage of unwholesome tanks.

Dangerous Buildings and Places.

85. Power to require buildings, wells, tanks or excavations to be secured.
86. Power to require building, wall or structure in ruinous or dangerous state to be removed or repaired.

Buildings and Grounds in Insanitary Condition.

87. Power to require owner to clear away noxious vegetation.
88. Power to require owner to trim hedges and trees bordering on street.
89. Power to require filthy buildings or land to be cleaned.
90. Power to prohibit use for human habitation of buildings unfit for such use.
91. Power to require untenanted buildings becoming a nuisance to be secured or enclosed.
92. Power to Chief Commissioner to prohibit cultivation, use of manure or irrigation injurious to health.

Offensive and Dangerous Trades.

SECTIONS.

- 93. Regulation of offensive and dangerous trades.
- 94. Power to prohibit such trades.
- 95. Milkmen and others not to keep animals or cattle without license.

Sale of Food, Drink and Drugs.

- 96. Power to make by-laws as to sale of articles intended for human consumption and drugs.

Disposal of Dogs.

- 97. Disposal of mad and stray dogs.

Restraint of Infection.

- 98. Prohibition by committee of use of unwholesome water.

By-laws generally.

- 99. General power to make by-laws.
- 100. Power to prohibit commission of public nuisances.
- 101. Powers as to conditional orders in respect of certain acts and omissions.
- 102. Delegation of powers to sub-committees.

CHAPTER VI.

OFFENCES AND PENALTIES.

- 103. Depositing or throwing earth or materials, or refuse, rubbish or offensive matter, on roads or into drains.
- 104. Discharging sewage.
- 105. Failure to remove offensive matter.
- 106. Making or altering drains without authority.
- 107. Making or keeping latrines near any source of water-supply.
- 108. Feeding animals on deleterious substances.
- 109. Neglect of the rule of the road.
- 110. Driving vehicles without proper means of control or without lights.
- 111. Discharging fire-arms, etc.
- 112. Control of elephants and camels.
- 113. Taking animals or vehicles along public roads.
- 114. Beating drum or sounding musical instrument.
- 115. Suffering animals to be at large.
- 116. Altering, obstructing or encroaching upon streets.

SECTIONS.

117. Quarrying, blasting, cutting timber or building.
118. Making or selling food when suffering from disease.
119. Disturbing direction-posts or lamps.
120. Destroying or defacing names or numbers.
121. Slaughtering animals contrary to section 65.
122. Slaughtering animal or conveying meat contrary to notification under section 66.
123. Improper disposal of dead bodies of animals.
124. Burying or burning corpse contrary to section 69.
125. Carrying corpses by prohibited routes or so as to cause annoyance.
126. Selling articles for human consumption of a nature different from the articles demanded.
127. Possession of article or animal unfit for human consumption or adulterated drug.
128. Refusing to sell food or drink.
129. Cultivating, manuring or irrigating contrary to section 92.
130. Using places for certain trades without license.
131. Using places for offensive or dangerous trades after prohibitory notice.
132. Soliciting for purposes of prostitution.
133. Disobedience to orders not punishable under any other section.
134. Prosecution to be suspended in certain cases.

CHAPTER VII.
EXTINCTION AND PREVENTION OF FIRE.

135. Establishment and maintenance of fire-brigade.
136. Power of fire-brigade and other persons for suppression of fires.
137. Powers subject to prescribed regulations, etc.
138. Operation of Chapter.

CHAPTER VIII.
CONTROL.

139. Control by Commissioner.
140. Power to suspend action under regulation.
141. Extraordinary powers of Commissioner in cases of emergency.
142. Powers of Chief Commissioner in case of default of committee.
143. Power of Chief Commissioner to supersede committee in case of incompetency, persistent default or abuse of powers.
144. Power of Chief Commissioner to frame forms and make rules.
145. General powers of Chief Commissioner.

SECTIONS.

CHAPTER IX.

SUPPLEMENTAL.

Notices.

146. Authentication, service and validity of notices.
147. Execution of acts required to be done by any notice.
148. Mode of giving notice to owner or occupier of property.
149. Publication of public notices.

MISCELLANEOUS.

150. Recovery of costs of execution.
151. Compensation out of municipal fund.
152. Powers and duties of police in respect of offences against Regulation, and assistance to municipal authorities.
153. Initiation of prosecutions.
154. Power to compound offences.
155. Commissioner's power to revise certain orders of committee.
156. No appeal to lie against any order unless expressly provided for in the Regulation and all orders made in appeal to be final.
157. Suspension of proceedings and prosecutions when the revision of certain orders is under contemplation.
158. Procedure for making rules or by-laws.
159. Power to make rules regulating conservancy of reservoir and catchment area.
160. Saving of Act XI of 1879.
161. Brothels.
162. Power to except municipality from provisions of Regulation unsuited thereto.

CHAPTER X.

SMALL TOWNS.

163. Constitution of notified areas.
164. Power for Chief Commissioner to impose taxation and regulate expenditure of proceeds thereof.
165. Application of Regulation to notified areas.
166. Effect of cancellation of notification issued under section 163.

CHAPTER XI.

REPEALS.

167. Repeals.

REGULATION No. II OF 1907. ✓

[Published in the Gazette of India on the 6th July 1907 ; and in the Coorg District Gazette on the 1st August, 1907.]

A Regulation to make better provision for the organisation and administration of municipalities in Coorg.

WHEREAS it is expedient to make better provision for the organisation and administration of municipalities in Coorg ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title
and extent.

1. (1) This Regulation may be called the Coorg Municipal Regulation, 1907 ; and

(2) It extends to the territories for the time being administered by the Chief Commissioner of Coorg.

Definitions.

2. In this Regulation, unless there is anything repugnant in the subject or context,—

- (a) “municipality” means a local area declared by or under this Regulation to be a municipality :
- (b) “committee” means a municipal committee established by or under this Regulation :
- (c) “street” includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway :
- (d) “owner”, used with reference to any building or land, includes the person who is receiving the rent of the building or land, whether on his own account or as agent or trustee, or who would so receive the rent if the building or land were let to a tenant :
- (e) “prescribed” means prescribed by rules made by the Chief Commissioner under this Regulation :
- (f) “tax” includes any toll, rate, cess, fee or other impost leviable under this Regulation : and
- (g) “explosive” and “petroleum” have the meaning assigned to them in the ¹Indian Explosives Act, 1884, and the ²Indian Petroleum Act, 1899, respectively.

IV of 1884,
VIII of 1899 :

¹ See the reprint as modified up to 1st December 1903.

² See the reprint as modified up to 1st December 1904.

(Chap. II.—Constitution of Municipalities. Secs. 3-6.)

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

3. The Chief Commissioner may, by notification in the local official Gazette and by such other means as he may determine, signify his intention—
- Proposal to create, alter the limits of, or abolish, municipality.
- (a) to declare any town, or any group of towns, in the immediate neighbourhood of one another, a municipality under this Regulation;
- (b) to include within a municipality any local area in the vicinity of the same;
- (c) to exclude from a municipality any local area comprised therein; or
- (d) to withdraw the whole area comprised in any municipality from the operation of this Regulation:

Provided that, where any part of a local area affected by any such notification is a military cantonment or part of a military cantonment, such notification shall not be published without the previous consent of the Governor General in Council.

4. Every notification published under section 3 shall define the limits of the local area to which it refers.

Contents of notification under section 3.

5. (1) Any inhabitant of any part of a local area defined in a notification published under section 3 may, if he objects to anything therein contained, submit his objection in writing to the Chief Commissioner within six weeks from the date of the publication of the notification, and the Chief Commissioner shall take his objection into consideration.

Creation, alteration of limits, or abolition of municipality.

(2) When six weeks from the date of the publication of the notification have expired, the Chief Commissioner may, by a further notification in the local official Gazette,—

- (a) declare the local area or any specified part thereof to be a municipality under this Regulation, or
- (b) include the local area or any part thereof in the municipality or exclude it therefrom, or
- (c) withdraw the whole area comprised in the municipality from the operation of this Regulation,

as the case may be.

6. When a local area is included in a municipality by a notification published under section 5, sub-section (2), all rules and by-laws made, orders, directions and notices issued, and powers conferred and in force throughout the municipality at the time when the local area is so included, shall apply thereto unless the Chief Commissioner, in and by the notification, otherwise directs.

Effect of including local area in municipality.

(Chap. II.—*Constitution of Municipalities.* Sec. 7. Chap. III.—*Organization of Committees.* Sec. 8.)

Effect of excluding local area from municipality or withdrawing whole area of municipality from Regulation.

7. (1) When a local area is excluded from a municipality by a notification published under section 5, sub-section (2),—

(a) this Regulation and all rules and by-laws made, orders, directions and notices issued, and powers conferred thereunder shall cease to apply thereto;

(b) the Chief Commissioner shall, after consulting the committee, frame a scheme determining what portion of the balance of the municipal school and hospital funds and other property vested in the committee shall vest in His Majesty for the benefit of the inhabitants of the local area, and in what manner the liabilities of the committee shall be apportioned between the committee and the Secretary of State for India in Council; and, on the publication of such scheme in the local official Gazette, such property and liabilities shall vest and be apportioned accordingly.

(2) When the whole area comprised in any municipality is withdrawn from the operation of this Regulation by a notification published under section 5, sub-section (2), this Regulation and all rules and by-laws made, orders, directions and notices issued, and powers conferred thereunder, shall cease to apply thereto; and the balance of the municipal fund and all other property at the time of the issue of the notification vested in the committee shall vest in His Majesty, and the liabilities of the committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in His Majesty under this section shall be applied, under the orders of the Chief Commissioner, to the discharge of the liabilities imposed on the Secretary of State for India in Council thereby or for the promotion of the safety, health, welfare or convenience of the inhabitants of the area affected.

CHAPTER III.

ORGANIZATION OF COMMITTEES.

Constitution of Committees.

Number and appointment of members of committee.

8. (1) There shall be established for each municipality a committee having authority over that municipality and consisting of such number of members, not less than five, as may be prescribed.

(2) Such members may be appointed, in the prescribed manner, by nomination or by election, or some by nomination and some by election.

(3) Not less than two-fifths of the members of a committee shall be persons other than salaried officers of the Government.

(Chap. III.—Organization of Committees. Secs. 9-12.)

(4) Every appointment of a member shall be notified in the local official Gazette.

9. (1) Where a member of a committee is appointed by virtue of office, the person for the time being holding the office shall be a member until the Chief Commissioner otherwise directs. Term of office of members.

(2) Every member of a committee appointed otherwise than by virtue of office shall be a member for the prescribed term, which may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(3) An outgoing member shall, if otherwise qualified, be eligible for re-appointment.

(4) Any member of a committee wishing to resign shall forward his written resignation through the president of the committee to the Commissioner, and he shall be deemed to have vacated his seat when the acceptance of his resignation by the Chief Commissioner has been communicated to the committee.

10. Every committee shall be a body corporate by the name of the municipal committee of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name: Incorporation of committee.

Provided that no committee shall transfer any immoveable property except in pursuance of a resolution passed at a special meeting and approved by the Chief Commissioner.

11. Every member of a committee shall be deemed to be a municipal commissioner within the meaning of any enactment for the time being in force. Member of committee to be municipal commissioner.

12. (1) There shall be a president and vice-president of every committee. Appointment of president and vice-president.

(2) The Chief Commissioner may appoint any person, whether a member of the committee or not, to be president or vice-president, or may authorize any committee to elect, in the prescribed manner, its president or vice-president, or both.

(3) The election of a president or vice-president shall not be valid until it has been confirmed by the Chief Commissioner and has been notified in the local official Gazette.

(4) A president and vice-president shall hold the office for the prescribed term.

(5) Where a person not already a member of the committee is appointed or elected president or vice-president, he shall, notwithstanding anything in the foregoing sections, become a member of the committee by virtue of his

(Chap. III.—Organization of Committees. Secs. 13-18.)

appointment or election, and shall continue to be a member so long as he holds office as president or vice-president.

Removal of president, vice-president and members of committee.

13. The Chief Commissioner may, at any time, remove the president, vice-president or any member of a committee—

- (a) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order as implies, in the opinion of the Chief Commissioner, a defect of character which unfits him to be the president or vice-president or a member of the committee;
- (b) if he, without an excuse sufficient in the opinion of the Chief Commissioner, absents himself for more than three consecutive months from the meetings of the committee or of a sub-committee of which he is a member; or
- (c) if his continuance in office is, in the opinion of the Chief Commissioner, undesirable in the interests of the public or of the municipality.

Delegation of powers.

14. The Chief Commissioner may, by notification in the local official Gazette, delegate to the Commissioner in respect of any specified municipality or municipalities in his jurisdiction all or any of the powers and functions of the Chief Commissioner in respect of the appointment or resignation of a president, vice-president or any member of a committee.

Conduct of Business.

Ordinary and special meetings.

15. (1) A meeting of a committee shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by or under this Regulation to be transacted at a special meeting.

Time and place for holding meeting.

16. (1) Every committee shall meet for the transaction of business at least once in every month at such time and place as may, from time to time, be fixed by by-laws made under section 21.

(2) The president or, in his absence or during the vacancy of his office, the vice-president may, whenever he thinks fit, and shall on a requisition made in writing by not less than one-fifth of the members of the committee, convene either an ordinary or special meeting at any other time.

Chairman of meeting.

17. (1) At every meeting of a committee the president, if present, shall preside as chairman.

(2) If, when any meeting is held, the office of president is vacant or the president is absent from the meeting and the vice-president is present, the vice-president shall preside as chairman.

(3) In any case not provided for by sub-section (1) or sub-section (2), the members present shall elect one of their number to be chairman of the meeting.

Quorum.

18. (2) The quorum necessary for the transaction of business at a special meeting of a committee shall be one-half of the members of the committee.

(Chap. III. —Organization of Committees. Secs. 19-22.)

(2) The quorum necessary for the transaction of business at an ordinary meeting of a committee shall be such number or proportion of the members of the committee as may, from time to time, be fixed by by-laws made under section 21, but shall be not less than three :

Provided that, if at any ordinary or special meeting of the committee a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been brought before the original meeting, if there had been a quorum present, shall be brought before, and transacted at, the adjourned meeting, whether there is a quorum present thereat or not.

19. Save as otherwise provided by or under this Regulation, all questions brought before any meeting of a committee shall be decided by a majority of the votes of the members present, and, in the case of an equality of votes, the chairman of the meeting shall have a second or casting vote. Vote of majority decisive.

20. (1) Minutes of the proceedings at each meeting of a committee shall be recorded in a book to be kept for the purpose, shall be signed by the chairman of the meeting or of the next ensuing meeting, shall be published in the manner prescribed, and shall, at all reasonable times and without charge, be open to the inspection of any inhabitant of the municipality. Record and publication of proceedings.

(2) A copy of every resolution passed by a committee at a meeting shall, within six days from the date of the meeting, be forwarded to the Commissioner.

21. (1) A committee may, from time to time, at a special meeting make by-laws consistent with this Regulation and the rules thereunder for regulating— By-laws for conduct of business.

- (a) the time and place of its meetings ;
- (b) the conduct of its business ;
- (c) the quorum necessary for the transaction of business at ordinary meetings ;
- (d) the division of duties among its members, the formation of sub-committees, and the powers to be exercised by sub-committees or by such members as are primarily responsible for the current executive administration, whether presidents, vice-presidents, members of sub-committees or individual members ;
- (e) the duties and salaries of its officers and servants ;
- (f) the persons by whom receipts may be granted on its behalf for money received under this Regulation ; and
- (g) other similar matters.

(2) No by-law made under this section shall take effect until it has been confirmed by the Chief Commissioner.

22. In cases of emergency the president or, in his absence or during the vacancy of his office, a vice-president may direct the execution of any work or the doing of any act which the committee is empowered to execute or do, Extraordinary powers of president and vice-

(Chap. III.—Organization of Committees. Secs. 23-25.)

president
in case of
emergency.

and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund :

Provided that—

- (a) he shall not act under this section in contravention of any order of the committee ; and
- (b) every direction given under this section shall be reported to the next following meeting of committee.

Joint Committees.

Joint com-
mittees.

23. (1) A committee may, from time to time, concur with any other committee, or with a district council, or with an independent local board, or with a cantonment authority, or with more than one such committee, council board or authority, 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 the joint committee, and in delegating to any such joint committee any power which might be exercised by either or any of the committees councils, boards or authorities, and in framing and modifying regulations as to the proceedings of any such joint committee, and as to the conduct of correspondence relating to the purpose for which the joint committee is appointed.

(2) Where any difference of opinion arises between committees, councils, boards or authorities acting under this section, the decision thereon of the Commissioner shall be final.

Defects in Constitution and Irregularities.

Vacancies
and irregu-
larities not to
invalidate
proceedings.

24. Anything done or any proceedings taken under this Regulation shall not be questioned on account of any vacancy in a committee or joint committee, or on account of any defect or irregularity not affecting the merits of the case.

Officers and Servants.

Appointment
of secretary.

25. (1) Every committee shall, from time to time, at a special meeting and subject to the approval of the Chief Commissioner, appoint one or more of its members, or, with the sanction of the Chief Commissioner, any other person or persons, to be its secretary or secretaries, and may, at a like meeting and subject to the like approval, remove any person so appointed.

(2) A committee may, with the previous sanction of the Chief Commissioner, assign to a secretary such salary as the committee thinks fit :

Provided that, where a member of the committee is appointed to be secretary, he shall receive no remuneration in respect of his services.

(Chap. III.—Organization of Committees. Secs. 26-29.)

26. Subject to the other provisions of the Regulation and to the qualifications prescribed in the case of persons appointed to offices requiring professional skill, a committee may employ, in addition to its secretary, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such salaries as it thinks fit.

Employment of other officers and servants.

27. (1) If, in the opinion of the Commissioner, the number of persons employed by a committee as officers or servants, or whom the committee propose to employ as such, or the salaries assigned by the committee to those persons or any of them, are excessive, the committee shall, on the requisition of the Commissioner, within such time as may be fixed by the Commissioner in this behalf, reduce the number of those persons or their salaries, as the case may be.

Power to call for reduction of establishment or of cost of establishment and dismissal of unfit persons.

(2) If, in the opinion of the Commissioner, any person employed by a committee as an officer or servant is by reason of bad character, incompetence or idleness, or for any other sufficient reason not fit to be retained in the service of the committee, the committee shall, on the requisition of the Commissioner, within one month from the date of receipt of such requisition, dispense with the services of such person :

Provided that, before making any such requisition, the Commissioner shall call upon the officer or servant concerned to show cause why such requisition should not be made.

(3) The committee to whom a requisition is made under sub-section (1), and any person whose services are dispensed with in compliance with a requisition under sub-section (2), may appeal to the Chief Commissioner whose decision shall be final :

Provided that no person removed in compliance with a requisition made under sub-section (1) shall have any right of appeal.

28. In the case of a Government official a committee may,—

- (i) where his services are wholly lent to it, subscribe for his pension or gratuity and leave allowances in accordance with the Civil Service Regulations for the time being in force ; and
- (ii) where he devotes only a part of his time to the performance of duties in behalf of the committee, make a contribution on account of his pension or gratuity and leave-allowances in such proportion as may be determined by the Government.

Pensions, gratuities and leave-allowances of Government officials serving committees.

29. In the case of an officer or servant not being a Government official, a committee may—

- (a) grant him leave-allowances and, where his monthly pay is less than ten rupees, a gratuity ; and,

Leave-allowances, pensions, gratuities and annuities of

(Chap. III—Organization of Committees, Secs. 30-33.)

officers or
servants
other than
Government
officials.

- (b) with the general or special sanction of the Chief Commissioner,—
- (i) subscribe on his behalf for pension or gratuity under the Civil Service Regulations for the time being in force; or
 - (ii) purchase for him from the Government or otherwise an annuity on his retirement:

Provided that no leave-allowance pension, gratuity or annuity shall exceed the sum to which, under the Civil Service Regulations for the time being in force, the officer or servant would be entitled if the service had been service under Government.

Contracts.

Authority to
contract.

30. (1) A committee may delegate to one or more of its members or to a secretary the power of entering on its behalf into any particular contract whereof the value or amount does not exceed two hundred rupees or into any class of such contracts.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be entered into until it has been sanctioned by the committee at a meeting.

Mode of
entering into
contracts.

31. (1) Every contract made by or on behalf of a committee whereof the value or amount exceeds fifty rupees shall be in writing.

(2) Every such contract shall be signed by the president or vice-president and a secretary:

Provided that the committee may delegate to one or more of its members or to a secretary the power of signing any contracts which he or they is or are empowered to enter into under section 30, sub-section(1).

(3) If a contract to which this section applies is entered into otherwise than in conformity therewith, it shall not be binding on the committee.

Penalty on
member,
officer or
servants of
committee
being inter-
ested in
contract
made with
committee.

32. (1) If any member, officer or servant of a committee is, otherwise than with the written permission of the Commissioner, directly or indirectly interested in any contract made with the committee, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.¹ XLV of 18

(2) A person shall not, by reason of being a share-holder in, or member of, any incorporated or registered company, be deemed to be interested in any contract entered into between the company and the committee, but he shall not take part in any proceedings of the committee relating to any such contract.

Privileges and Liabilities.

Bar of suit
in absence of
notice.

33. (1) No suit shall be instituted against a committee or any of its officers or servants or any person acting under its direction for anything done or

¹ See the reprint as modified up to 1st April, 1903.

(Chap. III.—Organization of Committees. Sec. 34. Chap. IV.—Taxation and Municipal Fund. Sec. 35.)

purporting to be done under this Regulation, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a committee, delivered or left at its office, and, in the case of any such officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode.

(2) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action and service of such notice, as aforesaid is admitted or proved.

(3) Where it is proved to the satisfaction of the Court that before the suit was instituted tender of sufficient amends had been made to the plaintiff, the plaintiff shall not recover his costs nor any relief not included in such tender, and shall defray the costs of the defendant in the suit.

I of 1877.

(4) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

34. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to, or under the control of, the committee, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the committee, and a suit for compensation for the same may be instituted against him by the committee, with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Liability of members for loss, waste or mis-application.

CHAPTER IV.

TAXATION AND MUNICIPAL FUND.

Taxation.

35. Subject to any general rules or special orders which the Governor General in Council may make in this behalf, a committee may, for the purposes of this Regulation, impose, with the sanction hereinafter specified in each case and in the manner required by section 38, any of the following taxes, namely:—

Taxes which may be imposed.

(a) with the previous sanction of the Chief Commissioner,—

(i) a tax on houses, buildings or lands situate within the limits of the municipality, not exceeding seven and a half per centum of the gross annual letting value of the houses, buildings or lands;

(Chap IV.—Taxation and Municipal Fund. Secs. 36-37.)

- (ii) a tax on persons occupying houses, buildings or lands within the limits of the municipality according to their circumstances and property within those limits ;
 - (iii) a tax on persons exercising any profession or art, or carrying on any trade or calling, within the limits of the municipality ;
 - (iv) a tax on all or any vehicles or animals used for riding, driving, draught or burden, or on dogs, where such vehicles, animals or dogs are kept within the limits of the municipality ;
 - (v) a tax on vehicles and animals used as aforesaid entering the limits of the municipality, and on boats moored within these limits ;
 - (vi) an octroi on goods or animals brought within the limits of the municipality for consumption or use within those limits ;
 - (vii) market-dues on persons using any building, structure, market, bazar or ganj belonging to or under the control of the committee, or exposing goods for sale in any place belonging to or under the control of the Government or the committee ;
 - (viii) fees on the registration of cattle sold within the limits of the municipality ;
 - (ix) a latrine or conservancy tax upon private latrines or cess-pools or upon premises or compounds cleansed by municipal servants or a tax for the maintenance of public latrines ; and
 - (x) a water-rate where water is supplied by the committee ; and,
- (b) with the previous sanction of the Chief Commissioner and of the Governor General in Council, any tax not authorised under clause (a).

Assessment of Government houses or buildings in certain cases.

36. (1) In any municipality in which any tax is imposed under section 35, clause (a), sub-head (ii), no tax shall be assessed on any person in respect of his occupation of any houses, buildings or lands, the property of His Majesty ; but a rate not exceeding seven and a half per centum may be assessed on the annual value of such houses, buildings or lands, and such rate shall be payable by the Government.

(2) For the purposes of sub-section (1), the annual value shall be deemed to be the gross annual rental at which the houses, buildings or lands may be reasonably expected to let :

Provided that, where the actual cost of erecting any such house or building can be ascertained or estimated, the annual value of such house or building shall, in no case, be deemed to exceed an amount which would be equal to seven and a half per centum on such cost, in addition to a reasonable ground rent for the land on which such house or building has been erected.

Limitation upon taxes

37. In assessing the amount of any latrine or conservancy tax upon private latrines or cess-pools or upon premises or compounds cleansed by municipal

(Chap. IV.—Taxation and Municipal Fund. Secs. 38-39.)

servants or a water-rate, under section 35, clause (a), sub-head (ix) or sub-head (x), regard shall be had to what is actually expended on the service rendered, or on the water supplied, as the case may be. in certain cases.

38. (1) A committee may resolve at a special meeting to propose the imposition of any tax for the purposes of this Regulation. Procedure in imposing taxes.

(2) Where a resolution has been passed under sub-section (1), the committee shall publish, in the prescribed manner, a notice defining the class of persons or description of property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within one month from the publication of the notice, submit his objection in writing to the committee, and the committee shall, at a special meeting, take his objection into consideration.

(4) Where no objection is submitted as aforesaid, or where the objections so submitted, having been considered by the committee, are deemed insufficient, the committee may forward its proposals to the Chief Commissioner with the objections (if any) so submitted.

(5) The Chief Commissioner may, on receiving the proposals of the committee, sanction the same, or refuse to sanction them, or sanction them subject to such modifications as he may think fit, or return them to the committee for further consideration.

(6) Where the Chief Commissioner sanctions any proposals which, under section 35, clause (b), require the further sanction of the Governor General in Council, he shall submit them to the Governor General in Council, with the objections (if any) received through the committee; and the Governor General in Council may sanction them, or refuse to sanction them, or sanction them subject to such modifications as he may think fit, or return them to the Chief Commissioner for further consideration.

(7) No modification affecting the substance shall be made under sub-section (5) or sub-section (6) unless and until the modification has been accepted by the committee at a special meeting.

(8) Where any proposals for taxation have been sanctioned under sub-section (5) or sub-section (6) by the Chief Commissioner or by the Chief Commissioner and the Governor General in Council, as the case may be, the Chief Commissioner may, by notification in the local official Gazette, direct the imposition of the tax as sanctioned from such date as may be specified in the notification, and may by rule determine the authority by which the initial assessments shall be fixed and thereupon the tax shall come into effect as from the date so specified.

39. A tax imposed under this Regulation shall not be invalid for defect of form; and, where any property is described for the purpose of assessing Tax not invalid for

(Chap. IV.—Taxation and Municipal Fund. Secs. 40-43.)

defect of form.

any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Power of committee to abolish or reduce or exempt from tax.

40. A committee, by resolution passed at a special meeting and confirmed by the Chief Commissioner, may abolish or reduce any tax imposed under this Regulation, or suspend the operation of any tax within any part of the municipality for any specified period, or exempt in whole or in part from the payment of any tax any person or class of persons or any property or description of property.

Power of Chief Commissioner to abolish or reduce tax.

41. The Chief Commissioner may, for reasons to be recorded, exercise the powers conferred on a committee by section 40.

Duty of furnishing true information regarding liability to taxation.

42. (1) A committee may, by notice, call upon any inhabitant of the municipality to furnish within a reasonable time such information as may be necessary in order to ascertain—

- (a) whether such inhabitant is liable to pay any tax imposed under this Regulation; and
(b) the amount at which he should be assessed.

(2) Where any inhabitant called upon to furnish information in pursuance of sub-section (1) omits to furnish it, or furnishes information which is untrue, and which he knows or believes to be untrue or which he does not believe to be true, he shall be punishable with fine which may extend to one hundred rupees.

Recovery of taxes.

43. (1) Arrears of any tax may, on the application of the committee or of some person authorised generally or specially by the committee in this behalf to a Magistrate having jurisdiction within the limits of the municipality, be recovered, with any sum leviable on account of court-fees or the prescribed process-fees, and with interest at the rate of twelve and a half per centum per annum, by distress and sale of any moveable property belonging to the defaulter within the limits of such Magistrate's jurisdiction:

Provided that no interest shall be so recovered in any case in which the Magistrate, for reasons to be recorded in writing, considers it inexpedient that interest should be charged.

(2) Where the arrears are due in respect of immoveable property, they shall, subject to any claim on behalf of His Majesty, be a first charge on the property and shall be recoverable, on the application of the committee or of some person authorised generally or specially by the committee in this behalf to the Commissioner, as if the property were land assessed to land-revenue and the arrear were an arrear of such revenue due thereon:

Provided that nothing in this sub-section shall be deemed to authorise the arrest of a defaulter.

(3) Where there is no sufficient moveable property belonging to the person from whom any money is claimable on account of any arrears of any tax

(Chap. IV.—Taxation and Municipal Fund. Secs. 44-46.)

within the jurisdiction of any Magistrate having jurisdiction within the limits of the municipality, any such Magistrate may, on the application of the committee or of some person authorised generally or specially by the committee in this behalf, grant a certificate of the amount due on account of arrears, with court-fees, process-fees and interest (if any), by the person from whom the money is claimable, and shall forward the certificate so granted to the Magistrate within whose jurisdiction any such property belonging to such person is or is believed to be; and the Magistrate receiving such certificate shall proceed to recover, by distress and sale of any moveable property belonging to the defaulter within the limits of his jurisdiction, the amount certified, with any further sum leviable on account of court-fees or process-fees, and shall remit the amount recovered under such certificate to the Magistrate by whom the certificate was granted.

44. (1) Where any license is granted by a committee under this Regulation, or where permission is given by a committee for making any temporary erection or for putting up any projection or for the temporary occupation of any street, the committee may charge a fee for such license or permission. Power to charge fees.

(2) The committee may also charge such fees as may be fixed by by-laws made under section 99 for the use of any places belonging to, or under the control of, the committee.

45. (1) An appeal from the assessment or levy of any tax under this Regulation shall lie to the committee. Appeals against taxation.

(2) Where, on the hearing of an appeal under this section, any question as to the liability to, or the principle of assessment of, a tax arises, on which the committee entertains a reasonable doubt, it may, either of its own motion or on the application of any person interested, draw up a statement of the facts of the case and the point on which the doubt is entertained, and refer the statement with its own opinion on the point for the decision of such officer as may be appointed by the Chief Commissioner in this behalf, and his decision shall be final unless the Chief Commissioner sees fit to revise it.

46. (1) No appeal shall lie in respect of any assessed tax unless it is preferred— Limitation of appeal.

(a) within one month after the publication of an assessment-list or notice, where such publication is provided for in the system of assessment framed under section 38, sub-section (2); or

(b) within one month after the final decision of the assessing authority on any objection received, where an opportunity for submitting objections to the assessing authority is allowed and any objection has been duly submitted.

(2) Except as provided in sub-section (1), no appeal shall lie in respect of any tax, unless the appeal is preferred within one month from the time when the demand for the tax is made, and unless (except when the President

(Chap. IV.—Taxation and Municipal Fund. Secs. 47-49.)

otherwise directs on the ground of poverty) the tax in respect of which the appeal is presented has been deposited at the municipal office on or before the day upon which the appeal is presented.

Taxation not to be questioned except under this Regulation.

47. No objection shall be taken to any valuation or assessment, nor shall the liability of any person to be assessed or taxed be questioned, in any other manner or by any other authority than is provided in this Regulation.

Municipal Fund and Property.

Constitution of municipal fund.

48. There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

- (a) all sums received by or on behalf of the committee;
- (b) all fines recovered from persons convicted of offences committed within the municipality against this Regulation or any rules or by-laws made thereunder or against section 34 of the ¹ Police V of 1861. Act, 1861, or against the ² Public Gambling Act, 1867; III of 1867.
- (c) the balance (if any) standing at the commencement of this Regulation at the credit of the municipal fund under the control of the committee.

Application of fund.

49. (1) The committee shall set apart and apply annually out of the municipal fund—

- (a) first, such sum as may be required for the payment of any amounts falling due on any loan legally contracted by it;
- (b) secondly such sum as may be required to meet the charges of its own establishment, including such subscriptions and contributions as are referred to in sections 28 and 29;
- (c) thirdly, the expenses incurred in auditing the accounts of the committee, and such portion of the cost of the Provincial Departments for education, sanitation, vaccination, medical relief and public works as may be held by the Chief Commissioner to be equitably debitable to the committee in return for services rendered to it by these departments; and
- (d) fourthly, the cost of the construction and maintenance of buildings for the offices of the committee.

(2) Subject to the charges specified in sub-section (1) and to such priority in respect of the several duties of the committee as may be prescribed, the municipal fund shall be applicable to the payment, in whole or in part, of the charges and expenses incidental to the following matters within the limits of the municipality, and, with the sanction of the Commissioner, to the payment of the like charges and expenses without those limits

¹ See the reprint as modified up to 7th March, 1903.

² *Supra*, p. 8.

(Chap. IV.—Taxation and Municipal Fund. Sec. 50.)

where such an application of the fund is for the benefit of the inhabitants of the municipality, namely:—

- (a) the construction, maintenance, improvement, cleansing and repair of streets and public bridges, embankments, drains, latrines, cess-pools, tanks and water-courses;
- (b) the watering and lighting of the streets or any of them;
- (c) the construction, establishment and maintenance of schools, hospitals and dispensaries, including veterinary dispensaries, and of other institutions for the promotion of education or for the benefit of the public, and of rest-houses, sarais, poor-houses, markets, encamping-grounds, recreation-grounds, gardens, parks, pounds and other works of public utility, and the control and administration of public institutions of any of these descriptions;
- (d) grants-in-aid to schools, hospitals, dispensaries, including veterinary dispensaries, poor-houses, leper-asylums and other educational or charitable institutions;
- (e) the training of teachers and the establishment of scholarships;
- (f) the giving of relief and the establishment and maintenance of relief-works in time of famine or scarcity;
- (g) the supply, storage and preservation from pollution of water for the use of men or animals;
- (h) the planting and preservation of trees;
- (i) the taking of a census, and the registration of births, marriages and deaths;
- (j) public vaccination and any other sanitary measure;
- (k) the holding of fairs and industrial exhibitions;
- (l) all acts and things likely to promote the safety, health, welfare or convenience of the inhabitants; and
- (m) any other matter, expenditure whereon may be declared by the committee, with the sanction of the Chief Commissioner, to be an appropriate charge on the municipal fund.

50. (1) In places where there is a Government treasury or sub-treasury, ^{Custody and} or a bank to which the Government treasury business has been made over, ^{investment} the municipal fund shall be kept in the treasury, sub-treasury or bank. ^{of municipal} fund.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited with any banker or person acting as a banker, who has given such security, if any, for the safe custody and repayment on demand of the fund so deposited as the Chief Commissioner may in each case think sufficient.

(3) A committee may, from time to time, with the previous sanction of the Chief Commissioner, invest any portion of its municipal fund in securities of the Government of India or in such other securities as the Governor

(Chap. IV.—Taxation and Municipal Fund. Sec. 51.)

General in Council may approve in this behalf, and may vary such investments for others of the like nature; and the income resulting from the securities and proceeds of the sale of the same shall be credited to the municipal fund.

Property
vested in
committee.

51. (1) Subject to any special reservation which may be made by the Chief Commissioner, all property of the nature hereinafter in this section specified and situated within the limits of the municipality shall be vested in and belong to the committee, and shall, with all other property which may become vested in the committee, be under its direction, management and control, and shall be held and applied by it for the purposes of this Regulation, that is to say:—

- (a) all public town-walls, gates, markets, slaughter-houses, manure and night-soil depôts and public buildings of every description which have been constructed or are maintained out of the municipal fund;
- (b) all public streams, springs and works for the supply, storage and distribution of water for public purposes, and all bridges, buildings, engines, materials and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank or well;
- (c) all public sewers and drains, and all sewers, drains, culverts and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto;
- (d) all dust, dirt, dung, ashes, refuse, animal matter or filth or rubbish of any kind, or dead bodies of animals collected by the committee from the streets, houses, privies, sewers, cesspools or elsewhere or deposited in places fixed by the committee under section 64;
- (e) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto;
- (f) all land or other property transferred to the committee by His Majesty or by gift, purchase or otherwise for local public purposes; and
- (g) all streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets.

(2) The Chief Commissioner may, by notification in the local official Gazette, direct that any property which has vested under sub-section (1) in the committee shall cease to be so vested, and thereupon the property specified in the notification shall cease to be so vested, and the Chief Commissioner may pass such orders as he thinks fit regarding the disposal and management of such property.

(Chap. IV.—Taxation and Municipal Fund. Sec. 52. Chap. V.—Powers for Sanitary and other Purposes. Secs. 53-58.)

52. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Regulation, the Chief Commissioner may, at the request of the committee, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, and, on payment by the committee of the compensation awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the committee.

Acquisition of land under Act I of 1894.

I of 1894.

CHAPTER V.

POWERS FOR SANITARY AND OTHER PURPOSES.

Streets and Buildings.

53. Where any land is required for a new street or for the improvement of an existing street, the committee may proceed to acquire, in addition to the land to be occupied by the street, the land necessary for the sites of the buildings to be erected on the sides of the street.

Power to acquire land for building-sites adjoining new streets.

54. The committee may close temporarily any street or any part thereof for the purpose of repairs or for the purpose of constructing or repairing any sewer, drain, culvert or bridge, or for any other public purpose, and may divert, discontinue or permanently close any street vested in the committee and sell the land or such part thereof as is not required for the purposes of this Regulation.

Power to close streets.

55. The committee may, by order in writing, permit the temporary occupation of any street or land vested in it for the purpose of depositing any building-materials or making any temporary excavation therein or erection thereon, subject to such conditions as it may prescribe for the safety or convenience of persons passing by or dwelling or working in the neighbourhood, and may charge fees for such permission, and may at its discretion withdraw the permission.

Power to permit temporary occupation of streets or land.

56. The committee may attach to the outside of any building brackets for lamps in such manner as not to occasion any injury to the building or inconvenience to the owner or occupier or to the public.

Power to attach brackets for lamps.

57. The committee at a meeting may cause a name to be given to any street, and to be affixed on any building in such place as it thinks fit, and may also cause a number to be affixed to any building; and in like manner may, from time to time, cause such names and numbers to be altered.

Names of street and numbers of buildings.

58. The committee at a meeting may direct that, within certain limits to be fixed by it, the roofs and external walls of huts or other buildings shall not be made or renewed of grass, mats, leaves or other inflammable materials unless with the written permission of the committee; and the committee

Roofs and external walls not to be made of inflammable materials.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 59-60.)

may, by notice, require any person to remove or alter as it may think fit the roofs or walls so made or renewed.

Power to regulate line of buildings.

59. (1) Where any building or part of a building projects beyond the front of the building which is on either side thereof, or beyond the regular line of street, either existing or determined on for the future, the committee may, if the building or part has been either entirely or in greater part taken down or burnt down or has fallen down, require by notice that the building or part, when being rebuilt, shall be set back to or towards the said regular line or the front of the adjoining buildings; and the portion of the land added to the street by such setting back or removal shall become part of the street and shall vest in the committee:

Provided that the committee shall make full compensation to the owner for any damage he may sustain in consequence of his building or any part thereof being set back.

(2) The committee may, on such terms as it thinks fit, allow any building to be set forward for the improvement of the line of the street.

Power to regulate new building.

60. (1) Every person who intends to erect or re-erect—

(a) any building abutting on or adjoining any street, or any public place or property vested in His Majesty or in the committee,

(b) any building, if so required by any by-law made under section 99, shall give notice in writing of his intention to the committee, and the committee may either refuse to sanction the said building or may sanction the said building absolutely or subject to any written directions which the committee may deem fit to issue in respect of all or any of the matters following, namely:—

- (i) the free passage or way in front of the building;
- (ii) the space to be left about the building, to secure the free circulation of air and facilitate scavenging and for the prevention of fire;
- (iii) the ventilation of the building and the provision and position, materials and method of construction of drains, privies or cess-pools;
- (iv) the level and width of foundation, the level of lowest floor and stability of structure;
- (v) the line of frontage with neighbouring buildings, if the building abuts on a street; and
- (vi) the means to be provided for egress from the building in case of fire;

and the person erecting or re-erecting any such building as aforesaid shall obey all such written directions:

Provided that a committee shall not refuse to sanction the erection or re-erection of such building except on the ground that its erection or re-erection

(Chap. V.—Powers for Sanitary and other Purposes. Sec. 61.)

would be prejudicial to the health, safety or convenience of the public, or of persons who dwell or occupy property in the vicinity, or that, having regard to the locality, it is unsuitable in plan or design, or for other reasonable cause assigned: and

Provided, also, that the committee shall make full compensation to the owner for any loss or damage which he may sustain in consequence of the prohibition of the re-erection of any building, or of its requiring any land belonging to him to be added to the street.

(2) The committee may require any person, who has given such notice, to submit within one week of the receipt of the requisition a sufficient plan and specification of the building which he intends to erect or re-erect, together with a site plan of the land, with such reasonable details as the committee may prescribe in the requisition; and in such case the notice shall not be valid until such plans and specification have been supplied.

(3) Where the committee neglects or omits for one month after the receipt of a valid notice under sub-section (1) to make and deliver to the person who has given such notice any order in respect thereof, and such person has by written communication called the attention of the committee to the omission or neglect and where such omission or neglect continues for a further period of fifteen days, the committee shall be deemed to have sanctioned the proposed building absolutely.

(4) Where the building so sanctioned is not begun by the person who has obtained such sanction, or by some one lawfully claiming under him, within six months from the date when such sanction is given, it shall not be begun without fresh sanction; but such person as aforesaid may at any subsequent time give fresh notice to the committee in the manner aforesaid, and thereupon the provisions of this section shall apply to such fresh notice.

(5) Where any such building is begun or erected without sanction or in contravention of any written directions of the committee issued under sub-section (1), or after the sanction has lapsed, the committee may, by notice given within a reasonable time, require the building to be altered or demolished as it may deem necessary.

Explanation.—The expression “erect any building” includes the erection of any wall and all additions and alterations which involve new foundations or increased superstructure on existing foundations, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only.

61. (1) No person shall, without the written permission of the committee, add to or place against or in front of any building, any projection or structure overhanging, projecting into, or encroaching on any street or into, on or over any drain, sewer or aqueduct therein.

Removal of
projections
and over-
hanging
structures.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 62-65.)

(2) The committee may, by notice, require the owner or occupier of any building to remove or alter any such projection or structure:

Provided that, in the case of any such projection or structure lawfully in existence at the commencement of this Regulation, the committee shall make reasonable compensation for any damage caused by the removal or alteration.

(3) The committee may, by order in writing permit the owners or occupiers of buildings in streets to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement wall, and at a height from the level of the ground or street, to be specified in the written permission.

Exemption of Government buildings or lands from the operation of sections 53 to 61.

62. Nothing in sections 53 to 61 shall apply to any building or land within the limits of a municipality which is the property of His Majesty.

Bathing and Washing Places.

Bathing and washing places.

63. The committee may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable places for washing animals or clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipality, and may, by public notice, prohibit bathing, or washing animals or clothes, in any public place not so set apart, or at times or by persons other than those specified, and all other acts not so permitted which may render water in public places foul or unfit for use or may cause inconvenience or annoyance to persons using the bathing or washing places.

Deposit of Offensive Matter and Slaughter-places.

Removal and deposit of offensive matter.

64. The committee may fix places within or, with the approval of the Commissioner, without the limits of the municipality for the deposit of refuse, rubbish or offensive matter of any kind or for the disposal of the dead bodies of animals, and may by public notice give directions as to the time, manner and conditions at, in and under which such refuse, rubbish or offensive matter or dead bodies of animals may be removed along any street and deposited at such places.

Places for slaughter of animals.

65. (1) The committee may, with the approval of the Commissioner, fix and abolish places either within or without the limits of the municipality for the slaughter of animals for sale, or of any specified description of such animals, and may with the like approval grant and withdraw licenses for the use of such places, or, if they belong to, or are under the control of, the committee, charge rent or fees for the use of the same.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 66-69.)

(2) Where such places are fixed by the committee, without the limits of the municipality, it shall have the same power to make rules for the inspection and proper regulation of the same, as if they were within those limits.

(3) Where any such place has been fixed, no person shall slaughter for sale any such animal at any other place within the municipality.

66. Where it appears to the Commissioner to be necessary for the pre-Slaughter of preservation of the public peace or order, he may, by notification published animals for other purposes. in the manner prescribed, prohibit or regulate the slaughter within the limits of a municipality of animals, or of any specified description of animals, for purposes other than sale, and specify the mode and route in and by which meat shall be conveyed from the place where such animals are slaughtered.

67. (1) Where any animal in charge of any person dies otherwise than by being slaughtered either for sale or consumption or for some religious purpose, the person in charge thereof shall within twenty-four hours either—
Special provisions with respect to disposal of dead bodies of animals.

(a) convey the carcass to a place (if any) fixed by the committee under section 64 for the disposal of the dead bodies of animals, or, where no such place has been fixed, to a place without the limits of the municipality not being within one mile of those limits where such bodies may lawfully be deposited;

(b) give notice of the death to the committee, whereupon the committee shall cause the carcass to be disposed of.

(2) In respect of the disposal of a carcass under sub-section (1), clause (b), the committee may charge such fee as may from time to time be fixed by resolution of the committee in this behalf.

68. For the purposes of sections 64, 65, 66 and 67, all cattle, elephants, camels, horses, asses, mules, deer, sheep, goats, swine and other large animals shall be deemed to be “animals.”
Definition of “animal.”

Burial and Burning Places.

69. (1) The committee may, by public notice, order any burial or burning ground which is, in its opinion, dangerous to the health of persons living in the neighbourhood to be closed from a date to be specified in the notice, and shall in such case, if no suitable place for burial or burning exists within a reasonable distance, provide a fitting place for the purpose.
Powers in respect of burial and burning places.

(2) Private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the committee may impose in this behalf:

Provided that the limits of such burial-places are sufficiently defined, and that they shall only be used for the burial of members of the family of the owners thereof.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 70-73.)

(3) No burial or burning ground, whether public or private, shall be made or formed, after the commencement of this Regulation, without the permission in writing of the committee.

Removal of
corpses.

70. The committee may, by public notice, prescribe routes for the removal of corpses to burial or burning places.

Inflammable Materials.

Inflammable
materials.

71. The committee may, where it appears to it to be necessary for the prevention of danger to life or property, by public notice, prohibit all persons from stacking or collecting grass, straw, cotton, wood or other inflammable materials, or placing mats or thatched huts or lighting fires, in any place or within any limits specified in the notice.

Power of Entry and Inspection.

Powers in
respect of
drains,
privies and
cess-pools.

72. (1) The committee, by any person authorised by it in this behalf, may, between sunrise and sunset, enter into any building or upon any land, and inspect any drains, privies or cess-pools therein or thereon, and may cause the ground to be opened where such person as aforesaid may think fit for the purpose of preventing or removing any nuisance arising from the drains, privies or cess-pools.

(2) Where, on such inspection, it appears that the opening of the ground was necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building; but where it is found that no nuisance exists, or but for such opening would have existed, the ground or portion of any building, drain or other work (if any) opened, injured or removed for the purposes of such inspection shall be filled in, restored and made good by the committee.

(3) No building other than a latrine directly accessible from any street or public place shall be entered under this section unless six hours' notice has been given to the occupier of the building by the committee or by the person authorised by the committee to make the entry.

Powers of
entry on
buildings or
land.

73. The committee, by any person authorised by it in this behalf, may, after giving twenty-four hours' notice to the occupier or, where there is no occupier, to the owner of any building or land, at any time between sunrise and sunset,—

- (a) enter upon and survey and take levels of any land;
- (b) enter and inspect any building and by notice direct all or any part thereof to be forthwith internally or externally limewashed, disinfected or otherwise cleansed for sanitary reasons;
- (c) enter, and measure any building for the purpose of valuation;

(Chap. V.—Powers for Sanitary and other Purposes.—Secs. 74-76.)

(d) enter any building or upon any land for the purpose of examining works under construction, of ascertaining the course of sewers or drains or of executing or repairing any work which the committee is by this Regulation empowered to execute or maintain.

74. The committee, by any person authorised by it in this behalf, may, at any time between sunrise and sunset, enter and inspect any stable, coach-house or other place wherein there is reason to believe that there is any animal or vehicle which is liable to taxation under this Regulation and for which the tax has not been duly paid.

75. (1) The committee, by any person authorised by it in this behalf, may at all reasonable times, enter and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for human consumption or as a slaughter-house, or for the sale of drugs, and inspect and examine any article, animal or drug which may be therein; and, where any such article or any animal therein appears to be intended for human consumption and to be unfit therefor, may seize and remove the same; or, where the owner or the person in whose possession the same is found consents, may cause it to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such consumption; and, in case any drug is reasonably suspected of being adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may remove the same, giving a receipt therefor, and may cause any such article, animal or drug to be brought before a Magistrate.

(2) Where the committee, or any person authorised by it in this behalf, applies to purchase any article intended for human consumption or any drug exposed for sale, and tenders the price for a quantity such as may be reasonably requisite for the purpose of analysis, the person exposing the same for sale shall be bound to sell such quantity.

76. (1) The committee may provide for the performance by its agents of the duties usually performed by sweepers in respect of any building or land, or of any privy, drain, cess-pool or other receptacle for offensive matter pertaining to any building or land, with the consent of the occupier of the building or land, or without such consent if the occupier fails to make arrangements to the satisfaction of the committee for the performance of such duties.

(2) Where the committee has undertaken to provide for the performance by its agents of such duties as aforesaid, the persons employed by it, to perform the same, may enter upon the property at all reasonable times so far as may be necessary for the proper discharge of those duties; and the committee, by any person authorised by it in this behalf, may enter upon the property at all reasonable times for the purpose of ascertaining that such duties have been duly performed.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 77-80.)

Power in respect of inflammable or explosive material when stored in excess of authorised quantity.

77. (1) The committee may, at any reasonable time, by any person authorised by it in this behalf, enter and inspect any house or building which is suspected to contain petroleum or any other explosive or inflammable material in excess of the quantity permitted to be kept in such house or building by or under this Regulation.

(2) Where any such excess quantity of such material is discovered, it may be seized and held subject to such orders as the District Magistrate may make with respect thereto.

(3) Where the District Magistrate decides that the material seized was stored in the house or building, in contravention of this Regulation or of any rule or public notice made or published thereunder, he may pass an order confiscating the same.

(4) Subject to any rules for the time being applicable thereto, the material so confiscated may be sold by order of the District Magistrate, and the proceeds, after defraying the expenses of the sale, shall be credited to the municipal fund.

(5) No order of confiscation under this section shall operate to prevent any other criminal or civil proceeding to which the persons storing the material in excessive quantity may be liable.

Precautions to be observed in entering dwelling.

78. Where any building used as a human dwelling is entered under this Regulation, due regard shall be paid to the social and religious sentiments of the occupiers; and, before any apartment in the actual occupancy of any woman, who according to custom does not appear in public, is entered, notice shall be given to her that she is at liberty to withdraw, and every reasonable facility shall be afforded to her for withdrawing.

Water-pipes, Privies and Drains.

Troughs and pipes for rain-water.

79. The committee may, by notice, require the owner of any building in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other parts thereof and for discharging the same so as not to cause injury to the street or inconvenience to persons passing along the street.

Provision of privies or cess-pools.

80. (1) The committee may, by notice, require the owner of any building to provide, in such manner as the committee directs any privy or cess-pool, or additional privies or cess-pools, which should in the opinion of the committee be provided for the building or the land appurtenant thereto.

(2) The committee may, by notice, require any persons employing more than twenty workmen or labourers to provide such latrines and urinals as it may think fit and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The committee may, by notice, require the owner or occupier of any building or land to have any privy provided for the same shut out by a suffi-

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 81-85.)

cient roof and wall or fence from the view of persons passing by or dwelling in the neighbourhood, or to remove or alter, as the committee directs, any door or trap-door of a privy opening on to any street or drain.

81. (1) The committee may, by notice, require the owner or occupier of any building or land to repair or alter or put in good order any privy, drain or cess-pool, or to close any cess-pool belonging thereto, or to connect any drain on such building or land with any public drain: Repair and closing of privies, drains or cess-pools.

Provided that no owner or occupier shall be bound under this sub-section, in order to establish such connection, to carry out any work on land or premises not owned or occupied by him to a greater distance than twenty-five feet.

(2) The committee may, by notice, require any person who constructs any new privy, drain or cess-pool without its written permission or in contravention of its directions or of the provisions of this Regulation, or who constructs, re-builds or opens any privy, drain or cess-pool which the committee has ordered to be removed or stopped up or not to be made, to remove the privy, drain or cess-pool, or to make such alterations therein as the committee thinks fit.

82. The committee may, by notice, require any person who without its written permission erects or re-builds any building over any public sewer, drain, culvert, water-course or water-pipe vested in the committee to pull down or otherwise deal with the building as it thinks fit. Unauthorised building over drains.

83. The committee may, by notice, require any owner or occupier whose land any drain, latrine, urinal, cess-pool or other receptacle for filth or refuse for the time being exists within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use to remove or close the same within one week from the service of the notice: Removal of drains, latrines or cess-pools near any source of water-supply.

84. The committee may, by notice, require the owner or occupier of any building or land to cleanse, repair, cover, fill up or drain off any private tank, well, reservoir, pool or excavation therein which appears to the committee to be injurious to health or offensive to the neighbourhood: Power to require drainage of unwholesome tanks.

Provided that, if for the purpose of effecting under this section any drainage it is necessary to acquire any land not belonging to such owner or occupier or to pay compensation to any other person, the committee shall provide the land or pay the compensation.

Dangerous Buildings and Places.

85. Where any building, or any well, tank or other excavation, is for want of sufficient repair, protection or enclosure dangerous to person passing by or dwelling or working in the neighbourhood, the committee may, by notice, require the owner or the occupier thereof to repair, protect or enclose the same; and, where it appears to the committee to be necessary Power to require buildings, wells, tanks or excavations to be secured.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 86-92.)

in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger:

Power to require building, wall or structure in ruinous or dangerous state to be removed or repaired.

86. Where any building, wall or structure or anything affixed thereto is deemed by the committee to be in a ruinous state or in any way dangerous, the committee may, by notice, require the owner or occupier thereof forthwith either to remove the same or to cause such repairs to be made to the building, wall or structure or thing affixed thereto as it considers necessary for the public safety; and, where it appears to the committee to be necessary in order to prevent imminent danger, the committee shall forthwith take such steps as are necessary to avert the danger.

Buildings and Grounds in Insanitary Condition.

Power to require owner to clear away noxious vegetation.

87. The committee may, by notice, require the owner or occupier of any land to clear away and remove any thick or noxious vegetation or undergrowth which appears to it to be injurious to health or offensive to the neighbourhood.

Power to require owner to trim hedges and trees bordering on street.

88. The committee may, by notice, require the owner or occupier of any land to cut or trim, within three days, the hedges standing on the land and bordering on any street, or the branches of trees growing on the land and overhanging any street and obstructing the same or causing danger thereto, or so overhanging any well, tank or other source from which water is derived for public use as to be likely to pollute the water thereof.

Power to require filthy buildings or land to be cleaned.

89. Where the owner or occupier of any building or land suffers the same to be in a filthy or unwholesome state, the committee may, by notice, require him to cleanse the same or otherwise put it in a proper state within twenty-four hours.

Power to prohibit use for human habitation of buildings unfit for such use.

90. Where any building appears to the committee to be unfit for human habitation in consequence of the want of proper means of drainage or ventilation or for other sufficient reason, the committee may, by notice, prohibit the owner or occupier of the building from using it for human habitation or suffering it to be so used, until the committee is satisfied that it has been rendered fit for such use.

Power to require untenanted buildings becoming a nuisance to be secured or enclosed.

91. The committee may, by notice, require the owner, or any person claiming to be the owner, of any building or land which, by reason of abandonment or disputed ownership or other cause, remains untenanted and thereby becomes a resort of idle and disorderly persons or otherwise a nuisance, to secure or enclose the same within a reasonable time specified in the notice.

Power to Chief Commissioner to prohibit cultivation. use of

92. Where the civil surgeon or health officer certifies that the cultivation of any description of crop, or the use of any kind of manure, or the irrigation of land in any specified manner—

(a) in any place within the limits of the municipality is injurious or faci-

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 93-95.)

litates practices which are injurious to the health of persons dwelling in the neighbourhood, or

- (b) in any place, within or without the limits of the municipality, is likely to contaminate the water-supply of the municipality or otherwise render it unfit for drinking purposes,

the Chief Commissioner may prohibit the cultivation of such crop, the use of such manure, or the use of the method of irrigation so reported to be injurious, or impose such conditions with respect thereto as may prevent the injury;

Provided that, if the act prohibited has been practised in the ordinary course of husbandry at any time during the five years next preceding the date of the prohibition, compensation shall be paid from the municipal fund to all persons interested therein for any damage caused to them by such prohibition.

Offensive and Dangerous Trades.

93. (1) No place within the limits of the municipality shall be used—
- (a) for melting tallow; or
 - (b) for boiling bones, offal or blood; or
 - (c) as a soap-house, oil-boiling house, dyeing house or tannery; or
 - (d) as a brick-kiln, pottery or lime-kiln; or
 - (e) as any other manufactory or place of business from which offensive or unwholesome smells arise; or
 - (f) as a yard or dépôt for trade in hay, straw, cotton, thatching grass, wood or coal, or petroleum or any other explosive or inflammable material,

except under a license obtained by the owner or occupier from the committee and renewable annually.

(2) No such license shall be withheld unless the committee considers that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

(3) The committee may charge fees for the issue and renewal of such licenses, and may impose such conditions in respect thereof as it thinks fit.

94. Where it is shown to the satisfaction of the committee at a meeting that any place licensed under section 93 is a nuisance to the neighbourhood or likely to be dangerous to life, health or property, the committee may, by notice, require the occupier of the place to discontinue the use thereof, or to use the place in such manner as will, in the opinion of the committee, render it no longer a nuisance or dangerous.

95. (1) Within such limits as the committee may determine, no milkman, cartman or keeper of hackney-carriages shall keep horses, ponies or cattle for the purpose of trade or business, except under a license obtained by such person from the committee and renewable annually.

(Chap. V.—Powers for Sanitary and other Purposes. Sec. 96.)

(2) The committee may charge a fee not exceeding one rupee for the issue or renewal of any such license, and may impose such conditions in respect thereof as it thinks fit.

Sale of Food, Drink and Drugs.

Power to
make by-laws
as to sale of
articles
intended for
human con-
sumption and
drugs.

96. (1) The committee may, from time to time, make by-laws, consistent with this Regulation,—

- (a) to regulate the sale or exposure for sale of any specified articles intended for human consumption or drugs, either by rendering licenses necessary or otherwise ;
- (b) to fix fees for the grant of such licenses and prescribe the conditions subject to which they may be granted and revoked ;
- (c) to regulate the hours and manner of transport within the municipality of such specified articles or drugs ;
- (d) to fix the places in which such specified articles or drugs may or may not be sold or exposed for sale ;
- (e) to prohibit the sale of the flesh of animals not slaughtered at a place fixed, or in accordance with a license granted, under section 65 ;
- (f) to require sellers of meat to procure from, and on requisition to produce to, the person or persons empowered in this behalf by the committee, passes showing that their meat has been slaughtered in a place fixed or licensed under section 65 and in accordance with any by-laws made under section 99, sub-section (1), clause (b) : and
- (g) to regulate the sanitary condition of bakeries, dairies and places where milch animals are kept for profit :

Provided that no person shall be punishable for the breach of any by-law made under clause (a) or clause (d) by reason of the continuance of such sale or exposure for sale upon any premises which are at the time of the making of such by-law used for such purpose and have been so used for a period of not less than one year, until he has received from the committee six months' notice to discontinue such sale or exposure for sale in such premises.

(2) In making any by-law under this section, the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in.

(3) No by-law made under this section shall come into force until it has been confirmed by the Chief Commissioner and published for the prescribed time and in the prescribed manner.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 97-99.)

Disposal of Dogs.

97. (1) The committee, by any person authorized by it in this behalf, may— Disposal of mad and stray dogs.
- (a) destroy or cause to be destroyed, or confine or cause to be confined, for such period as the committee may direct, any dog suffering from rabies or reasonably suspected to be suffering from rabies;
 - (b) confine, or cause to be confined, any dogs found wandering about streets or public places without collars or other marks distinguishing them as private property, and charge a fee for such detention, and destroy or otherwise dispose of any such dog if it is not claimed within one week and the fee paid;
 - (c) appoint from time to time, by public notice, certain periods within which any dogs without collars or other marks distinguishing them as private property, found straying on the streets or beyond the enclosure of houses of the owners of such dogs, may be destroyed and destroy or cause them to be destroyed accordingly.
- (2) No compensation shall be payable in respect of any dog destroyed or otherwise disposed of under this section.

Restraint of Infection.

98. Where the committee, on the report of the civil surgeon or health officer, considers 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, it may— Prohibition by committee of use of unwholesome water.

- (a) by public notice, prohibit the removal or use of such water for drinking;
- (b) by notice, require the owner or person having control of such well, tank or place either to keep the water disinfected to the satisfaction of the civil surgeon or health officer, or to take such steps as may be specified in the notice to prevent the public from having access to or using such water.

By-laws generally.

99. (1) The committee may, from time to time, make by-laws, consistent with this Regulation— General power to make by-laws.

- (a) for protecting from injury or interference anything within the limits of the municipality being the property of His Majesty or of the committee;
- (b) for inspecting and regulating the use of encamping-grounds, halting places, pounds, sarais, markets, dhobis' ghats, slaughter-houses, places for the disposal of dead animals, and any places of public

(Chap. V.—Powers for Sanitary and other Purposes. Sec. 99.)

- entertainment and resort, and for the charge of fees for the use of such buildings and places when vested in the committee;
- (c) for licensing brokers, measurers and weighmen practising their calling in public places within the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;
- (d) for prescribing the standard weights and measures to be used within the municipality;
- (e) for controlling and regulating the use and management of burial and burning grounds, and fixing the fees to be charged where such grounds have been provided by the committee;
- (f) for prescribing the means by which the owner or occupier of any place which is a factory within the meaning of the ¹Indian Factories Act, 1881, is to provide for the consumption of the smoke of any chimney or furnace so as to prevent the smoke from being a nuisance to any person in the neighbourhood;
- (g) for licensing proprietors or drivers of vehicles, boats or animals plying for hire within the limits of the municipality, and fixing the fees payable for such licenses and the conditions on which they are to be granted and may be revoked;
- (h) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance or of animals hired to carry loads, or for the services of persons hired to carry loads, where those conveyances, animals or persons are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours;
- (i) for securing a proper registration of births, marriages and deaths;
- (j) for the proper regulation of buildings let in lodgings or occupied by coolies or by more than one family;
- (k) for the supervision and regulation of public cisterns, water-standards, wells, tanks, springs or other sources of public water-supply; and, where water is supplied from a public source to any private premises, for regulating and controlling such supply;
- (l) for controlling and regulating the duties of sweepers and other persons employed by the committee for the clearing of drains and the removal and disposal of sewage and filth, and prescribing the conditions on which they may withdraw from employment;
- (m) where the collection of an octroi-tax has been sanctioned, for fixing octroi-limits for the purposes of that tax;
- (n) for the regulation of building within the municipality;
- (o) for regulating the storage of any petroleum or other explosive material;

¹ See the reprint as modified up to 1st December, 1904.

(Chap. V.—Powers for Sanitary and other Purposes. Secs. 100-101.)

(*p*) for regulating or prohibiting the keeping of animals of any specified description ;

(*q*) for regulating and prohibiting the stationing of carts or picketing of animals on any ground under the control of the committee or the using such ground as a halting-place for vehicles or animals or as a place for encampment or the causing or permitting any animal to stray ;

(*r*) for regulating traffic in the streets ; and

(*s*) generally, for carrying out the purposes of this regulation.

(2) In making any by-law under this section the committee may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, where the breach is continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in.

(3) No by-law made under this section shall come into force until it has been confirmed by the Chief Commissioner and published for the prescribed time and in the prescribed manner.

(4) Notwithstanding anything in this section, the committee of a municipality in which the ¹ Hackney-carriage Act, 1879, is in force, shall not make by-laws under sub-section (*l*), clauses (*g*) and (*h*), in respect of any vehicles to which that Act applies.

100. Subject to any orders which the Chief Commissioner may make in this behalf, the committee may order any person not to do, or not to omit to do, within the limits of the municipality, anything the doing of, or the omission to do, which is a public nuisance under the ² Indian Penal Code.

101. (*1*) The Chief Commissioner may invest, within the limits of a municipality, the committee with the powers of the District Magistrate as described in section 133 of the ² Code of Criminal Procedure, 1898, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under by-laws made in exercise of the powers conferred by section 99, sub-section (*l*), clauses (*a*), (*b*), (*e*), (*j*) and (*k*).

(2) Sections 133 to 142 of the ² Code of Criminal Procedure, 1898, shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers :

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if for the words "before himself or some other Magistrate of the first or second class" the words "before the District Magistrate or some Magistrate of the first or second class appointed by him in this behalf" were substituted.

¹ *Supra*, p. 23.

² See the reprint as modified up to 1st April, 1903.

(Chap. V.—Powers for Sanitary and other Purposes. Sec. 102. Chap. VI.—Offences and Penalties. Secs. 103-107.)

Delegation of powers to sub-committees.

102. (1) The committee may, at a special meeting, delegate to one or more sub-committees of its members any of the powers which are vested in the committee by section 100, or with which the committee may have been invested under section 101.

(2) Any notice, which under this Chapter may be given by a committee, may be given by a sub-committee, if the by-laws so provide.

CHAPTER VI.

OFFENCES AND PENALTIES.

Depositing or throwing earth or materials, or refuse, rubbish or offensive matter, on roads or into drains.

103. Whoever, without the written permission of the committee or in disregard of its orders, throws or deposits, or permits his servants or members of his household under his control to throw or deposit, earth or materials of any description, or refuse, rubbish or offensive matter of any kind, upon any street or public place or into any public sewer or drain or any drain communicating therewith, shall be punishable with fine which may extend to twenty rupees.

Discharging sewage.

104. Whoever, without the written permission of the committee, causes or allows the water of any sink, sewer or cess-pool, or any other offensive matter, to flow, drain or be put upon any street or public place, or into any sewer or drain not set apart for the purpose, shall be punishable with fine which may extend to twenty rupees.

Failure to remove offensive matter.

105. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter in or upon such building or land, or suffers any such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse and purify the same, shall be punishable with fine which may extend to fifty rupees.

Making or altering drains without authority.

106. Whoever, without the written permission of the committee, makes or causes to be made, or alters or causes to be altered, any drain leading into any of the channels, sewers or drains vested in the committee, shall be punishable with fine which may extend to fifty rupees.

Making or keeping latrines near any source of water-supply.

107. Whoever makes, without the written permission of the committee, or keeps for a longer time than one week after a notice to remove or close issued under section 83, any drain, latrine, urinal, cess-pool or other receptacle for filth or refuse within fifty feet of any spring, well, tank, reservoir or other source from which water is or may be derived for public use, shall be punishable with fine which may extend to twenty rupees, and, where a notice has issued, with further fine which may extend to five rupees for each day during which

(Chap. VI.—Offences and Penalties. Secs. 108-116.)

the offence is proved to have been persisted in after the lapse of the period allowed for removal or closure.

108. Whoever feeds or allows to be fed on any deleterious substance, Feeding animals on deleterious substances.
filth or refuse of any kind any animal which is kept for dairy purposes or is intended for human consumption shall be punishable with fine which may extend to fifty rupees.

109. Whoever, in driving a vehicle in any street, fails, except in case of Neglect of the rule of the road.
actual necessity, to keep to the left when passing a vehicle coming from the opposite direction and to the right when passing a vehicle going in the same direction, shall be punishable with fine which may extend to ten rupees.

110. Whoever drives any vehicle without having proper means of control- Driving vehicle without proper means of control or without lights.
ling any animal harnessed therein, or drives any vehicle of any kind after dark in any street unless the vehicle is properly supplied with lights or there is sufficient moonlight to render lights unnecessary, shall be punishable with fine which may extend to twenty rupees.

111. Whoever discharges fire-arms or lets off fire-works or fire-balloons, Discharging fire-arms, etc.
or flies kites, or engages in any game, in such a manner as to cause or be likely to cause danger or annoyance to persons passing by or dwelling or working in the neighbourhood, or risk of injury to property, shall be punishable with fine which may extend to twenty rupees.

112. Whoever, being an elephant-driver or camel-driver, omits on being Control of elephants and camels.
requested to do so to remove his elephant or camel to a safe distance on the approach of a horse, whether ridden or driven, or of any vehicle drawn by bullocks shall be punishable with fine which may extend to twenty rupees.

113. Whoever, in disregard of any orders of the committee, takes any Taking animals or vehicles along public roads.
animal or vehicle along a street, shall be punishable with fine which may extend to twenty rupees.

114. Whoever, in disregard of any orders made by the committee with the Beating drum or sounding musical instrument.
sanction of the Commissioner, beats any drum or sounds any musical instrument so as to cause annoyance to the public, shall be punishable with fine which may extend to twenty rupees.

115. Whoever wilfully or negligently lets loose any horse or other animal Suffering animals to be at large.
so as to cause, or negligently allows any horse or other animal to cause, injury, danger, alarm or annoyance to any person, or suffers any ferocious dog to be at large without a muzzle, shall be punishable with fine which may extend to fifty rupees.

116. Whoever, without the written permission of the committee, alters, Altering, obstructing or encroaching upon streets.
obstructs or encroaches upon any street, public sewer, drain or water-course, or displaces, takes up or alters the pavement or other materials or the fences or posts of any street or public place, or deposits building materials or makes any hole or excavation on or in any street, shall be punishable with fine which may extend to fifty rupees.

(Chap. VI.—Offences and Penalties.—Secs. 117-126.)

- Quarrying, blasting, cutting timber or building. 117. Whoever quarries, blasts, cuts timber or carries on building operations in such a manner as to cause, or be likely to cause, danger to persons passing by or dwelling or working in the neighbourhood, shall be punishable with fine which may extend to fifty rupees.
- Making or selling food when suffering from disease. 118. Whoever, when suffering from any infectious or contagious disease, makes or offers for sale any article intended for human consumption, shall be punishable with fine which may extend to two hundred rupees.
- Disturbing direction-posts or lamps. 119. Whoever, without the authority of the committee, defaces or disturbs any direction-post or lamp-post, or extinguishes any light maintained by the committee in any street or public place, shall be punishable with fine which may extend to twenty rupees.
- Destroying or defacing names or numbers. 120. Whoever destroys, pulls down or defaces any name or number put up under section 57 by order of the committee, or puts up any different name or number, shall be punishable with fine which may extend to twenty rupees.
- Slaughtering animals contrary to section 65. 121. Whoever, in contravention of the provisions of section 65, slaughters for sale any animal at any place within the municipality other than the place fixed under that section, shall be punishable with fine which may extend to twenty rupees.
- Slaughtering animal or conveying meat contrary to notification under section 66. 122. Whoever slaughters any animal or conveys meat from the place of slaughter in contravention of any notification under section 66, shall be punishable with fine which may extend to two hundred rupees.
- Improper disposal of dead bodies of animals. 123. Whoever fails to comply with the provisions of section 67 in regard to the disposal of dead bodies of animals, shall be punishable with fine which may extend to ten rupees.
- Burying or burning corpse contrary to section 69. 124. Whoever buries or burns, or causes or permits to be buried or burnt, any corpse in any burial or burning ground made or formed in contravention of the provisions of section 69, or after the date fixed thereunder for closing the same, shall be punishable with fine which may extend to fifty rupees.
- Carrying corpses by prohibited routes or so as to cause annoyance. 125. Whoever carries a corpse along a route prohibited by the committee or in a manner likely to cause annoyance to the public, shall be punishable with fine which may extend to twenty rupees.
- Selling article for human consumption of a nature different from the article demanded. 126. (1) Whoever sells to the prejudice of any purchaser any article intended for human consumption which is not of the nature, substance or quality of the article demanded by such purchaser, shall be punishable with fine which may extend to one hundred rupees.
(2) The provisions of sub-section (1) shall not apply in the following cases, namely :—
(a) where any matter or ingredient not injurious to health has been added to the article in order to make it fit, as an article of commerce for carriage or consumption, and not with intent fraudulently to

(Chap. VI.—Offences and Penalties Secs. 127-132.)

increase its bulk, weight or measure or to conceal its inferior quality;

(b) where the article is unavoidably mixed with some extraneous matter in the process of collection or preparation.

(3) The provisions of sub-section (1) shall apply to the purchase under section 75, sub-section (2), of any article for the purpose of analysis.

127. Where any animal, article or drug is brought before a Magistrate under section 75, sub-section (1), the Magistrate, if it is proved that the article or animal was intended for the consumption of man and is unfit therefor, or that the drug is adulterated in such manner as to lessen its efficacy or to change its operation or to render it noxious, may order the article or animal to be destroyed or to be so disposed of as to prevent its being exposed for sale for human consumption, and the drug to be dealt with as he may think fit, and may direct that the owner or person in possession of such article, animal or drug shall be punished with fine which may extend to one hundred rupees :

Provided that a person who is in possession of any article or animal or drug as carrier or bailee thereof, shall not be liable to fine under this section.

128. Whoever, in contravention of the provisions of section 75, sub-section (2), refuses to sell any article intended for human consumption, shall be punishable with fine which may extend to fifty rupees.

129. Whoever cultivates, uses manure or irrigates in disregard of the prohibition or conditions imposed under section 92, shall be punishable with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day after the first during which the offence is proved to have been persisted in.

130. Whoever, in contravention of the provisions of section 93 or of section 95, uses without a license any place for any purpose mentioned in either of those sections, shall be punishable with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day after the first during which the offence is proved to have been persisted in.

131. Whoever, after notice has been given under section 94, uses any place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous, shall be punishable with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day after the first during which the offence is proved to have been persisted in.

132. Whoever, in any street or public place within the limits of the municipality, loiters for the purpose of prostitution, or importunes any person to the commission of sexual immorality, shall be punishable with fine which may extend to fifty rupees :

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a police-officer

(Chap. VI.—Offences and Penalties, Secs. 133-134. Chap. VII.—
Extinction and Prevention of Fire. Secs. 135-136.)

not below the rank of a sub-inspector and specially authorized in this behalf in writing by the Commissioner or by the committee, or of an officer of the committee specially authorized in this behalf in writing by the Commissioner.

Disobedience to orders not punishable under any other section.

133. Whoever disobeys any lawful direction given by public notice under the powers conferred by Chapter V, or any written notice lawfully issued under the powers so conferred, or fails to comply with the conditions subject to which any permission was given to him under those powers, shall, where the disobedience or omission is not an offence punishable under any other section, be punishable with fine which may extend to fifty rupees, and, in the case of a continuing breach, with further fine which may extend to five rupees for every day after the first during which the breach is proved to have been persisted in :

Provided that, where the notice fixes a time within which a certain act is to be done and no time is specified in this Regulation, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Regulation.

Prosecution to be suspended in certain cases.

134. Any prosecution for an offence punishable under section 124 or section 131 or section 133, where the order which has been disobeyed is appealable, shall, when the Magistrate learns that an appeal has been instituted from the order which has been disobeyed, be suspended pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto shall not be deemed an offence against the section.

CHAPTER VII.

EXTINCTION AND PREVENTION OF FIRE.

Establishment and maintenance of fire-brigade.

135. For the prevention and extinction of fire the committee may establish and maintain a fire-brigade and may provide any implements, machinery or means of communicating intelligence which the committee may think necessary for the efficient discharge of their duties by the brigade.

Power of fire-brigade and other persons for suppression of fires.

136. (1) On the occasion of a fire within the limits of a municipality, any Magistrate, the secretary of the committee, any member of the committee, any member of a fire-brigade maintained by the committee then and there directing the operations of men belonging to the brigade, and, if directed so to do by a Magistrate or the secretary or a member of committee, any police-officer above the rank of constable, may—

- (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property ;

(Chap. VII.—*Extinction and Prevention of Fire. Secs. 137-138.*

Chap. VIII.—Control. Sec. 139.)

- (b) close any street or passage in or near which any fire is burning ;
- (c) for the purpose of extinguishing the fire, break into or through or pull down or cause to be broken into or through or pulled down, or used for the passage of hoses or other appliances, any premise ;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred ;
- (e) call on the persons in charge of any fire-engine to render such assistance as may be possible ; and,
- (f) generally, take such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay compensation for any act done by him in good faith under sub-section (1).

(3) Any damage done in the exercise of a power conferred or a duty imposed by this section shall be deemed to be damage by fire within the meaning of any policy of insurance against fire.

137. The powers conferred by section 136 shall be subject to such regulations, Powers subject to prescribed regulations, etc. conditions and restrictions as may be prescribed.

138. This Chapter shall not take effect in any municipality until it has been specially applied thereto by the Chief Commissioner at the request of the committee. Operation of Chapter.

CHAPTER VIII.

CONTROL.

139. The Commissioner may—

- (a) enter upon and inspect, or cause to be entered upon and inspected, any immovable property occupied by any committee or joint committee, or any work in progress under the direction of a committee or joint committee ;
- (b) by order in writing, call for and inspect any book or document in the possession or under the control of any committee or joint committee having authority ;
- (c) by order in writing, require any such committee or joint committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the committee or joint committee as he may think fit to call for ; and
- (d) record, for the consideration of any such committee or joint committee, any observations which he may think proper in regard to the proceedings or duties of the committee.

Control by
Commis-
sioner.

(Chap. VIII.—Control. Secs. 140-143.)

Power to
suspend
action under
Regulation.

140. (1) The Commissioner may, by order in writing, suspend the execution of any resolution or order of a committee or joint committee, or prohibit the doing of any act which is about to be done, or is being done, in pursuance of or under cover of this Regulation, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order or the doing of the act is likely to lead to a breach of the peace, or to cause injury or annoyance to the public or to any class or body of persons.

(2) Where the Commissioner makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Chief Commissioner, who may thereupon rescind the order, or direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Extraordi-
nary powers
of Commis-
sioner in
cases of
emergency.

141. (1) In cases of emergency the Commissioner may provide for the execution of any work or the doing of any act which a committee is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the committee.

(2) Where the expense is not so paid, the Commissioner may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is from time to time possible, from the balance, in priority to any or all other charges against the same.

(3) The Commissioner shall forthwith report to the Chief Commissioner every case in which he uses the powers conferred on him by this section.

Powers of
Chief Com-
missioner in
case of
default of
committee.

142. (1) Where at any time it appears to the Chief Commissioner that a committee has made default in performing any duty imposed on it by or under this Regulation or any other law for the time being in force, the Chief Commissioner may, by order in writing, fix a period for the performance of that duty.

(2) Where that duty is not performed within the period so fixed, the Chief Commissioner may appoint the Commissioner to perform it, and may direct that the expense of performing it shall be paid, within such time as the Chief Commissioner may fix, to the Commissioner by the committee.

(3) Where the expense is not so paid, the Commissioner, with the previous sanction of the Chief Commissioner, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

Power of
Chief Com-
missioner to
supersede
committee
in case of
incompe-

143. (1) Where at any time it appears to the Chief Commissioner that a committee is not competent to perform, or persistently makes default in the performance of, its duties under this Regulation or any other law for the time being in force, or exceeds or abuses its powers, the Chief Commissioner may, with the previous sanction of the Governor General in Council, by an order

(Chap. VIII.—Control. Sec. 144.)

published, with the reasons for making it, in the local official Gazette, declare the committee 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. tency, persistent default or abuse of powers.

(2) Where a committee is so superseded, the following consequences shall ensue, namely:—

- (a) all members of the committee shall, as from the date of the order, vacate their offices as such members;
- (b) all powers and duties of the committee may, during the period of supersession, be exercised and performed by such person or persons as the Chief Commissioner appoints in that behalf;
- (c) all property vested in the committee shall, during the period of supersession, vest in His Majesty.

(3) On the expiration of the period of supersession specified in the orders, the committee shall be reconstituted and the persons who vacated their offices, under sub-section (2), clause (a), shall not be deemed disqualified for being members.

144. (1) The Chief Commissioner may frame forms for any proceedings of a committee for which he considers that forms should be provided, and may make rules, consistent with this Regulation, to carry out the purposes and objects thereof for the guidance of committees and public officers generally. Power of Chief Commissioner to frame forms and make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may make provision—

- (a) for the collection of taxes imposed under this Regulation;
- (b) as to the election or appointment and the term of office of presidents, vice-presidents and members of committees;
- (c) as to the division of municipalities into wards, or of the inhabitants into classes, or both, the number of representatives to be appointed for each ward or class and the manner of their appointment; and as to the qualification of electors and of candidates for election;
- (d) as to the registration of electors, the nomination of candidates, the time of election, the mode of recording votes and generally for regulating all matters connected with the system of representation and election;
- (e) as to the appointment, promotion, suspension, reduction, punishment and dismissal of the servants of committees;
- (f) as to the intermediate office or offices (if any) through which correspondence between committees and the Chief Commissioner or its officers and representations addressed under this Regulation to the Chief Commissioner are to pass;

(Chap. VIII.—Control. Sec. 145. Chap. IX.—Supplemental. Sec. 146.)

- (g) as to the accounts to be kept by committees, as to the manner in which such accounts are to be audited and published and as to the power of the auditors in respect of disallowance and surcharge;
- (h) as to the preparation of estimates of income and expenditure of committees, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned, and as to the sanction (if any) to be required before committees incur any expenditure;
- (i) as to the fees to be levied on processes issued by Magistrates under section 43;
- (j) as to the language in which the proceedings and correspondence of committees are to be conducted and recorded, and as to the returns, statements and reports to be submitted by committees;
- (k) as to the powers to be exercised by members of a fire-brigade and others on the occasion of a fire in a municipality; and
- (l) for the regulation of proceedings of persons empowered to accept composition for offences committed or alleged to have been committed against this Regulation or any rules or by-laws made thereunder.

General powers of Chief Commissioner.

145. In all matters connected with this Regulation the Chief Commissioner shall have and exercise over the Commissioner the same authority and control as he has and exercises over him in the general and revenue administration.

CHAPTER IX

SUPPLEMENTAL.

Notices.

Authentica-
tion, service
and validity
of notices.

146. (1) Every notice issued by a committee under this Regulation shall be in writing and shall be sufficiently authenticated by the signature of the president, vice-president or secretary, and may be served by being delivered to the person to whom it is addressed, or by being left at his usual place of abode or business with some adult male member or servant of his family, or, where it cannot be so served, may be posted on some conspicuous part of his usual place of abode or business.

(2) Where the usual place of abode or business of the person to whom the notice is addressed is not within the limits of the municipality, the notice may be served by posting it in a registered cover addressed to his usual place of abode.

(3) Where the usual place of abode or business of the owner of any property is not known, every such notice addressed to him as such owner may be served on the occupier.

(Chap. IX.—Supplemental. Secs. 147-150.)

(4) Where the usual place of abode or business of the occupier of any property is not known, every such notice addressed to him as such occupier may be served by posting it on some conspicuous part of the property.

(5) No notice issued by the committee under this Regulation shall be invalid for defect of form.

147. (1) Where any notice issued by a committee under this Regulation requires any act to be done for which no time is fixed by this Regulation, the notice shall fix a reasonable time for doing the same. Execution of acts required to be done by any notice.

(2) Where it is provided that any such notice should be given to the owner or occupier of any land or building, and the owner and occupier are different persons, such notice shall be given to the one of them primarily liable to comply with such notice, and in case of doubt to both of them :

Provided that in any such case, where there is no owner resident within the municipality, the delivery of such notice to the occupier shall be sufficient.

(3) Where the terms of any such notice have not been complied with, the committee may, after not less than six hours' notice, cause the act to be done by its officers.

148. Where any notice is under this Regulation to be given to, or served on, the owner or occupier of any property and he is unknown, it may be given or served— Mode of giving notice to owner or occupier of property.

(a) by delivering a written notice to some person on the property, or, where there is no person on the property to whom the notice can be delivered, by fixing it on some conspicuous part of the property ; or

(b) by putting into the post a prepaid letter containing a written notice, and addressed by the description of the "owner" or "occupier" of the property (naming it) in respect of which the notice is given, without further name or description.

149. Every public notice given by a committee under this Regulation shall be published by proclamation or in the prescribed manner. Publication of public notices.

Miscellaneous.

150. (1) Where the owner or occupier of property is required under this Regulation by the committee to execute any work and makes default in complying with the requisition, and the committee executes the work, the committee may recover the cost of the work from the person in default. Recovery of costs of execution.

(2) Where the person in default is the owner, the committee may, by way of additional remedy, recover the whole or any part of the cost from the occupier, and in such case the occupier may deduct any sum paid by him under this sub-section from the rent due or from time to time accruing due from him to the owner of the property in respect of which the payment is made, or may otherwise recover such sum from the owner.

(Chap. IX.—Supplemental. Secs. 151-152.)

(3) An occupier shall not be required to pay under sub-section (2) any greater sum than the amount of rent which is for the time being due from him to the owner, or which, after demand for payment of the money payable by him to the committee and notice not to pay rent without first deducting the amount so demanded, becomes payable by him to the owner, unless he refuses on application duly made to him by the committee truly to disclose the amount of his rent and the name and address of the person to whom it is payable; but the burden of proof that the sum so demanded by the committee from the occupier exceeds the rent which was due at the time of the demand, or which has since accrued due, shall lie on the occupier.

(4) All money recoverable by a committee under this section may be recovered either by suit, or, an application to a Magistrate having jurisdiction within the limits of the municipality, by distress and sale of the moveable property of the person from whom the money is recoverable, and, where it is payable by the owner of property, it shall, until it is paid, be a charge on the property.

(5) Nothing in any contract between an owner and occupier shall affect any right conferred on an occupier by this section.

Compensation out of municipal fund.

151. (1) The committee may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any power vested in the committee, its officers or servants, under this Regulation, and shall, subject to the other provisions of this Regulation, make such compensation where the person sustaining the damage was not himself in default in the matter in respect of which the power was exercised.

(2) Where any dispute arises touching the amount of any compensation which the committee is required by this Regulation to pay for injury to any building or land, it shall be settled in such manner as the parties may agree, or, in default of agreement, in the manner provided by the Land Acquisition Act, 1894, sections 3, 8 to 34, 45 to 47, and 50 to 52, so far as they can be made applicable.

Powers and duties of Police in respect of offences against Regulation, and assistance to municipal authority.

152. (1) Every Police-officer employed within the limits of the municipality shall give immediate information to the committee of any offence committed against this Regulation or the rules or by-laws thereunder, and shall be bound to assist all members, officers and servants of the committee in the exercise of their lawful authority.

(2) Any such Police-officer, and, in the absence of a Police-officer, any officer of the committee empowered in this behalf by the general or special order of the Chief Commissioner, may arrest any person committing in his view any offence punishable under sections 109 to 114,—

- (a) where the name and address of the person are unknown to him, and
- (b) where the person declines to give his name and address or there is reason to doubt the accuracy of the name and address given.

¹ See the revised edition as modified up to 1st August, 1903.

(Chap. IX.—Supplemental. Secs. 153-155.)

(3) A person arrested under this section may be detained until his name and address are correctly ascertained :

Provided that no person so arrested shall be detained longer than is necessary for bringing him before a Magistrate unless an order of a Magistrate for his detention is obtained.

153. (1) No Court shall take cognizance of an offence punishable only under this Regulation or a rule or by-law made thereunder except on the complaint of the Commissioner or of the committee or of some sub-committee or person authorised either generally or specially by the Commissioner or the committee in this behalf. ^{Initiation of prosecutions.}

(2) For the purposes of this section, the committee may, except where otherwise expressly provided, authorise any sub-committee or person to prosecute either generally in regard to all offences against this Regulation and the rules or by-laws thereunder or specially in regard only to specified offences or offences of a specified class.

(3) Where the person authorised is president, vice-president, *ex-officio* member, secretary, engineer or health officer of the committee, the authority may be given by virtue of office ; but in the case of other persons the authority shall be personal.

(4) The authority shall in all cases be in writing and may at any time by resolution be cancelled by the committee.

154. (1) The Chief Commissioner may empower any committee or its president, vice-president, secretary, health officer or engineer, or any member appointed by office, or any sub-committee, to accept from any person against whom a reasonable suspicion exists that he has committed an offence against this Regulation or any rule or by-law made thereunder, a sum of money by way of composition for such offence. ^{Power to compound offences.}

(2) On payment of such sum of money the suspected person, if in custody shall be discharged, and no further proceedings shall be taken against him in regard to the offence or alleged offence so compounded.

(3) Sums paid by way of composition under this section shall be credited to the municipal fund.

(4) Power under sub-section (1) to accept composition for alleged offences may be given either generally in regard to all offences under this Regulation and the rules and by-laws thereunder, or particularly in regard only to specified offences or offences of a specified class, and may at any time be withdrawn by the Chief Commissioner.

155. It shall be competent to the Commissioner to revise any order made by a committee under the powers vested in it by section 69, 80, 81, 82, 84, 90 or 94 ; and no such order shall be liable to be called in question otherwise : ^{Commissioner's power to revise certain orders of committee.}

Provided that the order questioned shall not be set aside or modified until the committee have had a reasonable opportunity of being heard.

(Chap. IX.—Supplemental. Secs. 156-161.)

No appeal to lie against any order unless expressly provided for in the Regulation and all orders made in appeal to be final.

156. An appeal shall not lie against any order made under this Regulation except where express provision has been made in the Regulation for appeal from such order; and every order made in appeal under this Regulation shall be final.

Suspension of proceedings and prosecutions when the revision of certain orders is under contemplation.

157. Where any such order as is specified in section 69, 80, 81, 82, 84, 90 or 94 is subject to revision and revision proceedings have been instituted, all proceedings to enforce such order and all prosecutions for any breach thereof may, by order of the revisional authority, be suspended pending the result of the revision and, where such order is set aside on the revision, disobedience thereto shall not be deemed to be an offence.

Procedure for making rules or by-laws.

158. The power to make rules or by-laws under section 96, 99 or 144 is subject to the condition of the rules or by-laws being made after previous publication.

Power to make rules regulating conservancy of reservoir and catchment area.

159. (1) Where the supply of water in a municipality is derived from a reservoir situate beyond the limits of the municipality, the Chief Commissioner may make rules—

- (a) prohibiting the doing in the reservoir, or in its vicinity or in or upon the catchment area thereof, any act by which the quantity or purity of the water or the safety of the reservoir may be impaired;
- (b) regulating generally the conservancy of the reservoir and of the catchment area; and
- (c) determining the compensation, if any, to be paid by the committee to any person affected by a rule made under clause (a) or clause (b).

(2) The Chief Commissioner may direct that the breach of any rule under sub-section (1) shall be punishable with fine which may extend to two hundred rupees.

Saving of Act XI of 1879. Brothels.

160. Nothing in this Regulation shall affect the ¹Local Authorities Loan Act, 1879. ^{XI of 1879.}

161. (1) On receiving information that a house within the limits of a municipality is used as a brothel, or by disorderly persons of any description, in proximity to any school or college, or to the annoyance of the respectable inhabitants of the vicinity, or that any such house is used as a brothel in the immediate neighbourhood of a cantonment, any Magistrate of the first class, having as such jurisdiction in the place where the house is situated, may summon the owner or tenant of the house and, on being satisfied that the house is so used, and that it is a source of annoyance or offence to the neighbours,

(Chap. IX.—Supplemental. Sec. 162. Chap. X.—Small Towns.
Secs. 163-164.)

or that it is in the immediate neighbourhood of a cantonment, may order the owner or tenant to discontinue such use of it; and, if the owner or tenant fails to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used:

Provided that action under this section shall be taken only—

- (a) with the sanction or by the order of the Commissioner; or
- (b) on the complaint of three or more inhabitants of the municipality resident in the immediate vicinity of the house to which the complaint refers.

(2) This section shall not take effect in any municipality until it has been specially applied thereto by the Chief Commissioner.

162. (1) Where the circumstances of any municipality are such that, in the opinion of the Chief Commissioner, any of the provisions of this Regulation are unsuited thereto, the Chief Commissioner may, by notification in the local official Gazette, except the municipality from the operation of those provisions; and thereupon those provisions shall not apply to the municipality until again applied thereto by a like notification.

Power to
except mun-
cipality from
provisions of
Regulation
unsuited
thereto.

(2) While the exception remains in force, the Chief Commissioner may make rules for the guidance of the committee and public officers in respect of the matters excepted from the operation of the said provisions.

CHAPTER X.

SMALL TOWNS.

163. (1) The Chief Commissioner may, by notification in the local official Gazette, declare that, with respect to some or all of the matters upon which a municipal fund may be expended under section 49, improved arrangements are required within a specified local area which, nevertheless, it is not expedient to constitute as a municipality.

Constitution
of notified
areas.

(2) A local area in regard to which a notification has been issued under sub-section (1) is hereafter called a "notified area".

(3) No local area shall be made a notified area if—

- (a) it contains more than ten thousand inhabitants according to the returns of the most recent official census, or
- (b) it includes merely an agricultural village or villages, and does not contain a town or bazar.

164. (1) The Chief Commissioner may—

- (a) impose in any notified area any tax which could be imposed there by the committee if the notified area were a municipality;

Power for
Chief Com-
missioner to
impose taxa-
tion and

(Chap. X.—*Small Towns.* Secs. 165-166. Chap. XI.—*Repeals.* Sec. 167.)

regulate
expenditure
of proceeds
thereof.

- (b) apply or adapt to the notified area, for the assessment and recovery of any tax imposed under clause (a), any of the provisions of this Regulation, or of any rules for the time being in force with respect to the assessment and recovery of any tax imposed under this Regulation;
- (c) arrange for the due expenditure of the proceeds of taxes imposed under clause (a), and for the preparation and maintenance of proper accounts;
- (d) appoint a committee of one or more persons for the purposes of clauses (b) and (c); and
- (e) extend to any notified area the provisions of any section of this Regulation subject to such restrictions and modifications (if any) as the Chief Commissioner may think fit.

(2) The proceeds of any tax levied in any notified area under this section shall be expended only in some manner in which the municipal fund of such notified area might be expended if the notified area were a municipality.

Application
of Regulation
to notified
areas.

165. Where any section of this Regulation is for the time being extended to a notified area, the committee appointed for such notified area under section 164 shall be deemed to be a committee, and the notified area a municipality, within the meaning of the section so extended.

Effect of
cancellation
of notifica-
tion issued
under section
163.

166. Where the Chief Commissioner cancels a notification published under section 163, the unexpended proceeds of any taxes levied in the local area to which the notification refers under section 164, shall be applied for the benefit of the inhabitants of such area in such manner as the Chief Commissioner may think fit.

CHAPTER XI.

REPEALS.

Repeals.

167. (1) The North-Western Provinces and Oudh Municipalities Act, 1873, XV of 1873 as extended to Coorg, is hereby repealed.

(2) But all municipalities declared, committees established, limits defined, appointments, rules, orders and by-laws made, notifications and notices issued, taxes and rates imposed, contracts entered into and suits instituted under the said Act, or under any enactment thereby repealed, shall, so far as may be, be deemed to have been respectively declared, established, defined, made, issued, imposed, entered into and instituted under this Regulation.

REGULATION No. IV of 1907.

(Published in the Gazette of India on 27th July 1907; and in the Coorg District Gazette on 2nd September 1907.)

A Regulation further to amend the Coorg Land and Revenue Regulation, 1899.

1 of 1899. WHEREAS it is expedient further to amend the Coorg Land and Revenue Regulation, 1899; It is hereby enacted as follows:—

1. This Regulation may be called the Coorg Land and Revenue (Amendment) Regulation, 1907. Short title and commencement.

1 of 1899. 2. In section 143 of the Coorg Land and Revenue Regulation, 1899, the following amendments shall be made, namely:— Amendments of section 143 (1) (e) of Regulation I of 1899.

(1) For clause (e) of sub-section (1) the following clauses shall be substituted, namely:—

[*Supra*, p. 131.]

(2) In sub-section (2), after the word and parenthesis “clause (e)” the word and parenthesis “or (ee)” shall be inserted.

3. For clause (xv) of section 145 of the said Regulation the following shall be substituted, namely:— Amendment of section 145 (xv) of Regulation I of 1899.

[*Supra*, p. 133.]

REGULATION No. I of 1908.

Published in the Gazette of India on 15th February, 1908; and in the Coorg District Gazette on .)

Further to amend the Coorg Land and Revenue Regulation, 1899.

1 of 1899. WHEREAS it is expedient further to amend the Coorg Land and Revenue Regulation, 1899; It is hereby enacted as follows:—

1. This Regulation may be called the Coorg Land and Revenue (Amendment) Regulation, 1908. Short title.

1 of 1899. 2. For section 109 of the Coorg Land and Revenue Regulation, 1899, the following shall be substituted, namely:— Amendment of section 109 of Regulation I of 1899.

[*Vide supra*, p. 124.]

APPENDIX.

ENACTMENTS DECLARED IN FORCE IN, OR EXTENDED TO, COORG BY NOTIFICATION UNDER THE ¹SCHEDULED DISTRICTS ACT, 1874.

[The Chief Commissionership of Coorg is a Scheduled District—see the ¹Scheduled Districts Act, 1874, First Schedule, Part VII; and the Act was brought into force there by Notification No. 305, dated the 22nd February, 1875 (published in the Gazette of India, 1875, Part I, page 95), which runs as follows:—With the sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to declare, under section 3 of the ¹Scheduled Districts Act, 1874, that the said Act is in force in the Chief Commissionership of Coorg.] XIV of 1847.

Year.	No.	Subject.	Whether declared in force or ex- tended.	Notification.
<i>(1).—Bengal Regulation.</i>				
1818	III	² State Prisoners.	Extended	<i>No. 5, dated 12th February, 1887.—In exercise of the power conferred by section 5 of the ¹Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Bengal Regulation III of 1818 (a Regulation for the confinement of State Prisoners), Act XXXIV of 1850 (an Act for the better custody of State Prisoners), and Act II of 1858 (an Act to amend the law relating to the arrest and detention of State Prisoners), to the Chief Commissionership of Coorg. [See Gazette of India, 1887, Pt. I, p. 97; Coorg District Gazette, 1887, Pt. I, p. 583.]</i>

¹ General Acts, Vol. II, p. 467.

² *Supra*, Part I.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).—Acts of the Governor General in Council.				
1841	XIX 1	² The Succession (Property Protection) Act, 1841.	Declared in force.	No. 1666, dated 27th December, 1878.—In exercise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to declare that the enactments mentioned in the Schedule hereto annexed, so far as they have not been repealed, are in force in the Chief Commissionership of Coorg. 2. Nothing herein contained shall be deemed to affect the operation of any enactment in force in the said Chief Commissionership and not mentioned in the said schedule. (Here follows the Schedule, which contains, among other Acts, Act XIX of 1841.) [See Gazette of India, 1878, Pt. I, p. 747.]
1850	XVIII 1	² The Judicial Officers' Protection Act, 1850.	Ditto	See Notification No. 1666, dated 27th December, 1878, <i>supra</i> .
"	XXI 1	² The Caste Disabilities Removal Act, 1850.	Ditto	Ditto.
"	XXXIV 1	² The State Prisoners Act, 1850.	Extended	See Notification No. 5, dated 12th February, 1887, <i>supra</i> , p. 197.
1851	VIII 1	² The Indian Tolls Act, 1851.	Ditto	No. 92, dated 17th January, 1878.—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act, 1874), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Coorg the following Acts for enabling Government to levy tolls on public roads and bridges:— ³ Act VIII of 1851. " XV of 1864. [See Gazette of India, 1878, Pt. I, p. 45.]

¹ General Acts, Vol. I, pp. 34, 62, 72, 73 and 79, respectively.

² These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), General Acts, Vol. VI.

³ Though Act 8 of 1851 and Act 15 of 1864 were extended to Coorg from the 17th January 1873 by the Notification set out in the fourth column, both Acts were declared in force by Notification No. 1666, dated the 27th December 1878, *supra*.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).— <i>Acts of the Governor General in Council—contd.</i>				
1852	XXX ¹	2 The Indian Naturalization Act, 1852.	Declared in force.	No. 696, dated 20th May, 1881.—In exercise of the power conferred by section 3 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to declare that Act XXX of 1852 (an Act for the Naturalization of Aliens) is in force in the Chief Commissionership of Coorg. [See Gazette of India, 1881, Pt. I, p. 203.]
1856	XV ³	2 The Hindu Widows' Remarriage Act, 1856.	Ditto	See Notification No. 1666, dated 27th December, 1878, <i>supra</i> , p. 198.
1858	III ³	The State Prisoners Act, 1858.	Extended.	See Notification No. 5, dated 12th February, 1887, <i>supra</i> , p. 197.
	XXXV ³	2 The Lunacy District Courts Act, 1858.	Ditto	No. 24, dated 16th March, 1906.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend to the District of Coorg the Lunacy (District Courts) Act, 1858 (XXXV of 1858). [See Gazette of India, 1906, Pt. I, p. 190.]
..	XXXVI ⁴	2 The Indian Lunatic Asylums Act, 1858.	Ditto	No. 9, dated 4th March 1887.—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Coorg the Lunatic Asylums Act, XXXVI of 1858, as amended by Act XVIII of 1886. [See Gazette of India, 1887, Pt. I, p. 144.]

¹ See the reprint as modified up to 1st December, 1902.

² These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), General Acts, Vol. VI.

³ General Acts, Vol. I, pp. 111, 142, 151 and 209, respectively.

⁴ See the reprint as modified up to 31st May, 1902.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).— <i>Acts of the Governor General in Council—contd.</i>				
1859	XIII ¹	² The Workman's Breach of Contract Act, 1859.	Declared in force.	See Notification No. 1666, dated 27th December, 1878, <i>supra</i> , p. 198.
1860	XXVII ³	Collection of Debts on Successions.	Ditto	Ditto.
1861	V ⁴	² The Police Act, 1861 (except sections 1, 3, 4, 5, 6, 8, 11, 21, 28, 33, 37, 41, 43, 46 and 47).	Extended	No. 4, dated 6th February, 1888.—In exercise of the powers conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Officiating Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, in supersession of Home Department Notification No. 35, dated the 5th February, 1879, to extend Act V of 1861 (<i>an Act for the Regulation of Police</i>) to the District of Coorg, with the exception of the undermentioned sections, namely:— 1, 3, 4, 5, 6, 8, 11, 21, 28, 33, 37, 41, 43, 46 and 47. [See <i>Gazette of India</i> , 1888, Pt. I, p. 88; <i>Coorg District Gazette</i> , 1888, Pt. I, p. 28.]
"	"	Ditto (sections 4 and 37).	Ditto	No. 29, dated 3rd July, 1888.—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), and in modification of Notification No. 4, dated the 6th February, 1888, extending certain sections of Act V of 1861 (<i>an Act for the Regulation of Police</i>) to the District of Coorg, sections 4 and 37 of the latter Act are also, with the previous sanction of the Governor General in Council, extended by the Chief Commissioner of Coorg to that District. [See <i>Gazette of India</i> , 1888, Pt. I, p. 323; <i>Coorg District Gazette</i> , 1888, Pt. I, p. 59.]

¹ General Acts, Vol. I, pp. 111, 142, 151 and 209, respectively.

² These titles were given by the Indian Short Titles, Act, 1897 (14 of 1897), General Acts, Vol. VI.

³ Act 27 of 1860 was repealed by the Succession Certificate Act, 1889 (7 of 1889), which extends to the whole of British India and therefore to Coorg.

⁴ See the reprint as modified up to 7th March, 1903.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).— <i>Acts of the Governor General in Council—contd.</i>				
1864	VI ¹	² The Whipping Act, 1864.	Declared in force.	See Notification No. 1666, dated 27th December, 1878, <i>supra</i> , p. 198.
„	XV ^{3 4}	² The Indian Tolls Act, 1864.	Extended .	See Notification No. 92, dated 17th January, 1878, <i>supra</i> , p. 198.
1867	III ⁵	Gambling .	Ditto .	No. 761, dated 19th June, 1878.—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), and with the previous sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend Act III of 1867 (<i>an Act to provide for the punishment of public gaming and the keeping of common gaming-houses</i>) to the Chief Commissionership of Coorg. The Chief Commissioner of Coorg will exercise the powers of a Chief Commissioner under that Act. [See Gazette of India, 1878, Pt. I, p. 373.]
1869	XV ⁶	Prisoners Testimony.	Declared in force.	No. 1666, dated 27th December, 1878, <i>supra</i> , p. 208.
1870	XXIII ⁷	Coinage .	Ditto .	Ditto.
1873	X ⁸	The Indian Oaths Act, 1873.	Extended .	No. 1286, dated the 31st July, 1876.—In exercise of the powers conferred by sections 5 and 6 of Act XIV of 1874 (the Scheduled Districts Act), and with the previous sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend the Indian Oaths Act X of 1873 to the Chief Commissionership of Coorg, and to direct that the powers conferred on the High Court by section 7 of such Act shall be exercised by the Judicial Commissioner of Coorg. [See Gazette of India, 1876, Pt. I, p. 417.]

¹ See the reprint as modified up to 1st August, 1905.

² These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), General Acts, Vol. VI.

³ General Acts, Vol. I, p. 436.

⁴ See the third footnote, *supra*, p. 198.

⁵ *Supra*, Pt. II.

⁶ Rep. Act 3 of 1900, see the reprint as modified up to 1st March, 1905. Act 3 of 1900 extends to the whole of British India and therefore to Coorg.

⁷ Rep. Act 3 of 1906 which extends to the whole of British India and therefore to Coorg.

⁸ See the reprint as modified up to 1st February, 1903.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).— <i>Acts of the Governor General in Council—contd.</i>				
1873	XV 1	Municipalities (except sections 34 and 35).	Extended	No. 635, dated the 14th June, 1882. [See Gazette of India, 1882, Pt. I, p. 233.]
1877	I 2	The Specific Relief Act, 1877.	Ditto	No. 742, dated 27th May, 1882.—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Act I of 1877 (the Specific Relief Act), to the Chief Commissionership of Coorg. [See Gazette of India, 1882, Pt. I, p. 217.]
..	X 3	Civil Procedure	Ditto	No. 1667, dated, 27th December, 1878. [See Gazette of India, 1878, Pt. I, p. 747.]
1878	XVII 4	Ferries (except s. 1, paras. 2 & 3, and ss. 2, 7A, 17 & 36).	Ditto	No. 37, dated 5th June, 1886.—In exercise of the powers conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend to the Chief Commissionership of Coorg the Northern India Ferries Act, 1878 (XVII of 1878), as amended by Act III of 1886, with the exception of the 2nd and 3rd paragraphs of section 1 and sections 2, 7A, 17 and 36 thereof. [See Gazette of India, 1886, Pt. I, p. 382; Coorg District Gazette, 1886, Pt. I, p. 282.]

¹ Rep. Regulation 2 of 1907, *supra*, p. 195.

² General Acts, Vol. II, p. 5.

³ Act 10 of 1877 was repealed by Act 14 of 1882, which has been extended to Coorg, *see* next page. For Act 14 of 1882, *see* the reprint as modified up to 1st December, 1899.

⁴ *Supra*, Part II.

Enactments declared in force in, or extended to, Coorg by notification under the Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).—Acts of the Governor General in Council—contd.				
1879	XII ¹	² The Registration and Limitation Acts Amendment Act, 1879.	Extended	No. 119, dated 2nd February, 1880.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874, the Chief Commissioner of Coorg is pleased, with the sanction of the Governor General in Council, to extend Act XII of 1879 (an Act to amend the Code of Civil Procedure) to the Chief Commissionership of Coorg. [See Gazette of India, 1880, Pt. I, p. 93.]
1882	XIV ³	The Code of Civil Procedure (except sections 1 and 3).	Ditto	No. 761, dated 1st June, 1882.—In exercise of the power conferred by section 5 of Act XIV of 1874 (the Scheduled Districts Act, 1874), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Act XIV of 1882 (the Code of Civil Procedure) to the Chief Commissionership of Coorg, except sections 1 and 3, which are already in force. [See Gazette of India, 1882, Pt. I, p. 217.]
1886	III ⁴	Ferries (Amending) Act XVII of 1878.	Ditto	See Notification No. 37, dated 5th June, 1886, <i>supra</i> , p. 202.
"	XVIII ⁵	² The Indian Lunatic Asylums Act (1858) Amendment Act, 1886.	Ditto	See Notification No. 9, dated 4th March, 1887, <i>supra</i> , p. 199.

¹ Act 12 of 1879, so far as it amends the Code of Civil Procedure, was repealed by Act XIV of 1882 which was extended to Coorg by the succeeding notification. The unrepealed portions of the Act are printed in General Acts, Vol. III, p. 263.

² These titles were given by the Indian Short Titles Act, 1897 (14 of 1897), General Acts, Vol. VI.

³ For Act 14 of 1882 see the reprint as modified us to 1st December, 1899.

⁴ *Supra*, Pt. II.

⁵ General Acts, Vol. V, p. 118.

Enactments declared in force in, or extended to, Coorg by notification under the
Scheduled Districts Act, 1874—continued.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(2).—Acts of the Governor General in Council—concl'd.				
1888	VII ¹	The Civil Procedure Code Amendment Act, 1888 (except so much as amends the Indian Registration and Limitation Acts, 1877).	Extended	No. 38, dated 30th August, 1888.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Officiating Chief Commissioner of Coorg, with the previous sanction of the Governor General in Council, extends to the District of Coorg the Civil Procedure Code Amendment Act, VII of 1888, except so much thereof as amends the Indian Registration Act, 1877, and the Indian Limitation Act, 1877, which is already in force. [See Gazette of India, 1888, Pt. I, p. 409; Coorg District Gazette, 1888, Pt. I, p. 94.]
"	X ¹	Ditto (sections 1 and 3).	Ditto	No. 11, dated 7th May, 1889.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, XIV of 1874, the Chief Commissioner of Coorg, with the previous sanction of the Governor General in Council, extends to the District of Coorg sections 1 and 3 of Act X of 1888 (to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882). [See Gazette of India, 1889, Pt. I, p. 286; Coorg District Gazette, 1889, Pt. I, p. 33.]
1895	VIII ²	Amending Act V of 1861.	Ditto	No. 20, dated 4th September, 1895.—In exercise of the power conferred by section 5 of the Scheduled Districts Act, 1874 (XIV of 1874), and with the previous sanction of the Governor General in Council, the Chief Commissioner is pleased to extend Act VIII of 1895 (an Act to amend Act V of 1861) with the exception of sections 1, 3, 15 and 16 to the District of Coorg. [See Gazette of India, 1895, Pt. II, p. 1127.]

¹ General Acts, Vol. V, pp. 232 and 251, respectively.

² General Acts, Vol. VI, p. 227.

Enactments declared in force in, or extended to, Coorg by notification under the
Scheduled Districts Act, 1874—concluded.

Year.	No.	Subject.	Whether declared in force or extended.	Notification.
(3).—Acts of the Governor of Fort St. George in Council.				
1873	I ¹	Wild Elephants.	Extended	No. 306, dated 22nd February, 1875.— With the sanction of the Governor General in Council, the Chief Commissioner of Coorg is pleased to extend, under section 5 of the Scheduled Districts Act, 1874, to the Chief Commissionership of Coorg the Act of the Governor of Fort St. George in Council, No. I of 1873 (an Act to prevent the indiscriminate destruction of wild elephants). [See Gazette of India, 1875, Pt. I, p. 95.]
1878	VIII ²	Coffee-stealing.	Ditto	No. 1458, dated 25th October, 1878.—In exercise of the power conferred by section 5, Act XIV of 1874 (the Scheduled Districts Act), the Chief Commissioner of Coorg is pleased, with the previous sanction of the Governor General in Council, to extend Madras Act VIII of 1878 (the Madras Coffee stealing Prevention Act) to the District of Coorg. [See Gazette of India, 1878 Pt. I, p. 633.]

(4).—Act of the Governor of Bombay in Council.

1879	V	Revenue-survey and Settlement of Boundaries ³ (sections 95 to 97, 118 to 123, 125, 126, 188 to 191 and 200).	Extended	No. 25, dated 25th November, 1887. [See Gazette of India, 1887, Pt. I, p. 612; Coorg District Gazette, 1887, Pt. I, p. 831.]
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¹ Madras Act I of 1873 was repealed in Coorg by Regulation I of 1881.

² *Supra*, Pt. III.

³ These sections were repealed in Coorg by the Coorg Land Revenue Regulation, 1899 (1 of 1899), s. 2, *supra*, p. 98.

INDEX.

	PAGE.
Act 11 of 1870, not affected by Coorg Municipal Regulation, 1907	193
BENGAL STATE PRISONERS REGULATION, 1818	
Allowances	2
Arrest	4
Custody	3
Estates, attachment and management of	3
decrees against	4
not liable to sale in execution	4
release of	5
Representations to Government	4
Report to Government	4
Visitation	3
Warrant, Form and authority of	3
 COFFEE-STEALING PREVENTION ACT, 1878, see MADRAS-	
COORG COURTS REGULATION, 1901	
Amended	136
Appeals	141
Business, distribution of	138
Commissioner and Assistant Commissioner	139
Criminal justice	137
Grades of Courts	140
Judicial Commissioner	137
holding court by, within or without Coorg	137
Limits of courts, fixing and variation of	140
Munsifs	137
investiture of, with Small Cause Courts jurisdiction	137
Original jurisdiction	139
Presiding officer, trial of suits in which he is interested	137
Repeals	140 & 141
Rules	140
Second appeals	138 & 139
Small Cause Courts jurisdiction, investiture of munsifs with	140
 COORG DISTRICT FUND REGULATION, 1900	
Appeal	135
District Board and Fund, establishment of	136
Extent	135
Rules	135
Suits, bar of	136
Special rate, imposition and recovery of	135
on revenue-free land	135
Taxes, abolition of	136
 COORG LAND AND REVENUE REGULATION, 1899	
Alienation of certain lands, summary eviction in case of	98
Amended	109
	196

	PAGE.
COORG LAND AND REVENUE REGULATION 1899— <i>contd.</i>	
Annual records	104
Appeal, review and revision	101
Arbitration	127
Arrears, recovery of	113
Assessment	110
Assigned land revenue, attachment	130
Attachment, time of making	118
withdrawal of	120
Boundaries	126
Collection of land revenue and other demand	112
Commissioner and Assistant Commissioners	100
Costs	130
Crops, distraint of	115
Declaratory decree, suit for	107
Defaulter, summons to, and arrest and imprisonment of	114
attachment and sale of immoveable property of	118 & 119
Definitions	98
Disputes, determination of	106
Distraint and sale	115
Time for making	115
Erection of survey marks	126
Execution of orders	130
Extent	98
Fees, recovery of	125
Female apartments, forcible entry of	117
Fraudulent transfer	116
Government lands, encroachment on	108
Information, obligation to furnish	107
Landholders, report as to acquisition of rights of	105
Mines	109
Mutation-fees	107
Notices	103
Parpattigars	104
Penalties	103, 107, 117
Procedure	102
Proceeds of sale, application of	123
Process, time for issue of	113
Property, attached, sale of	121
Purchase-money, payment of	118, 121
refund of, on setting aside sale	123
Records of rights	104
contents of	105
restrictions on variations of entries in	106
Relinquishment and re-occupation	108
Rent and profits of property sold	124
Repeals	133
Revenue-officers, classes of	99
duties of, where not specified	101
restrictions on bidding or acquiring land	131
subordination of	103
Revenue, receipts for	125
Rules	100, 107 & 131
Schedules of form	134
Suits, bar of, in certain matters	132
Sale, application to set aside	122
of proceeds of	123

	PAGE.
COORG LAND AND REVENUE REGULATION, 1899—contd.	
Sale, postponement of, on tender of security	125
proclamation of	118
of revenue-free lands	124
Procedure when, made absolute	123
Subedars and limits of their duties	100
Sureties, enforcement of payment by	125
Surveys and boundaries	126
Taluks	100
Unlawful entry, penalty for	117
Village-officers	104
papers kept by	130
Warrants, forms of	134
COORG MUNICIPAL REGULATION, 1907	
Act 11 of 1879 not affected	19
Animals, definition of	170
dead bodies of	183
feeding on deleterious substances	182
keeping of unlicensed, within certain limits	176
Bathing and washing places	169
Brothels	193
Buildings dangerous	174
insanitary	175
line of new	167
unfit for human habitation and untenanted, when a nuisance.	175
measurement of, for valuation and sanitation of	171
unauthorised, over drains	174
Burial and burning places	170
Business, conduct of	153
bye-laws for conduct of	154
Bye-laws, power to make	178
Camels	182
Catchment area, rules for	193
Cattle, keeping of unlicensed, within certain limits	176
Chief Commissioner, general powers of	189
power of, in case of default of committee	187
to make rules	188
to reduce or abolish tax	161
to supersede committee	187
Extraordinary powers of, in cases of emergency.	187
Committees, constitution of	151
investiture of, with certain powers of the District Magistrate.	180
irregularities and defects in constitution of	155
joint	155
power to revise orders of	192
removal of members of	153
sub-committees, delegations of powers of, to	181
supersession of	187
term of office of members of	152
vote of majority decisive	154
Contracts	157
Control	156
Corpses, removal of	171
by prohibited routes	183
Crop injurious to health, prohibition to cultivate	175

	PAGE.
COORG MUNICIPAL REGULATION, 1907—contd.	
Definitions	149
Dogs, <i>see Mad dogs—</i>	
Drains	174
Driving	182
Drugs, adulterated, <i>see</i> Entry and inspection.	184
sale of	177
Elephants	182
Entry and inspection for survey and taking levels of land.	171
discovery of animals, etc., liable to taxation	172
of places used for storage of articles of	172
human consumption.	
for sale of drugs	172
for scavenging purposes	172
of slaughter-houses	172
Execution, recovery of costs of	190
Fees, power to charge, in certain cases	162
Fire, extinction and prevention of	185
Fire-arms, discharging of	182
Food and drink, bye-laws for sale of	177
refusing to sell	184
sale of, by diseased persons	183
Fund and property	163
compensation from	191
custody and investment of	164
Government buildings, assessment of	159
Hackney-carriage keepers, unlicensed keeping of animals by	176
Infection, restraint of	178
Inflammable materials, roofs and external walls of	166
stacking and collecting	171
Irrigation injurious to health	175
Land, acquisition of	166
Lamps, brackets for	166
posts, disturbance of	183
Leave allowances	156
Loss, waste or misapplication, liability for	158
Mad dogs	178
Manure injurious to health	175
Milk-men, keeping of unlicensed cattle by	176
Municipalities, constitution of	159
exclusion of local area from	151
power to exempt, from Regulation	194
small towns	194
Notices	189
Notified areas, application of Regulation to	195
constitution of	194
Noxious vegetation	175
Nuisances, public	180
Offences	181
power to compound	192
Offensive matter	169
and dangerous Trades	176
Officers and Servants	155
Penalties	181
Pensions and gratuities	156
Police, powers and duties of	191
Powers, delegation of	153
to sub-committees	181

	PAGE.
COOP MUNICIPAL REGULATION, 1907— <i>concl'd.</i>	
President	152
President, extraordinary powers of	154
removal of	153
Privileges and liabilities	157
Privies and cesspools	171 & 173
removal of, when near water-supply	174
Property, vestiture of	165
Prosecution, suspension of, in certain cases	185 & 193
initiation of	192
Prostitution	184
Quarrying	183
Repeals	195
Rules	188 & 193
Sanitary powers	166
Slaughter places	169
entry and inspection of	172
Streets, names of and numbers of buildings	166
obstruction or encroachment of	182
Survey of land	171
Tanks, unwholesome, drainage of	174
Taxes	158
abolition, reduction or exemption of	161
appeals against	162
information as to liability to	161
limitation upon	159
procedure in imposing	160
recovery of	161
Trades, offensive and dangerous	176
Water pipes	173
Water-supply, removal of privies, etc., near	174
Vice-president	152
extraordinary powers of	154
removal of	153
COOP TEMPLE FUNDS MANAGEMENT REGULATION, 1892	88
Accounts, audit of	90
Application of	88
Arbitration	91
Casual vacancies in committee	89
Definitions	88
Disputes	91
Election and re-election of members	89
Government servants to be excluded from management	91
Incapacity of members	90
Legal proceedings	90
Majority of committee to decide	90
Management committee, constitution of	88
election of members of	88
removal and resignation of members of	89
Managers, appointment and duties of	90
President	90
Rules	89
Suits, institution of	91
Temples, schedule of allowances to	92
COURTS REGULATION, 1901, <i>see Coorg—</i>	
DISTRICT FUND REGULATION, 1900, <i>see Coorg—</i>	

	PAGE.
EASEMENTS ACT, 1882— <i>see Indian</i> —	
EXCISE ACT, 1896	62
Abetment	78
Act 16 of 1863 not affected	64
Amended	80
Breweries	65
Cantonments	78
Collector, subject to control of Commissioner	79
Confiscation	78
Definitions	63
Distilleries, rules as to	65 & 66
Exemption of persons or articles	79
Extent	62
Farmers	71
Fermented liquor and spirits, possession and import of	69 & 72
production of	64
sale of	70
Fines and rewards, disposal of	78
Hemp	67
Intoxicating drugs, cultivation and control of	66
duty on	67
possession and import of	72
sale of	69
<i>see also Coorg Municipal Regulation, 1907.</i>	
Licenses	70
Military cantonments	78
Officers and their powers	73
Penalties	75
Repeals	63 & 79
Rules	65 & 66
	69 & 79
Spirits <i>see fermented liquor</i> —	
Tari	72
Vexatious seizure or search	77
Warehouses, bonded	67
Warrant in certain cases	74
FERRIES, <i>see NORTHERN INDIA FERRIES ACT, 1878.</i>	
GAMBLING, <i>see PUBLIC GAMBLING ACT, 1867.</i>	
HACKNEY CARRIAGE ACT, 1879	23
Applications	23
Definitions	23
Disputes as to fares	25 & 26
Driving without lights	182
Fees, disposal of	25
Horses, unlicensed keeping of, by hackney-carriage owners in certain limits.	176
Operation, extension of	24
Rules	24
Breach of, penalty for	25
Confirmation and publication of	23
for cantonments	24
Rescinding of	23
<i>See also Coorg Municipal Regulation, 1907.</i>	

	PAGE.
INDIAN EASEMENTS ACT, 1882	36
Accessory rights	47
extinction of	55
Compensation for damage by extinction or suspension	55
Disturbance of easements	50
Easements generally	37
Incidents	45
Imposition, acquisition and transfer of	39
extinction, suspension, and revival of	51
Extent	36
Licenses	56
Limitation Act, 1877, repeal of parts of	37
Savings	36
LAND AND REVENUE REGULATION, 1899—see <i>Coorg</i> —	
MADRAS COFFEE-STEALING PREVENTION ACT, 1878	84
Application	84
Barter, taking coffee in	84
Books, production of	85
Coffee purchased for personal consumption	85
when it may be taken from carrier	85
labourer in possession of green	85
removal of, from estate without permission	85
hours of gathering or removing	86
Fines, disposal of	86
Gathering done to commit theft, procedure if	86
hours of	86
Informers, rewards to	86
Penalties	85 & 86
MUNICIPAL REGULATION, 1907, see <i>Coorg</i> —	
NORTHERN INDIA FERRIES ACT, 1878	15
Amended	58
Approaches, payment for use of	18
Arrest without warrant	21
Boats, etc., power as to taking possession of	21 & 22
Civil Court jurisdiction barred	22
Criminal procedure	19
Damage by offender, assessment of	21
Definition	15
Lease, cancelment of	17
surrender of	17
Passenger, offending	20
Penalties	19
Powers, delegation of	22
Private ferries, claims for compensation on declaration as public ferry	16
plying of, within limits of public ferries	18
penalty	20
Rules	19
Public ferries	15
management of	16
proceeds, disposal of	16
Rash navigation	21
Rules	17 & 19
penalty for breach of	20
Tolls, compounding for	19

	PAGE.
NORTHERN INDIA FERRIES ACT, 1878— <i>contd.</i>	
Tolls, letting of	16
at private ferries	19
unauthorized	20
PRISONERS— <i>see</i> BENGAL STATE PRISONERS REGULATION, 1818—	
PUBLIC GAMBLING ACT, 1867	8
Cards, finding of, in suspected houses	10
Definitions	8 & 9
Entry and search	10
Evidence	10 & 11
Extent	9
Fines, recovery of	13
Games not affected	12
Informer, reward to	13
Instruments of gaming in public streets, and destruction of disposal of, on conviction	12 11
Penalties and subsequent offence	9, 10 & 12
Stakes, proof of playing for, unnecessary	11
Street gaming and bird fighting	12
Witnesses, indemnification of	11
RATES AND CESSSES— <i>see</i> REPEALING AND AMENDING (RATES AND CESSSES) ACT, 1907.	
REPEALING AND AMENDING (RATES AND CESSSES) ACT, 1907	81
STATE PRISONERS REGULATION, 1818, <i>see</i> Bengal—	
TEMPLE FUNDS MANAGEMENT REGULATION, 1892, <i>see</i> Coorg—	
VACCINATION ACT, 1880	27
Application	27
Cantonments, extension to	29
Rules for	31
Child, unfit	30
Circles	29
Definitions	28
Fee	30
Fines, credit of	33
Inoculation	29
Insusceptibility certificate	30
Lymph	30
Magistrates	31
Municipalities, extension to	28
Rules	31
Notice	31
Offences, punishment of	33
Order, disobedience of, procedure	31
Postponement certificates	29
Rules, provisions of	32
Superintendent, duties of	31
Vaccinators	29
private	30