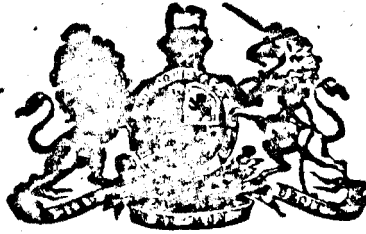


THE



Bombay Government Gazette.

1880.

PART IV.

ACTS

PASSED BY THE

GOVERNMENT OF INDIA

AND BY THE

GOVERNMENT OF BOMBAY.

Bombay:

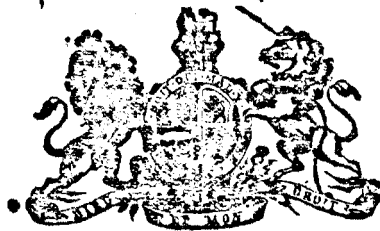
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I.
THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 15TH JANUARY 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th January 1880, and was promulgated for general information in the *Gazette of India* on the 10th January 1880:—

Act No. I. of 1880.

An Act to confer certain powers on Religious Societies.

WHEREAS it is expedient to simplify the manner in which certain bodies of persons associated for the purpose of maintaining religious worship may hold property acquired for such purpose, and to provide for the dissolution of such bodies and the adjustment of their affairs and for the decision of certain questions relating to such bodies; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Religious Societies Act, 1880."
Commencement.	It shall come into force at once; and
Local extent.	shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or to any persons whom the Governor General in Council may, from time to time, by notification

IV.—1

in the *Gazette of India*, exclude from the operation of this Act.

2. When any body of persons associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any property,

and such property has been or hereafter shall be vested in trustees in trust for such body,

and it becomes necessary to appoint a new trustee in the place of or in addition to any such trustee or any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in the manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such body, or by a majority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

3. Every appointment of new trustees under section 2 shall be made to appear by some memorandum under the hand of the chairman of the meeting, at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a document of which the registration is required by the Indian Registration Act, 1877, section seventeen.

4. When any new trustees have been appointed, whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding any thing contained in any such instrument, become vested, without any conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or if there are no old continuing trustees, in such new trustees wholly, upon the same trusts, and with and subject to the same powers and provisions, as it was vested in the old trustees.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property, which may hereafter be made as heretofore was by law required.

6. Any number not less than three-fifths of the members of any such body as aforesaid may at a meeting convened for the purpose determine that such body shall be dissolved; and thereupon it shall be dissolved forthwith, or at the time then agreed upon; and all necessary steps shall be taken for the disposal and settlement of the property of such body, its claims and liabilities, according to the rules of such body applicable thereto, if any, and if not, then as such body at such meeting may determine:

Provided that, in the event of any dispute arising among the members of such body, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of such body is situated; and the Court shall make such order in the matter as it deems fit.

7. If upon the dissolution of any such body there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of such body or any of them, but shall be given to some other body of persons associated for the purpose of maintaining religious worship or some other religious or charitable purpose to be determined by the votes of not less than three-fifths of the members present at a meeting convened in this behalf, or in default thereof by such Court as last aforesaid.

8. Nothing in sections six and seven shall be deemed to affect any provision contained in any instrument for the dissolution of such body, or for the payment or distribution of such property.

9. When any question arises, either in connection with the matters submitted to High Court, or otherwise, as to whether any person is a member of any such body as aforesaid, or as to the validity of any appointment under this Act, any person interested in such question may apply by petition to the High Court for its opinion on such question. A copy of such petition shall be served upon, and the hearing thereof may be attended by, such other persons interested in the question as the Court thinks fit.

Any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

The costs of every application under this section shall be in the discretion of the Court.

THE SCHEDULE.

(See section 3.)

Memorandum of the appointment of new trustees of the (describe the church, chapel or other buildings and property) situate at a meeting duly convened and held for that purpose (in the vestry of the said) on the day of 18, A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(here insert the same).

Names and descriptions of all the trustees in whom the said (chapel and property) now become legally vested.

First.—Old continuing trustees:—

(here insert the same).

Second.—New trustees now chosen and appointed:—

(here insert the same).

Dated this day of 18 .

Signed by the said A. B. as Chairman of the said Meeting, at and in the presence of the said Meeting on the day and year aforesaid in the presence of—

C. D.
E. F.

A. B.
Chairman of the
said Meeting.

D. FITZPATRICK,
Secy. to the Govt. of India.

[Published with the Government Gazette on the 22nd January 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th January 1880, and was promulgated for general information in the *Gazette of India* on the 10th January 1880:—

Act No. I. of 1880.

An Act to confer certain powers on Religious Societies.

WHEREAS it is expedient to simplify the manner in which certain bodies of persons associated for the purpose of maintaining religious worship may hold property acquired for such purpose, and to provide for the dissolution of such bodies and the adjustment of their affairs and for the decision of certain questions relating to such bodies; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Religious Societies Act, 1880."
Commencement.	It shall come into force at once; and
Local extent.	shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or to any persons whom the Governor General in Council may, from time to time, by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any body of persons associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any property,

and such property has been or hereafter shall be vested in trustees in trust for such body,

and it becomes necessary to appoint a new trustee in the place of or in addition to any such trustee or any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in the manner so prescribed,

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such new trustee may be appointed in such manner as may be agreed upon by such body, or by a majority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

3. Every appointment of new trustees under section two shall be made in a memorandum under the hand of the chairman of the meeting. Appointment under section 2 to be recorded in a memorandum under the hand of the chairman of the meeting. Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a document of which the registration is required by the Indian Registration Act, 1877, section seventeen.

4. When any new trustees have been appointed, whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding anything contained in any such instrument, become vested, without any conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or if there are no old continuing trustees, in such new trustees wholly, upon the same trusts, and with and subject to the same powers and provisions, as it was vested in the old trustees.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property, which may hereafter be made as heretofore was by law required. Property to vest in new trustees without conveyance.

6. Any number not less than three-fifths of the members of any such body as aforesaid may at a meeting convened for the purpose determine that such body shall be dissolved; and thereupon it shall be dissolved forthwith, or at the time then agreed upon; and all necessary steps shall be taken for the disposal and settlement of the property of such body, its claims and liabilities, according to the rules of

Saving of existing modes of appointment and conveyance.

such body applicable thereto, if any, and if not, then as such body at such meeting may determine:

Provided that, in the event of any dispute arising among the members of such body, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of such body is situate; and the Court shall make such order in the matter as it deems fit.

7. If upon the dissolution of any such body there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of such body or any of them, but shall be given to some other body of persons associated for the purpose of maintaining religious worship or some other religious or charitable purpose to be determined by the votes of not less than three-fifths of the members present at a meeting convened in this behalf, or in default thereof by such Court as last aforesaid.

8. Nothing in sections six and seven shall be deemed to affect any provision contained in any instrument for the dissolution of such body, or for the payment or distribution of such property.

9. When any question arises, either in connection with the matters submitted to High Court or otherwise, as to whether any person is a member of any such body as aforesaid, or as to the validity of any appointment under this Act, any person interested in such question may apply by petition to the High Court for its opinion on such question. A copy of such petition shall be served upon, and the hearing thereof may be attended by, such other persons interested in the question as the Court thinks fit.

Any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

The costs of every application under this section shall be in the discretion of the Court.

THE SCHEDULE.

(See section 3.)

Memorandum of the appointment of new trustees of the (*describe the church, chapel or other buildings and property*) situate at a meeting duly convened and held for that purpose (*in the vestry of the said*) on the day of 18 , A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(*here insert the same*).

Names and descriptions of all the trustees in whom the said (*chapel and property*) now become legally vested.

First.—Old continuing trustees:—

(*here insert the same*).

Second.—New trustees now chosen and appointed:—

(*here insert the same*).

Dated this day of 18 .

Signed by the said A. B. }
as Chairman of the said }
Meeting, at and in the }
presence of the said Meet- }
ing on the day and year }
aforesaid in the presence }
of—

A. B.
Chairman of the
said Meeting.

C. D.
E. F.

D. FITZPATRICK.

Secy. to the Govt. of India.

[Published with the "Bombay Government Gazette" on the 29th January 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th January 1880, and was promulgated for general information in the *Gazette of India* on the 10th January 1880:—

Act No. I. of 1880.

An Act to confer certain powers on Religious Societies.

WHEREAS it is expedient to simplify the manner in which certain bodies of persons associated for the purpose of maintaining religious worship may hold property acquired for such purpose, and to provide for the dissolution of such bodies and the adjustment of their affairs and for the decision of certain questions relating to such bodies; It is hereby enacted as follows:—

Short title.	1. This Act may be called "The Religious Societies Act, 1880."
Commencement.	It shall come into force at once; and
Local extent.	shall extend to the whole of British India;

but nothing herein contained shall apply to any Hindus, Muhammadans or Buddhists, or to any persons whom the Governor General in Council may, from time to time, by notification in the *Gazette of India*, exclude from the operation of this Act.

2. When any body of persons associated for the purpose of maintaining religious worship has acquired, or hereafter shall acquire, any property,

and such property has been or hereafter shall be vested in trustees in trust for such body,

and it becomes necessary to appoint a new trustee in the place of or in addition to any such trustee or any trustee appointed in the manner hereinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vested or by which the trusts on which it is held have been declared, or such new trustee cannot for any reason be appointed in the manner so prescribed,

such new trustee may be appointed in such manner as may be agreed upon by such body, or by a majority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

3. Every appointment of new trustees under section two shall be made to appear by some memorandum under the hand of the chairman of the meeting at which such appointment is made.

Such memorandum shall be in the form set forth in the schedule hereto annexed, or as near thereto as circumstances allow, shall be executed and attested by two or more credible witnesses in the presence of such meeting, and shall be deemed to be a document of which the registration is required by the Indian Registration Act, 1877, section seventeen.

4. When any new trustees have been appointed, whether in the manner prescribed by any such instrument as aforesaid or in the manner hereinbefore provided, the property subject to the trust shall forthwith, notwithstanding any thing contained in any such instrument, become vested, without any conveyance or other assurance, in such new trustees and the old continuing trustees jointly, or if there are no old continuing trustees, in such new trustees wholly, upon the same trusts, and with and subject to the same powers and provisions, as it was vested in the old trustees.

5. Nothing herein contained shall be deemed to invalidate any appointment of new trustees, or any conveyance of any property, which may hereafter be made as heretofore was by law required.

6. Any number not less than three-fifths of the members of any such body as aforesaid may at a meeting convened for the purpose determine that such body shall be dissolved; and thereupon it shall be dissolved forthwith, or at the time then agreed upon; and all necessary steps shall be taken for the disposal and settlement of the property of such body, its claims and liabilities, according to the rules of

such body applicable thereto, if any, and if not, then as such body at such meeting may determine :

Provided that, in the event of any dispute arising among the members of such body, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of such body is situate ; and the Court shall make such order in the matter as it deems fit.

7. If upon the dissolution of any such body there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of such body or any of them, but shall be given to some other body of persons associated for the purpose of maintaining religious worship or some other religious or charitable purpose to be determined by the votes of not less than three-fifths of the members present at a meeting convened in this behalf, or in default thereof by such Court as last aforesaid.

8. Nothing in sections six and seven shall be deemed to affect any provision contained in any instrument for the dissolution of such body, or for the payment or distribution of such property.

9. When any question arises, either in connection with the matters submitted to High Court or otherwise, as to whether any person is a member of any such body as aforesaid, or as to the validity of any appointment under this Act, any person interested in such question may apply by petition to the High Court for its opinion on such question. A copy of such petition shall be served upon, and the hearing thereof may be attended by, such other persons interested in the question as the Court thinks fit.

Any opinion given by the Court on an application under this section shall be deemed to have the force of a declaratory decree.

The costs of every application under this section shall be in the discretion of the Court.

THE SCHEDULE.

(See section 3.)

Memorandum of the appointment of new trustees of the (*describe the church, chapel or other buildings and property*) situate at a meeting duly convened and held for that purpose (*in the vestry of the said*) on the day of 18 , A. B. of Chairman.

Names and descriptions of all the trustees on the constitution or last appointment of trustees made the day of

(*here insert the same*).

Names and descriptions of all the trustees in whom the said (*chapel and property*) now become legally vested.

First.—Old continuing trustees :—

(*here insert the same*).

Second.—New trustees now chosen and appointed :—

(*here insert the same*).

Dated this day of 18 .

Signed by the said A. B. as Chairman of the said Meeting; at and in the presence of the said Meeting on the day and year aforesaid in the presence of—

C. D.

E. F.

D. FITZPATRICK.

Secy. to the Govt. of India.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 5TH FEBRUARY 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. III of 1880.

THE CANTONMENTS ACT, 1880.

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*An Act to amend the law relating to
Cantonments.*

WHEREAS it is expedient to amend the law relating to cantonments;
Preamble. It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title. 1. This Act may be called "The Cantonments Act, 1880."

Local extent. This section, section two and section twenty-four apply to the whole of British India. The remaining portions of this Act extend to the whole of British India except the territories respectively administered by the Governor of Fort St. George in Council and the Governor of Bombay in Council. The Governor of Fort St. George in Council or the Governor of Bombay in Council may, by notification in the official Gazette, extend any such portion to any place under his administration; and, from the date on which any such portion is so extended to any place such of the enactments for the time being in force in such place as are in any way inconsistent with, or repugnant to, such portion shall cease to have effect in such place.

Enactments inconsistent with this Act in Madras and Bombay cantonments.

2. Act No. XXII of 1864 (to provide for the administration of Military Cantonments) is hereby repealed; but all orders, declarations, rules and regulations made, powers conferred, and Courts established under that Act, shall be deemed to be respectively made, conferred and established under this Act.

All references to the said Act No. XXII of 1864 in enactments passed subsequently thereto shall be read as if made to this Act.

CHAPTER II.

CRIMINAL JURISDICTION.

3. Every person invested by the Local Government, under the Code of Criminal Procedure, with the powers of a Magistrate of the first class within the limits of any cantonment, shall be styled the Cantonment Magistrate, and shall be deemed a Magistrate in charge of a division of a district within the meaning, and for the purposes of the said Code.

4. Every person invested by the Local Government, under the provisions of the said Code, with the powers of a Magistrate of the second or third class within the limits of any cantonment, shall be styled the Assistant Cantonment Magistrate.

CHAPTER III.

CIVIL JURISDICTION.

5. Whenever the Local Government establishes within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature), the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established.

The Local Government shall declare and may from time to time alter the pecuniary limit of the jurisdiction of every such Court, but such limit shall in no case exceed five hundred rupees.

6. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court referred to in section five; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty rupees.

7. All the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

Act XI of 1865 to apply to all Small Cause Courts in cantonments.

8. Whenever a Court of Small Causes is established in any cantonment, the jurisdiction exercised in such cantonment by any officer under Act No. III of 1859 (for conferring Civil Jurisdiction in certain cases upon cantonment Joint Magistrate) shall cease and so much of any Act as authorises the commanding-officers of stations or cantonments to convene military courts of requests for the trial of actions of debt and other personal actions shall cease to have effect within the limits of such cantonment.

CHAPTER IV.

POLICE.

9. The Police-force employed in any cantonment shall be deemed to be part of the general Police-force under the Local Government in whose territories such cantonment is situate, within the meaning of Act No. V of 1861 (for the Regulation of Police) section two, and all the provisions of the said Act shall be applicable to such force.

The administration of the police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the commanding-officer of such cantonment.

10. The Local Government may extend section thirty-four of the said Act No. V. of 1861 to any cantonment situate in the territories administered by such Government.

11. The commanding-officer of a cantonment may send any process requiring service or execution by any means not immediately at his disposal to the chief Police-officer in the cantonment for service or execution through the cantonment-police; and the said chief Police-officer shall serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

12. The Local Government may, by notification in the official Gazette, extend the provisions of Act No. XX of 1856 (to make better provision for the appointment and maintenance of Police Chaudkidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal), to any cantonment to which a Cantonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the Local Government.

Whenever any such Cantonment Magistrate is absent, or when his office is temporarily vacant, the Magistrate of the district shall, during such absence, or until the Local Government fills up the vacancy, carry out the provisions of the same Act when so extended as aforesaid.

13. The Local Government may order that any cantonment to which the provisions of the said Act No. XX of 1856 are extended shall be divided into any number of cantonment-divisions, and may determine the nature of the tax to be levied in each such division according to section ten of the same Act.

CHAPTER V.

SPIRITUOUS LIQUORS.

14. If within any cantonment, or within any limits around such cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor, wine or intoxicating drug to, or for the use of, any European soldier, or to or for the use of any European or Eurasian being a camp-follower or a soldier's wife, without a written license from the Officer Commanding or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell or supply, such liquor, wine or drug, shall be liable on conviction to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months, or, in lieu of such fine or imprisonment, to the punishment of whipping as prescribed for offences under section 2 of Act No. VI of 1864 (to authorize the punishment of whipping in certain cases), subject to all the provisions of that Act.

15. If any person convicted of an offence under section fourteen is again convicted of an offence under that section, any spirituous liquor, wine or intoxicating drug within such cantonment or limits which, at the time of the commission of such subsequent offence, belongs to him, or is in his possession shall, without further proof, be deemed to be in his possession for the purpose of being supplied to European soldiers contrary to the provisions of this Act.

16. If within such cantonment or limits any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, conveys or has, in his or her possession, any quantity of spirituous liquor or wine exceeding one ser or quart, without a permit to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to fine which may extend to fifty rupees, and for any subsequent offence to fine which may extend to one hundred

rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

17. If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any Police-officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

18. In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same or any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored: the remainder shall be dealt with as confiscated.

20. The foregoing sections shall not apply to the sale or supply of, any article for medicinal purposes by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be

imposed in any municipality within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

22. When any tax is leviable in a cantonment under section twenty-one, the Local Government may from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

23. The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the Police-force and the carrying out of measures under the rules made under section twenty-five.

24. Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

CHAPTER VII.

SUBSIDIARY RULES.

25. The Local Government may from time to time make rules consistent with this Act to provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

26. No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor-General in Council.

A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the commanding-officer directs.

27. The rules made under section twenty-five may provide for all or any of the following matters:—

1st—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use

of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed;

2nd.—maintaining proper registers of immovable property within the limits of the cantonment, and providing for the registration of transfers of such property;

3rd.—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers;

4th.—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five; and the appointment of the necessary servants and establishments;

5th.—the definition and prohibition of public nuisances;

6th.—the maintenance generally of the cantonment in a proper sanitary condition; the prevention and cure of disease; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations;

7th.—inspecting and controlling brothels and preventing the spread of venereal disease;

8th.—the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

9th.—the execution and promotion of works of public utility and convenience;

10th.—the registration of deaths, and the making and recording observations and facts important for the public health and interest;

11th.—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

28. Breaches of any rule made under section

Trial of breaches of twenty-five shall be rules. triable by the Cantonment Magistrate when there is such an officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section; but every person trying any

IV.—3

such case shall, for the purposes of Chapter XXII of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session and the Magistrate of the District.

29. In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

If no such property sufficient for the payment of the fine can be found, Imprisonment in case the offender shall be fine not levied. liable to simple imprisonment for any term which may extend to one month.

30. Nothing in this Act, nor in any rule made under section twenty-five, Prosecutions, &c., under other enactments. shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

31. Whenever it appears necessary for the protection of the health of the troops in any cantonment, Extension of rules as to brothels and venereal disease. the Governor-General in Council may extend to any place outside the limits of such cantonment and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and controlling brothels and preventing the spread of venereal disease and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

32. When such rules, with any additional rules made as aforesaid. Penalties for breach of are extended under section thirty-one to any place outside the limits of such cantonment, the Governor-General in Council may provide, in the manner described in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

33. Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations regarding matters other than military shall cease to have any effect in such cantonment, and all local regulations for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five, shall cease to have any effect.

rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

17. If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any Police-officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

18. In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same or any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored: the remainder shall be dealt with as confiscated.

20. The foregoing sections shall not apply to the sale or supply of, any article for medicinal purposes, by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be

imposed in any municipality within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

22. When any tax is leviable in a cantonment under section twenty-one, the Local Government may from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

23. The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the Police-force and the carrying out of measures under the rules made under section twenty-five.

24. Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

CHAPTER VII.

SUBSIDIARY RULES.

25. The Local Government may from time to time make rules consistent with this Act to provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

26. No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor-General in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the commanding-officer directs.

27. The rules made under section twenty-five may provide for all or any of the following matters:—

1st—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use

of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed;

2nd—maintaining proper registers of immovable property within the limits of the cantonment, and providing for the registration of transfers of such property;

3rd—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers;

4th—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five; and the appointment of the necessary servants and establishments;

5th—the definition and prohibition of public nuisances;

6th—the maintenance generally of the cantonment in a proper sanitary condition; the prevention and cure of disease; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations;

7th—inspecting and controlling brothels and preventing the spread of venereal disease;

8th—the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

9th—the execution and promotion of works of public utility and convenience;

10th—the registration of deaths, and the making and recording observations and facts important for the public health and interest;

11th—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

28. Breaches of any rule made under section twenty-five shall be triable by the Cantonment Magistrate when there is such an officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section; but every person trying any

such case shall, for the purposes of Chapter XXII of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session and the Magistrate of the District.

29. In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

If no such property sufficient for the payment of the fine can be found, the offender shall be liable to simple imprisonment for any term which may extend to one month.

30. Nothing in this Act, nor in any rule made under section twenty-five, shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

31. Whenever it appears necessary for the protection of the health of the troops in any cantonment, the Governor-General in Council may extend to any place outside the limits of such cantonment and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and controlling brothels and preventing the spread of venereal disease and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

32. When such rules, with any additional rules made as aforesaid, are extended under section thirty-one to any place outside the limits of such cantonment, the Governor-General in Council may provide, in the manner described in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

33. Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations regarding matters other than military shall cease to have any effect in such cantonment, and all local regulations for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five, shall cease to have any effect.

34. Nothing in the foregoing sections shall be deemed to affect the jurisdiction or Military authority of Courts-martial or of commanding-officers of cantonments or of regiments, corps or detachments under any Articles of War, or the provisions of any Statute for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty in the East Indies; and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

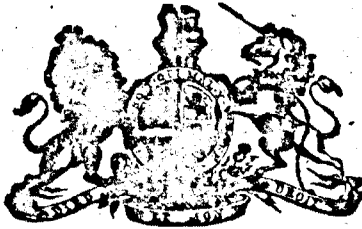
Provided that when a Cantonment Magistrate or other officer not being the commanding-officer has been invested by the Local Government with power within the limits of any cantonment to dispose of cases under any rule made under section twenty-five, the commanding-officer shall not exercise the powers described in clause (c) of Part III of the Indian Articles of War in respect of any case arising under such rule when such rules have been passed for such cantonment under section twenty-five; and penalties have been laid down for their infringement.

The said rules shall be held to be the rules mentioned in the said last mentioned clause, and so much of the same clause as declares the penalties which may be inflicted for breach of cantonment-regulations shall cease from that time to have any effect in such cantonment.

35. The Local Government may from time to time prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act No. XX of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the rules made under section twenty-five or section thirty-one of this Act, in addition to or in lieu of the purposes described in section thirty-six of the said Act No. XX of 1856.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 12TH FEBRUARY 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. IV. of 1880.

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth Article of the Treaty between Her Majesty and the King of Portugal and the Algarves.

WHEREAS, by the nineteenth article of the Treaty of Commerce and Extradition between Her Majesty and the King of Portugal and the Algarves, executed at Lisbon on the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, it was provided that the High Contracting Parties should deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, should be found in the Indian dominions or jurisdiction of the other party, and that the circumstances and conditions under which, and the crimes for which such persons should be delivered up, should form the subject of a separate Convention between

the Governors General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty, and that such Convention should have the same binding character as the said Treaty, and should continue in force for the same period;

and whereas, in pursuance of the said article, the Convention set forth in the schedule hereto annexed has been executed.

And whereas by the twentieth article of the said Treaty it was provided that Commissions issued in criminal trials and enquiries by the judicial tribunals of the one party, for the examination of persons resident in the dominions of the other, should be executed according to the provisions of the laws of the dominions where the witness resides;

and whereas it is doubtful whether under the existing law of British India there is authority to give effect to all the provisions of the said Convention and of the said twentieth article;

It is hereby enacted as follows:—

1. The provisions of the said Convention shall be followed in British India in every case to which they apply.

The procedure prescribed in the Code of Criminal Procedure shall, in so far as it is not incon-

sistent with the said Convention, be followed in every such case.

2. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in Portuguese India in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term 'suit' included a proceeding against a criminal.

3. This Act may be called 'The Portuguese Treaty Act, 1880.'

THE SCHEDULE.

Whereas by the nineteenth article of a treaty dated the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves, it is provided that the high contracting parties engage to deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, shall

be found in the Indian dominions or jurisdiction of the other party; and whereas by the same article it is further provided that the circumstances, conditions under which, and the crimes for which such persons are to be delivered up, shall be the subject of a separate Convention between the Governors-General of British India and Portuguese India, to be executed at the earliest possible after the ratification of the said Treaty.

In pursuance of the said article, the undersigned Governors General of British India and Portuguese India, acting respectively on behalf of Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India and His Most Faithful Majesty the King of Portugal and the Algarves (hereinafter called the High Contracting Parties), have agreed that said persons shall be so delivered up under the circumstances, and subject to the exceptions hereinafter stated, namely:—

(a) When the crime for which extradition claimed has been committed beyond the dominions of the party claiming, the requisition shall also be complied with, if the laws of the party applying authorize a prosecution for such crime when committed beyond his dominions, and if the person claimed is a subject of the party claiming his extradition.

(b) The crimes for which the extradition shall be granted are the following:—

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
Murder, culpable homicide not amounting to murder, and causing death by rash or negligent act	299 to 304A	Voluntary homicide, including— Parricide Poisoning Infanticide And involuntary homicide caused by negligence	349 355 353 356 368
Attempt to commit murder or culpable homicide	307, 308, 311	Attempt at homicide	350; 6 to 11
Voluntarily causing hurt or grievous hurt	319 to 333, 335 and 338	Wounding, causing contusions or hurts Ordinary hurts under Articles 359 and 360, being excepted in the circumstances described in Articles 370, 377, and 378.	359 to 367, 368
Rape	375 and 376	Rape	394, 395 to 398
Kidnapping, abduction, concealing kidnapped person, slave dealing, or selling minors for immoral purposes... ..	360 to 373	Kidnapping and hiding of minors	342 to 344
Immodest assault on a woman... ..	354	Immodest assault on a woman... ..	391
Causing miscarriage and abortion	312 to 318	Abortion... ..	368
Exposure or abandonment of a child	317	Exposure or abandonment of a child	345 to 348
Thefts	378 to 382	Thefts	421; 424 to 426
Extortions, robberies, dacoities, attempts to commit robbery and belonging to a gang of thieves	383 to 402	Robbery	433 to 444
Criminal misappropriations and criminal breaches of trust	403 to 409	Theft	319; 422 to 426
Receiving stolen property	410 to 414	Receiving stolen property	453
Cheating	415 to 420	Cheating, false pretences	450 to 452; 4
Lurking, house-trespass, house-breaking	443 to 448	House-breaking... ..	380, Clause
Fraudulent bankruptcy and fraudulent disposition of property	206, 208, 421 to 424	Fraudulent bankruptcy and fraudulent disposition of property	447 to 449; 4
Dishonest opening of closed receptacle containing property	461 and 462	Dishonest opening or breaking of seals by public servants and others	310 to 312
Being a thug	310, 311	} Association of malefactors	263
Belonging to a band of dacoits or robbers.	400, 401		
Aggravated cases of wrongful confinement	344 to 348	Aggravated cases of wrongful confinement	331 to 333
Mischief by fire or explosive substance	435, 436 and 438	Arson	466 to 474
Mischief to a vessel, or after preparation to cause death, hurt, or wrongful restraint	437, 439, 440	Aggravated cases of mischief	475 and 481

British Indian Penal Code.		Portuguese Penal Code.	
Crimes.	Sections.	Crimes.	Articles.
Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instruments for above purposes	230 to 254	Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instrument for above purposes	206 to 214
Counterfeiting or fraudulently using of Government stamps issued for purposes of revenue	255 to 263	Counterfeit or fraudulent using of Government stamps or stamped paper...	228 to 229
Forgery and using of forged documents, and making of seals for fraudulent purposes	463 to 463; 470 to 477.	Forgery and using of forged documents, and making of seals for fraudulent purposes	215 to 217; 219 to 223; 230 and 231
Use of false trade-mark or property-mark, and frauds connected with such marks	478 to 489	Use of false trade-mark or property-mark, and frauds connected with such marks	230 and 231
Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same.	194 and 195	Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same	238 to 240
Illegal gratification taken by a public servant, or to influence a public servant	161 to 165	Illegal gratification taken by a public servant, or to influence a public servant	314 to 323; 452
Causing the evidence of the commission of any offence to disappear	201	Causing the evidence of commission of an offence mentioned in this Convention to disappear	464
False certificate or declaration made by public servant, or used by any person as evidence	197 to 200	False certificate or declaration made by public servants or used by any person as evidence	216 to 218; 221 and 222
Escape from lawful custody on accusation or conviction of any crime specified in this Convention	224	Escape from lawful custody on accusation or conviction of any crime specified in this Convention	190 to 195
<i>Crimes against other Laws.</i>			
Piracy by law of nations.		Piracy	162
Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.		Voluntary homicide, as above	349, 353, 355, 356
		<i>Portuguese Maritime Code.</i>	
Sinking or destroying a vessel at sea, or attempting or conspiring to do so.		Loss or destruction of vessel, caused by a person on board...	42
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master.		Act of revolt committed by more than third of crew	46

The extradition shall also take place for complicity or participation in any of the aforesaid crimes, and for any attempt to commit any such crime, provided such complicity, participation or attempt be punishable by the laws of both the High Contracting Parties.

(c) No British subject by birth or naturalization shall be delivered up by the Government or authorities of British India to the Government or authorities of Portuguese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portuguese India to the Government or authorities of British India. Naturalization after the commission of the crime shall not be an obstacle to the extradition.

(d) The Governor General of British India will, from time to time, communicate to the Governor General of Portuguese India a list of Native States which, with the subjects thereof, are entitled to be placed, for the purposes of this Convention, upon the same footing as British India and the subjects of Her Britannic Majesty.

(e) The extradition shall not take place if the person claimed has already been tried and acquitted, or punished, for the same crime for which extradition is asked. If he should be under trial for any other crime, his extradition shall be deferred until the conclusion of the trial; and if the execution of the sentence, if any, would interfere with the extradition, it shall be postponed, in order that the extradition may take place. If upon extradition he be sentenced to other further punishment, the two High Contracting Parties shall arrange that the punishment shall be fulfilled according to priority of date of sentence.

(f) The extradition shall not take place if, after the commission of the crime, or the institution of the prosecution or the conviction thereon, the person claimed shall have acquired exemption from prosecution, or punishment, by lapse of time according to the laws of the State applied to.

(g) A person surrendered shall not be kept in prison or brought to trial, by the party to whom the surrender is made, for any other crime or on account of any other matters than those for which

the surrender has been granted. This stipulation is not applicable to crimes committed after the extradition.

(h) If the person whose extradition is claimed by one of the High Contracting Parties shall be also claimed by one or more other Governments, on account of crimes committed in their respective dominions, the following rule shall be observed:—

If he is a subject of the High Contracting Party who claims him, the surrender shall be made to such party. If he is not so, the other High Contracting Party shall have the power of delivering him up to the reclaiming Government which, in the case in question, may appear to the former best entitled to the preference.

(i) The requisition for extradition may be made, on behalf of Her Britannic Majesty, by the Government of British India or by the Government of the Presidency of Bombay; and, on behalf of His Most Faithful Majesty, by the Government of Portuguese India:

Provided that, when the person claimed is accused of any of the above crimes which in British India is not exclusively triable by the High Court or the Court of Session, the requisition may also be made by the Governors of the Portuguese Settlements of Damaun and Diu, for any such crime committed in such Settlements respectively, and may be preferred directly to any District Magistrate or Political Agent within whose local jurisdiction such accused person may be found. Such District Magistrate or Political Agent shall, subject to the exceptions and conditions of this Convention, and unless he deem reference to higher authority to be absolutely necessary, comply with such requisition by delivering up the accused.

In like manner, any District Magistrate or Political Agent may make requisition to the Government of Portuguese India, or to the Governors of Damaun and Diu respectively, for the extradition of any person found in their jurisdiction who is accused of the commission, within the local jurisdiction of such District Magistrate or Political Agent, of any of the above crimes, the maximum punishment for which, by the Portuguese Penal Code, does not exceed imprisonment for seven years or an equivalent thereto. Subject to the exceptions and conditions of this Convention, such requisition shall be complied with by the delivering up of the accused, unless reference to higher authority shall be deemed absolutely necessary.

The authority receiving a requisition may hold, or cause to be held, such inquiry as he may deem sufficient for the purpose of ascertaining the existence of *prima facie* proof of facts which constitute a crime for which extradition may be granted under clause (b) of this Convention, and, in the absence of such proof, may decline to deliver up the accused person.

(j) Every requisition shall ordinarily be accompanied by the summons or warrant of arrest, or an authenticated copy thereof, issued by the competent authority of the State applying for it, and by a statement setting forth the facts of the offence, and sufficient particulars to enable the accused to be identified.

In cases of urgency, satisfactory proof of the existence of a warrant of arrest issued by com-

petent authority may be provisionally accepted in support of a requisition.

(k) If the person claimed has not already been arrested by the authorities of the State to whom the requisition is made, such authorities shall at once proceed to secure his appearance.

(l) Any person accused of any of the above crimes, and whether a subject of the party in whose dominions or jurisdiction he is found or otherwise, may be arrested by the authorities of such dominions—

on production of a warrant of arrest issued by the competent authority of the other party;

or on advice, from such competent authority, transmitted by post, telegraph, or other means, stating the existence of such warrant of arrest;

or on demand made by the Magistrate or Police-officer of the other party who has pursued the accused across the frontier;

or on receipt of advice of the fact of the crime, whether communicated by a private complainant or otherwise, and whether or not the individual offender may be known or specified by name.

(m) Every such Magistrate or Police-officer who has pursued the accused across the frontier shall be entitled to the protection and assistance of the Magistrates and Police-officers of the State to whose dominions or jurisdiction the accused has fled. They shall forthwith take up the pursuit, and without waiting for the orders of higher authority, shall make all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property, in accordance with the local law of criminal procedure.

The Magistrate or Police-officer who has pursued the accused across the frontier shall not enter houses or buildings, or make searches or arrests, except in presence or under the authority of a local Magistrate or Police-officer, but shall act in subordination to the local Magistrates or Police-officers, and shall assist them, if so required, in all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property.

(n) Whenever any person is arrested in the dominions or jurisdiction of the one party for any of the above crimes committed in the dominions or jurisdiction of the other party, notice shall be given to the authorities of the other party, who may then, if the accused is a subject of the State where he is found, claim that he be tried there; or, if he is not such a subject, claim his extradition as provided in this Convention.

(o) All weapons and articles necessary as evidence shall be seized in order to their production before the proper officer, and, in case of extradition, in order that they may be delivered up with the accused when the extradition shall take place.

Such seizure and delivery shall extend to articles stolen or obtained by other offences, and the proceeds of such property, and to everything that may serve as evidence of the crime; and shall be made even when the extradition cannot be made, or the trial cannot be held, on account of the flight or death of the accused.

Nothing in this clause shall affect the rights of third parties to any such weapons and articles.

(p) The expenses occasioned by the arrest, imprisonment, maintenance and transport of criminals, and the conveyance of articles, shall, within the dominions and as far as the frontier, be defrayed by the party in whose dominions or jurisdiction such criminals or articles are found: the expenses by sea and beyond the frontier shall be defrayed by the other party.

(q) A British subject accused of having committed any of the above crimes in the Portuguese Indian dominions or jurisdiction, may be dealt with by the British Indian authorities as if the crime had been committed in British India; and a Portuguese subject accused of having committed any of the above crimes in the British Indian dominions or jurisdiction, may be dealt with by the Portuguese Indian authorities as if the crime had been committed in Portuguese India:

Provided that the accused is found in the dominions or jurisdiction of the party to whom he is subject, and has not been acquitted or punished in the dominions or jurisdiction in which he committed the crime.

Complaints of any such crimes shall be inquired into by the police and judicial authorities, irrespective of the nationality of the complainant, in accordance with the local laws.

(r) In all such trials and enquiries, the evidence of witnesses whose attendance cannot be procured without an unreasonable amount of delay, expense or inconvenience, may be recorded by the judicial authorities of the State where the offence occurred, on receipt of an interrogatory Commission from the other State, and such depositions or certified copies thereof shall be received by the authorities of the other State as valid evidence: Provided that the authorities of the one State shall in all cases aid those of the other, as far as may be, in securing the personal attendance of witnesses, and reasonable time shall be allowed for the production of evidence before the final discharge or conviction of the accused.

(s) If within two months after receipt of notice of the arrest no requisition for extradition or complaint or application for a trial shall have been made, the accused may be set at liberty. He shall be set at liberty if, within one month of the day on which he was brought to the frontier or seaport, and there placed at the disposal of the party claiming, he shall not have been despatched to the dominions of such party:

Provided that, until the extradition takes place, the accused may be liberated on bail or recognizance where such procedure is allowed by the law of the dominions or jurisdiction where he is found; and that after the extradition, the procedure shall be that provided by the law of the other dominions or jurisdiction.

(t) The High Contracting Parties engage to aid each other in the apprehension and surrender of deserters from their respective naval and military forces, and to apply all the provisions of this Convention to the offence of deserting.

It is agreed that this Convention shall have effect from the first day of February one thousand eight hundred and eighty.

Done at Calcutta on the thirtieth day of January in the year of our Lord one thousand eight hundred and eighty.

LYTTON,

*Viceroy and Governor General
of British India.*

Done at Panjim on the twentieth day of January in the year of our Lord one thousand eight hundred and eighty.

CAETANO AL^{DE} D'ALMEIDA

ALBUQUERQUE,

Governor General of Portuguese India.

D. FITZPATRICK,

*Secy. to the Govt. of India,
Legislative Department.*

[Published with the "Bombay Government Gazette" on the 12th February 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. III of 1880.

THE CANTONMENTS ACT, 1880.

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35. Power to prescribe rules as to expenditure of funds raised under Act XX of 1856.

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments;
Preamble. It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- Short title. 1. This Act may be called "The Cantonments Act, 1880."

This section, section two and section twenty-four apply to the whole of British India. The remaining portions of this Act extend to the whole of British India except the territories respectively administered by the Governor of Fort St. George in Council and the Governor of Bombay in Council. The Governor of Fort St. George in Council or the Governor of Bombay in Council may, by notification in the official Gazette, extend any such portion to any place under his administration; and, from the date on which any such portion is so extended to any place such of the enactments for the time being in force in such place as are in any way inconsistent with, or repugnant to, such portion shall cease to have effect in such place.

Enactments inconsistent with this Act in Madras and Bombay cantonments.

2. Act No. XXII of 1864 (to provide for the administration of Military Cantonments) is hereby repealed; but all orders, declarations, rules and regulations made, powers conferred, and Courts established under that Act, shall be deemed to be respectively made, conferred and established under this Act.

All references to the said Act No. XXII of 1864 in enactments passed subsequently thereto shall be read as if made to this Act.

CHAPTER II.

CRIMINAL JURISDICTION.

3. Every person invested by the Local Government, under the Code of Criminal Procedure, with the powers of a Magistrate of the first class within the limits of any cantonment, shall be styled the Cantonment Magistrate, and shall be deemed a Magistrate in charge of a division of a district within the meaning, and for the purposes of the said Code.

4. Every person invested by the Local Government, under the provisions of the said Code, with the powers of a Magistrate of the second or third class within the limits of any cantonment, shall be styled the Assistant Cantonment Magistrate.

CHAPTER III.

CIVIL JURISDICTION.

5. Whenever the Local Government establishes within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature), the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established.

The Local Government shall declare and may from time to time alter the pecuniary limit of the jurisdiction of every such Court, but such limit shall in no case exceed five hundred rupees.

6. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court referred to in section five; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty rupees.

7. All the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

8. Whenever a Court of Small Causes is established in any cantonment, the jurisdiction exercised in such cantonment by any officer under Act No. III of 1859 (for conferring Civil Jurisdiction in certain cases upon cantonment Joint Magistrates) shall cease and so much of any Act as authorises the commanding-officers of stations or cantonments to convene military courts of requests for the trial of actions of debt and other personal actions shall cease to have effect within the limits of such cantonment.

CHAPTER IV.

POLICE.

9. The Police-force employed in any cantonment shall be deemed to be part of the general Police-force under the Local Government in whose territories such cantonment is situate, within the meaning of Act No. V of 1861 (for the Regulation of Police) section two, and all the provisions of the said Act shall be applicable to such force.

The administration of the police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the commanding-officer of such cantonment.

10. The Local Government may extend section thirty-four of the said Act No. V. of 1861 to any cantonment situate in the territories administered by such Government.

11. The commanding-officer of a cantonment may send any process requiring service or execution by any means, but immediately at his disposal to the chief Police-officer in the cantonment for service or execution through the cantonment-police; and the said chief Police-officer shall

serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

12. The Local Government may, by notification in the official Gazette, extend the provisions of Act No. XX of 1856 (to make better provision for the appointment and maintenance of Police *Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal*), to any cantonment to which a Cantonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the Local Government.

Whenever any such Cantonment Magistrate is absent, or when his office is temporarily vacant, the Magistrate of the district shall, during such absence, or until the Local Government fills up the vacancy, carry out the provisions of the same Act when so extended as aforesaid.

13. The Local Government may order that any cantonment to which the provisions of the said Act No. XX of 1856 are extended shall be divided into any number of cantonment-divisions, and may determine the nature of the tax to be levied in each such division according to section ten of the same Act.

CHAPTER V.

SPIRITUOUS LIQUORS.

14. If within any cantonment, or within any limits around such cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor, wine or intoxicating drug to, or for the use of, any European soldier, or to or for the use of any European or Eurasian being a camp-follower or a soldier's wife, without a written license from the Officer Commanding or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell or supply, such liquor, wine or drug, shall be liable on conviction to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months, or, in lieu of such fine or imprisonment, to the punishment of whipping as prescribed for offences under section 2 of Act No. VI of 1864 (to authorize the punishment of whipping in certain cases), subject to all the provisions of that Act.

15. If any person convicted of an offence under section fourteen is again convicted of an offence under that section, any spirituous liquor, wine or intoxicating drug within

such cantonment or limits which, at the time of the commission of such subsequent offence, belongs to him, or is in his possession shall, without further proof, be deemed to be in his possession for the purpose of being supplied to European soldiers contrary to the provisions of this Act.

16. If within such cantonment or limits any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, conveys or has, in his or her possession, any quantity of spirituous liquor or wine exceeding one ser or quart, without a permit to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to fine which may extend to fifty rupees, and for any subsequent offence to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

17. If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any Police-officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

18. In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same or any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored: the remainder shall be dealt with as confiscated.

20. The foregoing sections shall not apply to the sale or supply of any article for medicinal purposes by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be imposed in any municipality within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

22. When any tax is leviable in a cantonment under section twenty-one, the Local Government may from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

23. The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the Police-force and the carrying out of measures under the rules made under section twenty-five.

24. Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

CHAPTER VII.

SUBSIDIARY RULES.

25. The Local Government may from time to time make rules consistent with this Act to provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

26. No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor-General in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the commanding-officer directs.

27. The rules made under section twenty-five may provide for all or any of the following matters:—

1st—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed;

2nd—maintaining proper registers of immovable property within the limits of the cantonment, and providing for the registration of transfers of such property;

3rd—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers;

4th—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five; and the appointment of the necessary servants and establishments;

5th—the definition and prohibition of public nuisances;

6th—the maintenance generally of the cantonment in a proper sanitary condition; the prevention and cure of disease; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations;

7th—inspecting and controlling brothels and preventing the spread of venereal disease;

8th—the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

9th—the execution and promotion of works of public utility and convenience;

10th—the registration of deaths, and the making and recording observations and facts important for the public health and interest;

17th.—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

28. Breaches of any rule made under section twenty-five shall be triable by the Cantonment Magistrate when there is such an officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section; but every person trying any such case shall, for the purposes of Chapter XXII. of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session and the Magistrate of the District.

29. In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

If no such property sufficient for the payment of the fine can be found, the offender shall be liable to simple imprisonment for any term which may extend to one month.

30. Nothing in this Act, nor in any rule made under section twenty-five, shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

31. Whenever it appears necessary for the protection of the health of the troops in any cantonment, the Governor-General in Council may extend to any place outside the limits of such cantonment and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and controlling brothels and preventing the spread of venereal disease and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

32. When such rules, with any additional rules made as aforesaid are extended under section thirty-one to any place outside the limits

of such cantonment, the Governor-General in Council may provide, in the manner described in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

33. Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations regarding matters other than military shall cease to have any effect in such cantonment, and all local regulations for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five, shall cease to have any effect.

34. Nothing in the foregoing sections shall be deemed to affect the jurisdiction or Military authority of Courts-martial or of commanding-officers of cantonments or of regiments, corps or detachments under any Articles of War, or the provisions of any Statute for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty in the East Indies; and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

Provided that when a Cantonment Magistrate or other officer not being the commanding-officer has been invested by the Local Government with power within the limits of any cantonment to dispose of cases under any rule made under section twenty-five, the commanding-officer shall not exercise the powers described in clause (c) of Part III. of the Indian Articles of War in respect of any case arising under such rule when such rules have been passed for such cantonment under section twenty-five, and penalties have been laid down for their infringement.

The said rules shall be held to be the rules mentioned in the said last mentioned clause, and so much of the same clause as declares the penalties which may be inflicted for breach of cantonment-regulations shall cease from that time to have any effect in such cantonment.

35. The Local Government may from time to time prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act No. XX. of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the rules made under section twenty-five or section thirty-one of this Act, in addition to or in lieu of the purposes described in section thirty-six of the said Act No. XX. of 1856.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department,

[Published with the "Bombay Government Gazette" on the 19th February 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. III of 1880.

THE CANTONMENTS ACT, 1880.

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16. Penalty on certain persons having in possession within cantonments more than certain quantity of spirituous liquor, &c., without permit.
17. Arrest of offenders under section 14 or 16, and seizure of spirituous liquor, &c.
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19. Detention of property seized.
Disposal of property seized.
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26. Rules to be confirmed by Governor General in Council.
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31. Extension of rules as to brothels and venereal disease.
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33. Effect of cantonment-rules on enactments previously in force.
34. Saving of jurisdiction of Courts-martial, &c.
35. Power to prescribe rules as to expenditure of funds raised under Act XX of 1856.

An Act to amend the law relating to Cantonments.

WHEREAS it is expedient to amend the law relating to cantonments;
Preamble. It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- Short title. 1. This Act may be called "The Cantonments Act, 1880."

This section, section two and section twenty-four apply to the whole of British India. The remaining portions of this Act extend to the whole of British India except the territories respectively administered by the Governor of Fort St. George in Council and the Governor of Bombay in Council. The Governor of Fort St. George in Council or the Governor of Bombay in Council may, by notification in the official Gazette, extend any such portion to any place under his administration; and, from the date on which any such portion is so extended to any place such of the enactments for the time being in force in such place as are in any way inconsistent with, or repugnant to, such portion shall cease to have effect in such place.

Enactments inconsistent with this Act in Madras and Bombay cantonments.

2. Act No. XXII of 1864 (*to provide for the administration of Military Cantonments*) is hereby repealed; but all orders, declarations, rules and regulations made, powers conferred, and Courts established under that Act, shall be deemed to be respectively made, conferred and established under this Act.

All references to the said Act No. XXII of 1864 in enactments passed subsequently thereto shall be read as if made to this Act.

CHAPTER II.

CRIMINAL JURISDICTION.

3. Every person invested by the Local Government, under the Code of Criminal Procedure, with the powers of a Magistrate of the first class within the limits of any cantonment, shall be styled the Cantonment Magistrate, and shall be deemed a Magistrate in charge of a division of a district within the meaning, and for the purposes of the said Code.

4. Every person invested by the Local Government, under the provisions of the said Code, with the powers of a Magistrate of the second or third class within the limits of any cantonment, shall be styled the Assistant Cantonment Magistrate.

CHAPTER III.

CIVIL JURISDICTION.

5. Whenever the Local Government establishes within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original Civil jurisdiction of the High Courts of Judicature*), the Cantonment Magistrate, if there be a Cantonment Magistrate, shall be the Judge of the Court so established.

The Local Government shall declare and may from time to time alter the pecuniary limit of the jurisdiction of every such Court, but such limit shall in no case exceed five hundred rupees.

6. The Local Government may invest any Assistant Cantonment Magistrate with the powers of a Judge of a Court of Small Causes to try suits instituted in any Court referred to in section five; provided that no Assistant Cantonment Magistrate shall have jurisdiction to try suits for an amount exceeding fifty rupees.

7. All the provisions of the said Act shall be applicable to every such Court, and to all suits instituted in any such Court, except as is herein otherwise provided.

8. Whenever a Court of Small Causes is established in any cantonment, the jurisdiction exercised in such cantonment by any officer under Act No. III of 1859 (*for conferring Civil Jurisdiction in certain cases upon cantonment Joint Magistrates*) shall cease and so much of any Act as authorises the commanding-officers of stations or cantonments to convene military courts of requests for the trial of actions of debt and other personal actions shall cease to have effect within the limits of such cantonment.

CHAPTER IV.

POLICE.

9. The Police-force employed in any cantonment shall be deemed to be part of the general Police-force under the Local Government in whose territories such cantonment is situated, within the meaning of Act No. V of 1861 (*for the Regulation of Police*) section two, and all the provisions of the said Act shall be applicable to such force.

The administration of the police within the limits of any cantonment in which there is a Cantonment Magistrate shall be vested in the District Superintendent subject to the general control and direction of the commanding-officer of such cantonment.

10. The Local Government may extend section thirty-four of the said Act No. V. of 1861 to any cantonment situated in the territories administered by such Government.

11. The commanding-officer of a cantonment may send any process requiring service or execution by any means not immediately at his disposal to the chief Police-officer in the cantonment for service or execution through the cantonment-police; and the said chief Police-officer shall

serve or execute such process in the same manner as if it had been issued by the Cantonment Magistrate, and subject to the same rules.

12. The Local Government may, by notification in the official Gazette, extend the provisions of Act No. XX of 1856 (to make better provision for the appointment and maintenance of Police

Power to extend Act XX of 1856 to cantonments.

Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal), to any cantonment to which a Cantonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended may exercise all the powers vested in a Magistrate by that Act subject only to the control of the Magistrate of the District and the Local Government.

Whenever any such Cantonment Magistrate is absent, or when his office is temporarily vacant, the Magistrate of the district shall, during such absence, or until the Local Government fills up the vacancy, carry out the provisions of the same Act when so extended as aforesaid.

13. The Local Government may order that any cantonment to which the provisions of the said Act No. XX of 1856 are extended shall be divided into any number of cantonment-divisions, and may determine the nature of the tax to be levied in each such division according to section ten of the same Act.

Power to order division of cantonments, &c.

CHAPTER V.

SPIRITUOUS LIQUORS.

14. If within any cantonment, or within any limits around such cantonment prescribed by the Local Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor, wine or intoxicating drug to, or for the use of, any European soldier, or to or for the use of any European or Eurasian being a camp-follower or a soldier's wife, without a written license from the Officer Commanding or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offering or attempting to barter, sell or supply, such liquor, wine or drug, shall be liable on conviction to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months, or, in lieu of such fine or imprisonment, to the punishment of whipping as prescribed for offences under section 2 of Act No. VI of 1864 (to authorize the punishment of whipping in certain cases), subject to all the provisions of that Act.

15. If any person convicted of an offence under section fourteen is again convicted of an offence under that section, any spirituous liquor, wine or intoxicating drug within

Presumption in case of second conviction.

such cantonment or limits which, at the time of the commission of such subsequent offence, belongs to him, or is in his possession shall, without further proof, be deemed to be in his possession for the purpose of being supplied to European soldiers contrary to the provisions of this Act.

16. If within such cantonment or limits any camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, conveys or has, in his or her possession, any quantity of spirituous liquor or wine exceeding one ser or quart, without a permit to be signed by the officer in command, or such other officer as may be appointed by him to grant permits under this Act, every such person shall be liable upon conviction to fine which may extend to fifty rupees, and for any subsequent offence to fine which may extend to one hundred rupees, or to imprisonment for a term which may extend to three months: provided that nothing in this section contained shall apply to any liquor brought into a cantonment for the private use of any commissioned officer.

Penalty on certain persons having in possession within cantonments more than certain quantity of spirituous liquor, &c., without permit.

17. If any person subject to the provisions of this Act is found committing any offence contrary to section fourteen or section sixteen, any Police-officer may immediately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxicating drug, together with any vessel containing the same, and anything used for the purpose of removing, conveying or concealing the same, which may be found in his possession, and shall thereupon without delay take such person, together with the things so seized, before the Cantonment Magistrate or other officer having jurisdiction to punish the offender.

Arrest of offenders under section 14 or 16, and seizure of spirituous liquor, &c.

18. In case of a conviction for any offence under section fourteen or section sixteen, the Cantonment Magistrate or other officer may adjudge any liquor, wine or intoxicating drug in respect of which the accused is convicted, and any other spirituous liquor, wine or intoxicating drug found in his possession at the time of committing the offence, and any vessel containing the same, together with anything used for the purpose of conveying, removing or concealing the same or any part thereof, to be confiscated; and such Magistrate or officer may order the whole or any part or parts of any fine imposed under this Act to be paid, as soon as the same is realized, to the person upon whose information such conviction takes place, or to the officer who has apprehended the offender or seized any of the goods adjudged to be confiscated.

Confiscation of such liquor, &c.

19. Anything seized under section seventeen in respect of which any person is charged with an offence under this Act may be ordered to be detained until the person in whose possession the same has been seized is convicted or acquitted of the offence charged.

Detention of property seized.

If such person is acquitted, anything so seized shall be restored; if he is convicted, such of the things only, if any, as are not adjudged by the Cantonment Magistrate or other officer to be confiscated shall be restored: the remainder shall be dealt with as confiscated.

20. The foregoing sections shall not apply to the sale or supply of any article for medicinal purposes by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to time, with the previous sanction of the Governor-General in Council, by notification in the official Gazette, impose in any cantonment any tax which, under any enactment in force at the date of such notification, can be imposed in any municipality within the territories administered by such Government, and may, with the like sanction and by a like notification, abolish any tax so imposed.

22. When any tax is leviable in a cantonment under section twenty-one, the Local Government may from time to time, by notification in the official Gazette, apply or adapt to such cantonment the provisions of any enactment or rules in force at the date of such notification for the assessment and recovery of any tax in any municipality within the territories administered by such Government.

23. The proceeds of all taxes levied in any cantonment under section twenty-one shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such cantonment, under the directions of the Local Government, to the maintenance of the Police-force and the carrying out of measures under the rules made under section twenty-five.

24. Notwithstanding anything contained in any enactment for the time being in force, the Governor-General in Council may, by an order in writing, prohibit the levy of the whole or any part of any tax in any cantonment, or exempt any person by name or in virtue of his office, or any class of persons, from the operation of any such tax, and may, by a like order, rescind any such prohibition or exemption.

CHAPTER VII.

SUBSIDIARY RULES.

25. The Local Government may from time to time make rules consistent with this Act to provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be general for all cantonments in the territories administered by the Local Government making the same, or special for any one or more of such cantonments, according as the Local Government directs.

26. No rule made under section twenty-five shall have effect until the same has been confirmed by the Governor-General in Council. A copy of every such rule when so confirmed, in English and in the vernacular language chiefly in use, shall be hung up in some conspicuous part of the office of the Cantonment Magistrate, or in such other place as the Local Government or the commanding-officer directs.

27. The rules made under section twenty-five may provide for all or any of the following matters:—

1st—regulating, in cases in which the land within the limits of the cantonment is the property of Government, and the occupation and use of which by private persons is only permissive, the conditions under which such occupation or use shall be allowed, and under which the Government may resume possession of such land, and under which compensation shall be given to persons occupying or using the land so resumed;

2nd—maintaining proper registers of immovable property within the limits of the cantonment, and providing for the registration of transfers of such property;

3rd—regulating the manner in which houses within the limits of the cantonment shall be claimable for purchase or hire, when necessary, for the accommodation of military officers;

4th—regulating the management and expenditure of any funds made available by law or by the Government for the purpose of public improvements within the limits of the cantonment, or for carrying out any rules made under section twenty-five; and the appointment of the necessary servants and establishments;

5th—the definition and prohibition of public nuisances;

6th—the maintenance generally of the cantonment in a proper sanitary condition; the prevention and cure of disease; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private necessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposited, of slaughter-houses, public markets, burial and burning grounds, and of all offensive or dangerous trades and occupations;

7th—inspecting and controlling brothels and preventing the spread of venereal disease;

8th—the supervision and regulation of public wells, tanks, springs or other sources from which water is or may be made available for public use;

9th—the execution and promotion of works of public utility and convenience;

10th—the registration of deaths, and the making and recording observations and facts important for the public health and interest;

11th.—the imposition of penalties on persons convicted of the breach of any rule made under section twenty-five, and declaring what persons shall make the preliminary inquiry into or take cognizance of any breach of such rules and the manner in which the investigation shall be conducted: provided that no penalty so imposed shall exceed a fine of fifty rupees, or imprisonment for eight days.

28. Breaches of any rule made under section twenty-five shall be triable by the Cantonment Magistrate when there is such an officer: but the Local Government may invest any Assistant Cantonment Magistrate, or any other person, with powers to try such breaches, and may authorize such person to exercise such powers independently of the Cantonment Magistrate.

There shall be no appeal in any case tried under this section; but every person trying any such case shall, for the purposes of Chapter XXII. of the Code of Criminal Procedure, be deemed to be subordinate to the High Court, the Court of Session and the Magistrate of the District.

29. In every case in which an offender is sentenced to a fine for the breach of any rule made under section twenty-five, the amount may in case of non-payment be levied by distress and sale of any moveable property of the offender which may be found within the limits of the cantonment.

If no such property sufficient for the payment of the fine can be found, the offender shall be liable to simple imprisonment for any term which may extend to one month.

30. Nothing in this Act, nor in any rule made under section twenty-five, shall prevent any person from being prosecuted under any other enactment for any offence punishable under this Act, or from being liable under any other enactment to any other or higher penalty than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

31. Whenever it appears necessary for the protection of the health of the troops in any cantonment, the Governor-General in Council may extend to any place outside the limits of such cantonment and in the vicinity thereof, all or any of the rules made for such cantonment for inspecting and controlling brothels and preventing the spread of venereal disease and make any additional rules consistent with this Act for providing for the same matters, and may define the limits around such cantonment within which such rules or additional rules shall be in force.

32. When such rules, with any additional rules made as aforesaid are extended under section thirty-one to any place outside the limits

of such cantonment, the Governor-General in Council may provide, in the manner described in clause eleven of section twenty-seven, for the imposition of penalties for the breach of such rules and for prescribing the manner in which, and the persons by whom, breaches of such rules shall be inquired into or be cognizable.

33. Whenever, in any cantonment, rules have been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations regarding matters other than military shall cease to have any effect in such cantonment, and all local regulations for any cantonment which may have been made before the promulgation of the rules for such cantonment made under section twenty-five, shall cease to have any effect.

34. Nothing in the foregoing sections shall be deemed to affect the jurisdiction or Military authority of Courts-martial or of commanding-officers of cantonments or of regiments, corps or detachments under any Articles of War, or the provisions of any Statute for punishing mutiny and desertion of officers and soldiers in the service of Her Majesty in the East Indies; and the Cantonment Magistrate shall exercise no jurisdiction in respect of such offences.

Provided that when a Cantonment Magistrate or other officer not being the commanding-officer has been invested by the Local Government with power within the limits of any cantonment to dispose of cases under any rule made under section twenty-five, the commanding-officer shall not exercise the powers described in clause (c) of Part III. of the Indian Articles of War in respect of any case arising under such rule when such rules have been passed for such cantonment under section twenty-five, and penalties have been laid down for their infringement.

The said rules shall be held to be the rules mentioned in the said last mentioned clause, and so much of the same clause as declares the penalties which may be inflicted for breach of cantonment-regulations shall cease from that time to have any effect in such cantonment.

35. The Local Government may from time to time prescribe rules for regulating the expenditure, for the general purposes of this Act, of any funds raised under the said Act No. XX. of 1856. Such funds may be expended for the purpose of carrying out any measures under any of the rules made under section twenty-five or section thirty-one of this Act, in addition to or in lieu of the purposes described in section thirty-six of the said Act No. XX. of 1856.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. IV. of 1880.

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth Article of the Treaty between Her Majesty and the King of Portugal and the Algarves.

WHEREAS, by the nineteenth article of the Treaty of Commerce and Extradition between Her Majesty and the King of Portugal and the Algarves, executed at Lisbon on the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, it was provided that the High Contracting Parties should deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, should be found in the Indian dominions or jurisdiction of the other party, and that the circumstances and conditions under which, and the crimes for which such persons should be delivered up, should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty, and that such Convention should have the same binding character as the said Treaty, and should continue in force for the same period;

and whereas, in pursuance of the said article, the Convention set forth in the schedule hereto annexed has been executed.

And whereas by the twentieth article of the said Treaty it was provided that Commissions issued in criminal trials and enquiries by the judicial tribunals of the one party, for the examination of persons resident in the dominions of the other, should be executed according to the provisions of the laws of the dominions where the witness resides;

and whereas it is doubtful whether under the existing law of British India there is authority to give effect to all the provisions of the said Convention and of the said twentieth article;

It is hereby enacted as follows:—

1. The provisions of the said Convention shall be followed in British India in every case to which they apply.

Provisions of Convention to be followed.

IV.—5 e

The procedure prescribed in the Code of Criminal Procedure shall, in so far as it is not inconsistent with the said Convention, be followed in every such case.

2. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in Portuguese India in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term 'suit' included a proceeding against a criminal.

3. This Act may be called 'The Portuguese Treaty Act, 1880.'

Short title.

THE SCHEDULE.

Whereas by the nineteenth article of a treaty dated the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves, it is provided that the high contracting parties engage to deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, shall be found in the Indian dominions or jurisdiction of the other party; and whereas by the same article it is further provided that the circumstances and conditions under which, and the crimes for which, such persons are to be delivered up, shall form the subject of a separate Convention between the Governors-General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty.

In pursuance of the said article, the undersigned Governors General of British India and Portuguese India, acting respectively on behalf of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves (hereinafter called the High Contracting Parties), have agreed that the said persons shall be so delivered up under the circumstances, and subject to the exceptions, hereinafter stated, namely:—

(a) When the crime for which extradition is claimed has been committed beyond the dominions of the party claiming, the requisition shall also be complied with, if the laws of the party applied to authorize a prosecution for such crime when committed beyond his dominions, and if the person claimed is a subject of the party claiming his extradition.

(b) The crimes for which the extradition shall be granted are the following :—

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
Murder, culpable homicide not amounting to murder, and causing death by rash or negligent act	299 to 304A	Voluntary homicide, including— Parricide Poisoning Infanticide And involuntary homicide caused by negligence Attempt at homicide	349 355 353 356 368 350 ; 6 to 11
Attempt to commit murder or culpable homicide	307, 308, 511	Wounding, causing contusions or hurts	359 to 367, 369
Voluntarily causing hurt or grievous hurt	319 to 333, 335 and 338	Ordinary hurts under Articles 359 and 360, being excepted in the circumstances described in Articles 370, 377, and 378.	
Rape	375 and 376	Rape	394, 395 to 397
Kidnapping, abduction, concealing kidnapped person, slave dealing, or selling minors for immoral purposes...	360 to 373	Kidnapping and hiding of minors ...	342 to 344
Immodest assault on a woman ...	354	Immodest assault on a woman ...	391
Causing miscarriage and abortion ...	312 to 316	Abortion	358
Exposure or abandonment of a child ...	317	Exposure or abandonment of a child ...	345 to 348
Thefts	378 to 382	Thefts	421 ; 424 to 431
Extortions, robberies, dacoities, attempts to commit robbery and belonging to a gang of thieves ...	383 to 402	Robbery	432 to 444
Criminal misappropriations and criminal breaches of trust	403 to 409	Theft	313 ; 422 to 425 ; 453
Receiving stolen property	410 to 414	Receiving stolen property	463
Cheating	415 to 420	Cheating, false pretences	450 to 452 ; 456
Lurking, house-trespass, house-breaking	443 to 446	House-breaking	380, Clause 1.
Fraudulent bankruptcy and fraudulent disposition of property	206, 208, 421 to 424	Fraudulent bankruptcy and fraudulent disposition of property	447 to 449 ; 455
Dishonest opening of closed receptacle containing property	461 and 462	Dishonest opening or breaking of seals by public servants and others ...	310 to 312
Being a thug	310, 311	} Association of malefactors	263
Belonging to a band of dacoits or robbers.	400, 401		
Aggravated cases of wrongful confinement	344 to 348	Aggravated cases of wrongful confinement	331 to 333
Mischief by fire or explosive substance.	435, 436 and 438	Arson	466 to 474
Mischief to a vessel, or after preparation to cause death, hurt, or wrongful restraint	437, 439, 440	Aggravated cases of mischief	475 and 481
Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instruments for above purposes	230 to 254	Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instrument for above purposes	306 to 214
Counterfeiting or fraudulently using of Government stamps issued for purposes of revenue	255 to 263	Counterfeit or fraudulently using of Government stamps or stamped paper...	228 to 229
Forgery and using of forged documents, and making of seals for fraudulent purposes	463 to 468 ; 470 to 477	Forgery and using of forged documents, and making of seals for fraudulent purposes	215 to 217 ; 219 to 223 ; 230 and 231
Use of false trade-mark or property-mark, and frauds connected with such marks	478 to 489	Use of false trade-mark or property-mark, and frauds connected with such marks	230 and 231
Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same...	194 and 195	Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same	238 to 240
Illegal gratification taken by a public servant, or to influence a public servant	161 to 165	Illegal gratification taken by a public servant, or to influence a public servant	314 to 323 ; 452
Causing the evidence of the commission of any offence to disappear	201	Causing the evidence of commission of an offence mentioned in this Convention to disappear	464
False certificate or declaration made by public servant, or used by any person as evidence	197 to 200	False certificate or declaration made by public servants or used by any person as evidence	216 to 218 ; 221 and 222
Escape from lawful custody on accusation or conviction of any crime specified in this Convention	224	Escape from lawful custody on accusation or conviction of any crime specified in this Convention	190 to 195

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
<i>Crimes against other Laws.</i>			
Piracy by law of nations. Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.		Piracy Voluntary homicide, as above	162 349, 353, 355, 356
Sinking or destroying a vessel at sea, or attempting or conspiring to do so.		<i>Portuguese Maritime Code.</i> Loss or destruction of vessel, caused by a person on board... ..	42
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master.		Act of revolt committed by more than third of crew	46

The extradition shall also take place for complicity or participation in any of the aforesaid crimes, and for any attempt to commit any such crime, provided such complicity, participation or attempt be punishable by the laws of both the High Contracting Parties.

(c) No British subject by birth or naturalization shall be delivered up by the Government or authorities of British India to the Government or authorities of Portuguese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portuguese India to the Government or authorities of British India. Naturalization after the commission of the crime shall not be an obstacle to the extradition.

(d) The Governor General of British India will, from time to time, communicate to the Governor General of Portuguese India a list of Native States which, with the subjects thereof, are entitled to be placed, for the purposes of this Convention, upon the same footing as British India and the subjects of Her Britannic Majesty.

(e) The extradition shall not take place if the person claimed has already been tried and acquitted, or punished, for the same crime for which extradition is asked. If he should be under trial for any other crime, his extradition shall be deferred until the conclusion of the trial; and if the execution of the sentence, if any, would interfere with the extradition, it shall be postponed, in order that the extradition may take place. If upon extradition he be sentenced to other further punishment, the two High Contracting Parties shall arrange that the punishment shall be fulfilled according to priority of date of sentence.

(f) The extradition shall not take place if, after the commission of the crime, or the institution of the prosecution or the conviction thereon, the person claimed shall have acquired exemption from prosecution, or punishment, by lapse of time according to the laws of the State applied to.

(g) A person surrendered shall not be kept in prison or brought to trial, by the party to whom the surrender is made, for any other crime or on account of any other matters than those for which the surrender has been granted. This stipulation is not applicable to crimes committed after the extradition.

(h) If the person whose extradition is claimed by one of the High Contracting Parties shall be also claimed by one or more other Governments, on account of crimes committed in their respective dominions, the following rule shall be observed:—

If he is a subject of the High Contracting Party who claims him, the surrender shall be made to such party. If he is not so, the other High Contracting Party shall have the power of delivering him up to the reclaiming Government which, in the case in question, may appear to the former best entitled to the preference.

(i) The requisition for extradition may be made, on behalf of Her Britannic Majesty, by the Government of British India or by the Government of the Presidency of Bombay; and, on behalf of His Most Faithful Majesty, by the Government of Portuguese India:

Provided that, when the person claimed is accused of any of the above crimes which in British India is not exclusively triable by the High Court or the Court of Session, the requisition may also be made by the Governors of the Portuguese Settlements of Damaun and Diu, for any such crime committed in such Settlements respectively, and may be preferred directly to any District Magistrate or Political Agent within whose local jurisdiction such accused person may be found. Such District Magistrate or Political Agent shall, subject to the exceptions and conditions of this Convention, and unless he deem reference to higher authority to be absolutely necessary, comply with such requisition by delivering up the accused.

In like manner, any District Magistrate or Political Agent may make requisition to the Government of Portuguese India, or to the Governors of Damaun and Diu respectively, for the extradition of any person found in their jurisdiction who is accused of the commission, within the local jurisdiction of such District Magistrate or Political Agent, of any of the above crimes, the maximum punishment for which, by the Portuguese Penal Code, does not exceed imprisonment for seven years or an equivalent thereto. Subject to the exceptions and conditions of this Convention, such requisition shall be complied with by the delivering up of the accused, unless reference to higher authority shall be deemed absolutely necessary.

The authority receiving a requisition may hold, or cause to be held, such inquiry as he may deem sufficient for the purpose of ascertaining the existence of *prima facie* proof of facts which constitute a crime for which extradition may be granted under clause (b) of this Convention, and, in the absence of such proof, may decline to deliver up the accused person.

(j) Every requisition shall ordinarily be accompanied by the summons or warrant of arrest, or an authenticated copy thereof, issued by the competent authority of the State applying for it, and by a statement setting forth the facts of the offence, and sufficient particulars to enable the accused to be identified.

In cases of urgency, satisfactory proof of the existence of a warrant of arrest issued by competent authority may be provisionally accepted in support of a requisition.

(k) If the person claimed has not already been arrested by the authorities of the State to whom the requisition is made, such authorities shall at once proceed to secure his appearance.

(l) Any person accused of any of the above crimes, and whether a subject of the party in whose dominions or jurisdiction he is found or otherwise, may be arrested by the authorities of such dominions—

on production of a warrant of arrest issued by the competent authority of the other party;

or on advice, from such competent authority, transmitted by post, telegraph, or other means, stating the existence of such warrant of arrest;

or on demand made by the Magistrate or Police-officer of the other party who has pursued the accused across the frontier;

or on receipt of advice of the fact of the crime, whether communicated by a private complainant or otherwise, and whether or not the individual offender may be known or specified by name.

(m) Every such Magistrate or Police-officer who has pursued the accused across the frontier shall be entitled to the protection and assistance of the Magistrates and Police-officers of the State to whose dominions or jurisdiction the accused has fled. They shall forthwith take up the pursuit, and without waiting for the orders of higher authority, shall make all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property, in accordance with the local law of criminal procedure.

The Magistrate or Police-officer who has pursued the accused across the frontier shall not enter houses or buildings, or make searches or arrests, except in presence or under the authority of a local Magistrate or Police-officer, but shall act in subordination to the local Magistrates or Police-officers, and shall assist them, if so required, in all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property.

(n) Whenever any person is arrested in the dominions or jurisdiction of the one party for any of the above crimes committed in the dominions or jurisdiction of the other party, notice shall be given to the authorities of the other party, who

may then, if the accused is a subject of the State where he is found, claim that he be tried there; or, if he is not such a subject, claim his extradition as provided in this Convention.

(o) All weapons and articles necessary as evidence shall be seized in order to their production before the proper officer, and, in case of extradition, in order that they may be delivered up with the accused when the extradition shall take place.

Such seizure and delivery shall extend to articles stolen or obtained by other offences, and the proceeds of such property, and to everything that may serve as evidence of the crime; and shall be made even when the extradition cannot be made, or the trial cannot be held, on account of the flight or death of the accused.

Nothing in this clause shall affect the rights of third parties to any such weapons and articles.

(p) The expenses occasioned by the arrest, imprisonment, maintenance and transport of criminals, and the conveyance of articles, shall, within the dominions and as far as the frontier, be defrayed by the party in whose dominions or jurisdiction such criminals or articles are found; the expenses by sea and beyond the frontier shall be defrayed by the other party.

(q) A British subject accused of having committed any of the above crimes in the Portuguese Indian dominions or jurisdiction, may be dealt with by the British Indian authorities as if the crime had been committed in British India; and a Portuguese subject accused of having committed any of the above crimes in the British Indian dominions or jurisdiction, may be dealt with by the Portuguese Indian authorities as if the crime had been committed in Portuguese India:

Provided that the accused is found in the dominions or jurisdiction of the party to whom he is subject, and has not been acquitted or punished in the dominions or jurisdiction in which he committed the crime.

Complaints of any such crimes shall be inquired into by the police and judicial authorities, irrespective of the nationality of the complainant, in accordance with the local laws.

(r) In all such trials and enquiries, the evidence of witnesses whose attendance cannot be procured without an unreasonable amount of delay, expense or inconvenience, may be recorded by the judicial authorities of the State where the offence occurred, on receipt of an interrogatory Commission from the other State, and such depositions or certified copies thereof shall be received by the authorities of the other State as valid evidence: Provided that the authorities of the one State shall in all cases aid those of the other, as far as may be, in securing the personal attendance of witnesses, and reasonable time shall be allowed for the production of evidence before the final discharge or conviction of the accused.

(s) If within two months after receipt of notice of the arrest no requisition for extradition or complaint or application for a trial shall have been made, the accused may be set at liberty. He shall be set at liberty if, within one month of the day on which he was brought to the frontier or seaport,

and there placed at the disposal of the party claiming, he shall not have been despatched to the dominions of such party :

Provided that, until the extradition takes place, the accused may be liberated on bail or recognizance where such procedure is allowed by the law of the dominions or jurisdiction where he is found; and that after the extradition, the procedure shall be that provided by the law of the other dominions or jurisdiction.

(f) The High Contracting Parties engage to aid each other in the apprehension and surrender of deserters from their respective naval and military forces, and to apply all the provisions of this Convention to the offence of deserting.

It is agreed that this Convention shall have effect from the first day of February one thousand eight hundred and eighty.

Done at Calcutta on the thirtieth day of January in the year of our Lord one thousand eight hundred and eighty.

LYTTON,
*Viceroy and Governor General
of British India.*

Done at Punjib on the twentieth day of January in the year of our Lord one thousand eight hundred and eighty.

CAETANO AL^{ORS} D'ALMEIDA,
ALBUQUERQUE,
Governor General of Portuguese India.

D. FITZPATRICK,
*Secy. to the Govt. of India,
Legislative Department.*

[Published with the Bombay Government Gazette on the 26th February 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1880, and was promulgated for general information in the *Gazette of India* on the 1st January 1880:—

Act No. IV. of 1880.

An Act to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth Article of the Treaty between Her Majesty and the King of Portugal and the Algarves.

WHEREAS, by the nineteenth article of the Treaty of Commerce and Extradition between Her Majesty and the King of Portugal and the Algarves, executed at Lisbon on the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, it was provided that the High Contracting Parties should deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, should be found in the Indian dominions or jurisdiction of the other party, and that the circumstances and conditions under which, and the crimes for which such persons should be delivered up, should form the subject of a separate Convention between the Governors General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty, and that such Convention should have the same binding character as the said Treaty, and should continue in force for the same period;

and whereas, in pursuance of the said article, the Convention set forth in the schedule hereto annexed has been executed.

And whereas by the twentieth article of the said Treaty it was provided that Commissions issued in criminal trials and enquiries by the judicial tribunals of the one party, for the examination of persons resident in the dominions of the other, should be executed according to the provisions of the laws of the dominions where the witness resides;

and whereas it is doubtful whether under the existing law of British India there is authority to give effect to all the provisions of the said Convention and of the said twentieth article;

It is hereby enacted as follows:—

1. The provisions of the said Convention shall be followed in British India in every case to which they apply.

Provisions of Convention to be followed.

IV.—5 g

The procedure prescribed in the Code of Criminal Procedure shall, in so far as it is not inconsistent with the said Convention, be followed in every such case.

2. The testimony of any witness may be obtained in relation to any criminal matter pending in any Court or tribunal in Portuguese India in like manner as it may be obtained in relation to any civil matter under the Code of Civil Procedure, chapter XXV; and the provisions of that chapter shall be construed as if the term 'suit' included a proceeding against a criminal.

3. This Act may be called 'The Portuguese Treaty Act, 1880.'

Short title.

THE SCHEDULE.

Whereas by the nineteenth article of a treaty dated the twenty-sixth day of December 1878, and ratified on the sixth day of August 1879, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves, it is provided that the high contracting parties engage to deliver up to each other those persons who, being accused or convicted of crimes committed in the Indian dominions or jurisdiction of the one party, shall be found in the Indian dominions or jurisdiction of the other party; and whereas by the same article it is further provided that the circumstances and conditions under which, and the crimes for which, such persons are to be delivered up, shall form the subject of a separate Convention between the Governors-General of British India and Portuguese India, to be executed at the earliest date possible after the ratification of the said Treaty.

In pursuance of the said article, the undersigned Governors General of British India and Portuguese India, acting respectively on behalf of Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves (hereinafter called the High Contracting Parties), have agreed that the said persons shall be so delivered up under the circumstances, and subject to the exceptions, hereinafter stated, namely:—

(a) When the crime for which extradition is claimed has been committed beyond the dominions of the party claiming, the requisition shall also be complied with, if the laws of the party applied to authorize a prosecution for such crime when committed beyond his dominions, and if the person claimed is a subject of the party claiming his extradition.

(b) The crimes for which the extradition shall be granted are the following:—

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
Murder, culpable homicide not amounting to murder, and causing death by rash or negligent act	299 to 304A	Voluntary homicide, including— Parricide Poisoning Infanticide And involuntary homicide caused by negligence Attempt at homicide	349 355 353 356 368 350 ; 6 to 11
Attempt to commit murder or culpable homicide Voluntarily causing hurt or grievous hurt	307, 308, 511 319 to 333, 335 and 338	Wounding, causing contusions or hurts Ordinary hurts under Articles 359 and 360, being excepted in the circumstances described in Articles 370, 377, and 378.	359 to 367, 369
Rape Kidnapping, abduction, concealing kidnapped person, slave dealing, or selling minors for immoral purposes... ..	375 and 376 360 to 373	Rape Kidnapping and hiding of minors	394, 395 to 397 342 to 344
Immodest assault on a woman... .. Causing miscarriage and abortion Exposure or abandonment of a child Thefts	354 312 to 316 317 378 to 382	Immodest assault on a woman... .. Abortion... .. Exposure or abandonment of a child... .. Thefts Robbery	391 358 345 to 348 421 ; 424 to 431 432 to 444
Extortions, robberies, dacoities, attempts to commit robbery and belonging to a gang of thieves Criminal misappropriations and criminal breaches of trust Receiving stolen property Cheating Lurking, house-trespass, house-breaking	383 to 402 403 to 409 410 to 414 415 to 420 443 to 446	Theft Receiving stolen property Cheating, false pretences House-breaking	313 ; 422 to 425 ; 453 463 450 to 452 ; 456 380, Clause 1.
Fraudulent bankruptcy and fraudulent disposition of property Dishonest opening of closed receptacle containing property Being a thug Belonging to a band of dacoits or robbers. Aggravated cases of wrongful confinement Mischief by fire or explosive substance Mischief to a vessel, or after preparation to cause death, hurt, or wrongful restraint	206, 208, 421 to 424 461 and 462 310, 311 400, 401 344 to 348 435, 436 and 438 437, 439, 440	Fraudulent bankruptcy and fraudulent disposition of property Dishonest opening or breaking of seals by public servants and others Association of malefactors Aggravated cases of wrongful confinement Arson Aggravated cases of mischief	447 to 449 ; 455 310 to 312 263 331 to 333 466 to 474 475 and 481
Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instruments for above purposes Counterfeiting or fraudulently using of Government stamps issued for purposes of revenue Forgery and using of forged documents, and making of seals for fraudulent purposes	230 to 254 255 to 263 463 to 468 ; 470 to 477	Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instrument for above purposes Counterfeit or fraudulent using of Government stamps or stamped paper... .. Forgery and using of forged documents, and making of seals for fraudulent purposes	206 to 214 223 to 229 215 to 217 ; 219 to 223 ; 230 and 231
Use of false trade-mark or property-mark, and frauds connected with such marks	478 to 489	Use of false trade-mark or property-mark, and frauds connected with such marks	230 and 231
Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same... ..	194 and 195	Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the same	233 to 240
Illegal gratification taken by a public servant, or to influence a public servant	161 to 165	Illegal gratification taken by a public servant, or to influence a public servant	314 to 323 ; 452
Causing the evidence of the commission of any offence to disappear	201	Causing the evidence of commission of an offence mentioned in this Convention to disappear	464
False certificate or declaration made by public servant, or used by any person as evidence	197 to 200	False certificate or declaration made by public servants or used by any person as evidence	216 to 218 ; 221 and 222
Escape from lawful custody on accusation or conviction of any crime specified in this Convention	224	Escape from lawful custody on accusation or conviction of any crime specified in this Convention	190 to 196

British Indian Penal Code.		Portuguese Penal Code.	
Crime.	Section.	Crime.	Article.
<i>Crimes against other Laws.</i>			
Piracy by law of nations		Piracy	162
Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.		Voluntary homicide, as above ...	349, 353, 355, 356
Sinking or destroying a vessel at sea, or attempting or conspiring to do so.		<i>Portuguese Maritime Code.</i>	
Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas, against the authority of the master.		Loss or destruction of vessel, caused by a person on board... ..	42
		Act of revolt committed by more than third of crew	46

The extradition shall also take place for complicity or participation in any of the aforesaid crimes, and for any attempt to commit any such crime, provided such complicity, participation or attempt be punishable by the laws of both the High Contracting Parties.

(c) No British subject by birth or naturalization shall be delivered up by the Government or authorities of British India to the Government or authorities of Portuguese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portuguese India to the Government or authorities of British India. Naturalization after the commission of the crime shall not be an obstacle to the extradition.

(d) The Governor General of British India will, from time to time, communicate to the Governor General of Portuguese India a list of Native States which, with the subjects thereof, are entitled to be placed, for the purposes of this Convention, upon the same footing as British India and the subjects of Her Britannic Majesty.

(e) The extradition shall not take place if the person claimed has already been tried and acquitted, or punished, for the same crime for which extradition is asked. If he should be under trial for any other crime, his extradition shall be deferred until the conclusion of the trial; and if the execution of the sentence, if any, would interfere with the extradition, it shall be postponed, in order that the extradition may take place. If upon extradition he be sentenced to other further punishment, the two High Contracting Parties shall arrange that the punishment shall be fulfilled according to priority of date of sentence.

(f) The extradition shall not take place if, after the commission of the crime, or the institution of the prosecution or the conviction thereon, the person claimed shall have acquired exemption from prosecution, or punishment, by lapse of time according to the laws of the State applied to.

(g) A person surrendered shall not be kept in prison or brought to trial, by the party to whom the surrender is made, for any other crime or on account of any other matters than those for which the surrender has been granted. This stipulation is not applicable to crimes committed after the extradition.

(h) If the person whose extradition is claimed by one of the High Contracting Parties shall be also claimed by one or more other Governments, on account of crimes committed in their respective dominions, the following rule shall be observed:—

If he is a subject of the High Contracting Party who claims him, the surrender shall be made to such party. If he is not so, the other High Contracting Party shall have the power of delivering him up to the reclaiming Government which, in the case in question, may appear to the former best entitled to the preference.

(i) The requisition for extradition may be made, on behalf of Her Britannic Majesty, by the Government of British India or by the Government of the Presidency of Bombay; and, on behalf of His Most Faithful Majesty, by the Government of Portuguese India:

Provided that, when the person claimed is accused of any of the above crimes which in British India is not exclusively triable by the High Court or the Court of Session, the requisition may also be made by the Governors of the Portuguese Settlements of Damaun and Diu, for any such crime committed in such Settlements respectively, and may be preferred directly to any District Magistrate or Political Agent within whose local jurisdiction such accused person may be found. Such District Magistrate or Political Agent shall, subject to the exceptions and conditions of this Convention, and unless he deem reference to higher authority to be absolutely necessary, comply with such requisition by delivering up the accused.

In like manner, any District Magistrate or Political Agent may make requisition to the Government of Portuguese India, or to the Governors of Damaun and Diu respectively, for the extradition of any person found in their jurisdiction who is accused of the commission, within the local jurisdiction of such District Magistrate or Political Agent, of any of the above crimes, the maximum punishment for which, by the Portuguese Penal Code, does not exceed imprisonment for seven years or an equivalent thereto. Subject to the exceptions and conditions of this Convention, such requisition shall be complied with by the delivering-up of the accused, unless reference to higher authority shall be deemed absolutely necessary.

The authority receiving a requisition may hold, or cause to be held, such inquiry as he may deem sufficient for the purpose of ascertaining the existence of *prima facie* proof of facts which constitute a crime for which extradition may be granted under clause (b) of this Convention, and, in the absence of such proof, may decline to deliver up the accused person.

(j) Every requisition shall ordinarily be accompanied by the summons or warrant of arrest, or an authenticated copy thereof, issued by the competent authority of the State applying for it, and by a statement setting forth the facts of the offence, and sufficient particulars to enable the accused to be identified.

In cases of urgency, satisfactory proof of the existence of a warrant of arrest issued by competent authority may be provisionally accepted in support of a requisition.

(k) If the person claimed has not already been arrested by the authorities of the State to whom the requisition is made, such authorities shall at once proceed to secure his appearance.

(l) Any person accused of any of the above crimes, and whether a subject of the party in whose dominions or jurisdiction he is found or otherwise, may be arrested by the authorities of such dominions—

on production of a warrant of arrest issued by the competent authority of the other party;

or on advice, from such competent authority, transmitted by post, telegraph, or other means, stating the existence of such warrant of arrest;

or on demand made by the Magistrate or Police-officer of the other party who has pursued the accused across the frontier;

or on receipt of advice of the fact of the crime, whether communicated by a private complainant or otherwise, and whether or not the individual offender may be known or specified by name.

(m) Every such Magistrate or Police-officer who has pursued the accused across the frontier shall be entitled to the protection and assistance of the Magistrates and Police-officers of the State to whose dominions or jurisdiction the accused has fled. They shall forthwith take up the pursuit, and without waiting for the orders of higher authority, shall make all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property, in accordance with the local law of criminal procedure.

The Magistrate or Police-officer who has pursued the accused across the frontier shall not enter houses or buildings, or make searches or arrests, except in presence or under the authority of a local Magistrate or Police-officer, but shall act in subordination to the local Magistrates or Police-officers, and shall assist them, if so required, in all necessary searches, inquiries, pursuits, arrests and recoveries of stolen property.

(n) Whenever any person is arrested in the dominions or jurisdiction of the one party for any of the above crimes committed in the dominions or jurisdiction of the other party, notice shall be given to the authorities of the other party, who

may then, if the accused is a subject of the State where he is found, claim that he be tried there; or, if he is not such a subject, claim his extradition as provided in this Convention.

(o) All weapons and articles necessary as evidence shall be seized in order to their production before the proper officer, and, in case of extradition, in order that they may be delivered up with the accused when the extradition shall take place.

Such seizure and delivery shall extend to articles stolen or obtained by other offences, and the proceeds of such property, and to everything that may serve as evidence of the crime; and shall be made even when the extradition cannot be made, or the trial cannot be held, on account of the flight or death of the accused.

Nothing in this clause shall affect the rights of third parties to any such weapons and articles.

(p) The expenses occasioned by the arrest, imprisonment, maintenance and transport of criminals, and the conveyance of articles, shall, within the dominions and as far as the frontier, be defrayed by the party in whose dominions or jurisdiction such criminals or articles are found: the expenses by sea and beyond the frontier shall be defrayed by the other party.

(q) A British subject accused of having committed any of the above crimes in the Portuguese Indian dominions or jurisdiction, may be dealt with by the British Indian authorities as if the crime had been committed in British India; and a Portuguese subject accused of having committed any of the above crimes in the British Indian dominions or jurisdiction, may be dealt with by the Portuguese Indian authorities as if the crime had been committed in Portuguese India:

Provided that the accused is found in the dominions or jurisdiction of the party to whom he is subject, and has not been acquitted or punished in the dominions or jurisdiction in which he committed the crime.

Complaints of any such crimes shall be inquired into by the police and judicial authorities, irrespective of the nationality of the complainant, in accordance with the local laws.

(r) In all such trials and enquiries, the evidence of witnesses whose attendance cannot be procured without an unreasonable amount of delay, expense or inconvenience, may be recorded by the judicial authorities of the State where the offence occurred, on receipt of an interrogatory Commission from the other State, and such depositions or certified copies thereof shall be received by the authorities of the other State as valid evidence: Provided that the authorities of the one State shall in all cases aid those of the other, as far as may be, in securing the personal attendance of witnesses, and reasonable time shall be allowed for the production of evidence before the final discharge or conviction of the accused.

(s) If within two months after receipt of notice of the arrest no requisition for extradition or complaint or application for a trial shall have been made, the accused may be set at liberty. He shall be set at liberty if, within one month of the day on which he was brought to the frontier or seaport,

and there placed at the disposal of the party claiming, he shall not have been despatched to the dominions of such party :

Provided that, until the extradition takes place, the accused may be liberated on bail or recognizance where such procedure is allowed by the law of the dominions or jurisdiction where he is found; and that after the extradition, the procedure shall be that provided by the law of the other dominions or jurisdiction.

(f) The High Contracting Parties engage to aid each other in the apprehension and surrender of deserters from their respective naval and military forces, and to apply all the provisions of this Convention to the offence of deserting.

It is agreed that this Convention shall have effect from the first day of February one thousand eight hundred and eighty.

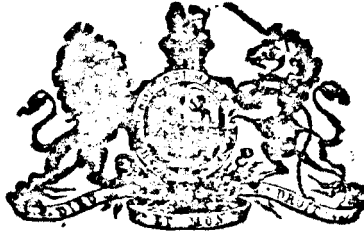
Done at Calcutta on the thirtieth day of January in the year of our Lord one thousand eight hundred and eighty.

LYTTON,
*Viceroy and Governor General
of British India.*

Done at Panjim on the twentieth day of January in the year of our Lord one thousand eight hundred and eighty.

CAETANO AL^{DE} D'ALMEIDA
ALBUQUERQUE,
Governor General of Portuguese India.

D. FITZPATRICK,
*Secy. to the Govt. of India,
Legislative Department.*



Bombay Government Gazette.

Published by Authority.

THURSDAY, 11TH MARCH 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March 1880, and was promulgated for general information in the *Gazette of India* on the 6th March 1880:—

Act No. VI. of 1880.

An Act to amend the law relating to the licensing of Trades and Dealings.

WHEREAS it is expedient to amend the law at present in force for the licensing of trades, dealings, and industries in certain parts of British India; It is hereby enacted as follows:

1. This Act may be called "The Indian License Acts Amendment Act, 1880."

The Northern India License Act, 1878.

2. The following portions of the Northern India License Act, 1878, are hereby repealed, that is to say—

the portion of section one from and including the words "but nothing herein contained" to the end;

section two;

and the portion of the schedule from and including the words and figures "class III" to the end.

3. In the same Act, to section three the following shall be added, that is to say—

Addition to section 3 of the same Act.

"In this Act the word 'trade,' 'dealing' or 'calling' shall not be deemed to include the following, that is to say—

"(a) agriculture;

"(b) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(c) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

4. In the same Act, to section four the following shall be added, that is to say—

"Provided that if such person carries on such trade or dealing in more than one such district, he shall take out such license in the district in which his principal place of business in the said territories is situate.

"When any question arises as to what shall, for the purposes of this Act, be deemed to be the principal place of any business, the Governor General in Council, or such authority as the Governor General in Council may from time to time appoint in this behalf, shall decide such question, and his or its decision thereof shall be final."

5. In sections six, seven and eight of the same Act, for the words "such district," wherever they occur, the words "the said territories" shall be substituted.

Amendment of sections 6, 7 and 8 of same Act.

6. In section seven of the same Act, for the words "first day of January" the words "thirty-first day of March" shall be substituted.

7. In sections nine and ten of the same Act, for the figures "1878" the figures "1880" shall be substituted.

In section ten of the same Act, for the word "thirty" the word "sixty" and for the word "February" the word "June" shall be substituted.

Madras License Act, 1878.

8. In section five of the Madras License Act, 1878, the words "and whose annual net earnings or profits exceed two hundred rupees," and the portion of the schedule of the same Act from and including the words and figures "class XII," to the end, are hereby repealed.

9. In the same Act, for section three the following section shall be substituted:—

"In this Act the word 'trade,' 'dealing' or 'industry' shall not be deemed to include the following, that is to say:—

"(a) agriculture;

"(b) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(c) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

10. In section eight of the same Act, for the words "first day of January," the words "thirty-first day of March" shall be substituted.

11. In sections ten and eleven of the same Act, for the figures "1878," the figures "1880" shall be substituted.

12. In section eleven of the same Act, for the word "March" in both places in which it occurs, the word "June" shall be substituted.

The Bombay License Act, 1878.

13. In section one of the Bombay License Act, 1878, the words "but nothing herein contained applies to persons earning their livelihood solely by agriculture" are hereby repealed; and to section two of the same Act the following words shall be added:—

"And the word 'trade,' 'dealing,' 'industry,' 'calling' or 'occupation' shall not be deemed to include the following, that is to say:—

"(a) agriculture;

"(b) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(c) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

14. In sections nine and ten of the same Act, for the figures "1878," the figures "1880" shall be substituted.

15. In section seven of the same Act for the words "first day of January" the words "thirty-first day of March" shall be substituted—

and in section ten of the same Act for the word "thirty" where it first occurs, the word "sixty" shall be substituted, and for the words "within thirty days next after the first of January," the words "before the first day of June" shall be substituted.

16. In schedule A annexed to the same Act, for the words and figures "Companies registered under the Indian Companies Act, 1866," the words "Joint Stock Companies" shall be substituted.

17. In schedule B annexed to the same Act, the words and figures "class XII, Rs. 7, class XIII, Rs. 5, class XIV, Rs. 3, class XV, Rs. 2" are hereby repealed.

General.

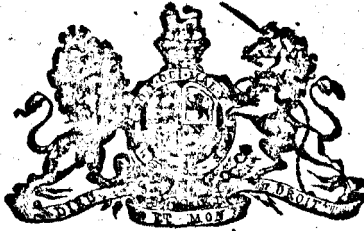
18. Notwithstanding anything hereinbefore contained, any money due at the time of the passing of this Act, under any of the Acts hereby amended, may be recovered as if this Act had not been passed.

19. When any person is engaged in any trades, dealings, industries, or callings in two or more of the local areas to which the several Acts hereby amended and the Bengal License Act for the time being in force respectively extend, and is thereby liable to pay fees under two or more of such Acts, he shall, if the Governor General in Council so directs, be chargeable with a fee only under such one of those Acts as the Governor General in Council may direct, and the amount of such fee shall be calculated as if he was engaged in all such trades, dealings, industries, and callings within the local area to which such Act applies.

A direction under this section may be given by general rule or special order.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.



Bombay Government Gazette.

Published by Authority.

THURSDAY, 18TH MARCH 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th March 1880, and was promulgated for general information in the *Gazette of India* on the 13th March 1880:—

Act No. VII of 1880.

THE INDIAN MERCHANT SHIPPING ACT, 1880.

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82. Notice of deficiency to be given to master or owner by such Inspectors.
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An Act to amend the law relating to Merchant Shipping, and for other purposes.

WHEREAS it is expedient to prevent the departure of certain ships from British India ;

Preamble.

and whereas it is also expedient to provide for the relief of distressed seamen and apprentices at ports in British India, and for the recovery of wages due to and expenses incurred in respect of such seamen and apprentices in cases to which section 211 of the Merchant Shipping Act, 1854, and section 16 of the Merchant Shipping Act, 1855, do not apply of their own force ;

and whereas it is also expedient to provide in other respects hereinafter appearing for the regulation and control of merchant shipping ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Merchant Shipping Act, 1880" :
Short title. Merchant Shipping Act, 1880 :
and it shall come into force on the first day of June 1880.
Commencement.
2. In this Act, unless there be something repugnant in the subject or context,—
Interpretation-clause.
- "ship", includes every description of vessel used in navigation, not propelled by oars :
"ship":
- "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a ship :
"master":
- "port" in any provision of this Act includes also any part of a river or channel leading to a port
"port":
which for the purposes of such provision the Local Government may, from time to time, by notification in the official Gazette, declare to be included in such port.

CHAPTER II.

UNSEAWORTHY AND UNSAFE SHIPS.

Saving clause. 3. Nothing in this chapter contained shall apply—

(a) to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council ;

(b) to any ship of less than one hundred and fifty tons register employed solely in fishing or in plying coastwise between ports situate in India and Ceylon.

(c) to any pleasure yacht.

4. In this chapter, "British Indian ship" means a ship registered under Interpretation-clause. Act No. XIX of 1838, "British Indian ship": Act No. X of 1841, or Act No. XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India ; and

"British ship": "British ship" includes a British Indian ship :

"manner prescribed" means such manner as the Local Government, "manner prescribed": with the previous sanction of the Governor General in Council, may from time to time, by rules published in the official Gazette prescribe.

A ship is "unseaworthy" within the meaning of this chapter when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of cargo, the tackle, sails, rigging, stores, ballast and other equipment generally are not such as to render her in every respect fit for the proposed voyage or service.

A ship is "unsafe" within the meaning of this chapter when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.

Sending or taking Unseaworthy Ship to sea.

5. Every person who sends or attempts to send a British Indian ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Every master of a British Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is like-

Master taking unseaworthy ship to sea liable to penalty.

ly to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

Prosecution to be by, or with consent of, Local Government. No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Implied Condition of Seaworthiness in Contract of Service.

6. In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every

Obligation of owner to crew with respect to seaworthiness.

instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same:

Provided that nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Proviso.

Detention of Unsafe Ships by the Local Government.

7. The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship in any port to which it may from time to time specially extend this section, is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed.

A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

Service of grounds on master.

8. When the Local Government provisionally orders the detention of a ship, it shall forthwith appoint some competent person to survey such ship and report thereon, and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained.

Power to appoint surveyor.

Action on receipt of his report.

An order of final detention under this section may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection

Order of final detention.

of human life; and the Local Government may, from time to time, vary or add to any such order:

Provided that, before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

9. Where a ship has been provisionally detained and a person has been appointed under section eight to survey such ship, the owner or

Option to owner or master of appointing assessor to accompany surveyor.

master of the ship, at any time before such person makes such survey, may require that he shall take with him as assessor such person as such owner or master may select, being a person named in the list of assessors prepared under section fifteen, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

but if the surveyor and assessor differ in their report the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided.

10. Notwithstanding anything contained in section eight the Local Government may at any time, when a ship has been provisionally detained, instead of following the procedure hereinbefore provided, refer the matter to the Court of Survey for the port where the ship is detained.

Power to refer to Court of Survey.

Detaining-officers.

11. For the better execution of this chapter, the Local Government may, from time to time, appoint a sufficient number of fit persons as its officers, and may suspend or remove any of them.

Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this chapter, the following powers, (that is to say) :—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such

Detaining-officers.

Their powers generally.

persons, and may, by a like summons, require returns in writing to any enquiries he thinks fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

12. Every detaining-officer shall, in addition to the powers hereinbefore conferred, have the same power as the Local Government has under sections seven and eight, respectively, of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

Every such officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

Of the Court of Survey and of Appeals and References thereto.

13. A Court of Survey for a port shall consist of a Judge sitting with two assessors.

14. The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

15. The assessors shall be persons of nautical, engineering or other special skill and experience. One of them shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

16. The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors, in the manner prescribed, to meet forthwith.

17. Every such appeal and reference shall be heard in open Court.

18. The Judge and each assessor shall, for the purposes of this chapter, have the same powers as are by section eleven conferred on a detaining-officer.

IV.—8

19. The Judge may appoint any competent person to survey the ship and report thereon to the Court.

20. The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section eighteen or section nineteen.

21. The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

22. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

23. The Local Government may, with the previous sanction of the Governor General in Council, from time to time make rules to carry into effect the provisions of this chapter with respect to a Court of Survey, and in particular with respect to—

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs under this chapter.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Scientific Referees.

24. If the Local Government is of opinion that an appeal under this chapter involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

25. The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

26. The referee or referees to whom an appeal is referred under section twenty-four or section twenty-five shall have the same powers as a Judge of the Court of Survey.

Costs of Detention and Damages incidental thereto.

27. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

28. If a ship is finally detained under this chapter or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

29. For the purposes of this chapter the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.

30. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this chapter.

31. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Grain Cargoes.

32. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nut-kernels (hereinafter referred to as grain cargo) shall be carried on board any British Indian ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain cargo or part of a grain cargo to be shipped therein for carriage contrary to the provisions of this section, he shall be punished with fine which may extend to three thousand rupees.

Deck and Load Lines.

33. Every British Indian ship shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck plank next the waterway at the place of marking. The lines shall be white or yellow on a dark ground or black on a light ground.

34. The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or if that is not practicable, as soon after as may be, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

The centre of such disc shall indicate the maximum load-line in salt water to which it is intended to load such ship for that voyage.

35. The person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distances in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's deck which is above such centre; and if default is made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

36. A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew; and no shipping-master shall proceed with the engagement of the crew till this entry is made.

The master shall enter a copy of this statement in the official log-book (if any).

37. When a ship has been marked as by section thirty-four required, she shall be kept marked. She shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

38. The master of every British ship which is a coasting vessel with-
 Marking of load-lines in case of coasting vessels in the meaning of the Sea Customs Act, 1878 shall, before proceeding to sea from any port, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

The centre of this disc shall indicate the maximum load-line in salt-water to which it is intended to load the ship, until notice is given of an alteration.

39. He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may from time to time appoint on this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be punished with fine which may extend to one thousand rupees.

40. When a ship has been marked as required by section thirty-eight, she shall be kept so marked until notice is given of an alteration.

41. Any master of a ship who neglects to cause his ship to be marked as by this chapter required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

shall be punished for each such offence with fine which may extend to one thousand rupees.

42. If any of the marks required by this chapter is in any respects inaccurate so as to be likely to mislead, the master of the ship shall be punished with fine which may extend to one thousand rupees.

43. The provisions of this chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and marked with such lines in accordance with the provisions of the laws for the time being there in force.

Supplemental Provisions.

44. The Local Government may at any time, if satisfied that a ship detained under this chapter is not unsafe, order her to be released either upon or without any conditions.

45. When under this chapter a ship is authorized or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or first officer of any of Her Majesty's Indian Government ships, or any Port-officer, Harbour-master, Conservator of a port or officer of Customs, may detain the ship.

46. If any ship after such detention, or after service on the master of any notice of or order for such detention proceeds to sea before she is released by competent authority, the master of the ship shall be punished with fine which may extend to one thousand rupees.

47. When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorized under this chapter to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of and incidental to such person being so taken to sea, and shall also each be punished with fine which may extend to one thousand rupees.

When any owner or master is convicted of an offence under this section, the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided for the recovery of fines.

48. When a ship has been detained under this chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

49. For the purposes of the survey of a ship under this chapter, any person authorized to make the same may go on board the ship and inspect the same, and every

part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

50. Every Judge, assessor, officer or surveyor under this chapter shall be deemed to be a public servant within the meaning of the Indian Penal Code.

Certain persons to be deemed public servants.

51. Where any order, notice, statement or document is required for the purpose of any provision of this chapter to be served on the master of a ship, the same shall be served, where there is no master, on the owner of the ship if he resides in the port where the ship is detained, or, if there is no owner residing there, on some agent of the owner residing there; or where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

Service of order where there is no master or resident owner, &c.

52. Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

Order, &c., how to be served.

53. The Local Government may, from time to time, by notification in the official Gazette, delegate either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Act, except the power of preparing a list of assessors under section fifteen and the power of making rules, and may cancel any such notification.

Delegation of powers to Port Commissioners, &c.

While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Act by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment now in force credit or pay, as the case may be, the amount of any costs or damages so recovered to or from the funds held by them in trust as such body.

CHAPTER III.

DISTRESSED SEAMEN.

54. This chapter shall be read with, and taken as part of, Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen).

Chapter to be taken as part of Act I of 1859.

But nothing in this chapter contained applies to seamen or apprentices to whom the provisions of section 211 of the Merchant Shipping Act, 1854, or section 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

Saving of provisions of Merchant Shipping Acts, 1854 and 1855.

In this chapter "local authority" means such person as the Local Government may, from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed on the local authority under this chapter.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Power to suspend or dismiss.

55. The local authority may, subject to the rules hereinafter mentioned, provide for the subsistence—

Relief of distressed seamen at Indian ports.

(a) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and who are in distress in any such place; and

(b) of all seamen and apprentices not being Native Indian subjects who have been shipwrecked, discharged or left behind at any place in British India from any British ship, registered in British India and who are in distress in any such place, until such time as such authority is able to provide them with a passage as hereinafter provided.

56. Subject as aforesaid, the local authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement, and is bound—

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

(a) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(b) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

57. In default of any such ship, the local authority may, subject to the control of the Governor General in Council, provide such seamen or apprentices with a passage in any ship (whether British or foreign) bound as aforesaid.

In default of such ship, on board of any ship.

58. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section fifty-six or section

fifty-seven, the name of every person so sent on board thereof, with such particulars concerning the case as the Governor General in Council may from time to time by rule prescribe.

59. The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section fifty-six or section fifty-seven not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

60. If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of section fifty-nine, he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be punished with fine which may extend to one thousand rupees, or, when he is tried at any place beyond the limits of British India, to the equivalent of one thousand rupees in the currency of such place.

61. When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council from time to time appoints:

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):—

(a) a certificate signed by the local authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice, and the time when he was received on board; and

(b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(1) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;

(2) the number of men and boys forming the complement of his crew;

(3) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and

(4) every variation (if any) of such number.

The declaration required by this section shall, in the case of a ship conveying Native Indian

subjects of Her Majesty to a port in British India, be made before a Shipping-master or such other officer as the Local Government may appoint: In other cases such declaration shall be made and verified in the same manner as declarations made under section 212 of the Merchant Shipping Act, 1854.

62. (a). If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in

British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this chapter; or

(b) if any such seaman or apprentice, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power or to the subject of any foreign power, become distressed and is relieved as aforesaid; or

(c) if any seaman or apprentice belonging to any British ship, registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

63. All such wages and expenses shall be recoverable with costs either from the master of such ship or from the

person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the seaman or apprentice would be recoverable by him.

64. The Local Government may, from time

to time, by notification in the official Gazette, authorize, either generally or specially, such

persons as it thinks fit to sue for any such wages and expenses and recover the same.

And every person so authorized shall be entitled to sue and recover accordingly, and shall be deemed to be a person

filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

65. When any such wages and expenses are due to or in respect of

a seaman or apprentice mentioned in section sixty-two, clause (c), they may, instead of being

recovered by a person authorized under section sixty-four, be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1854, section 213, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

66. In all proceedings under this chapter, whether in India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under this chapter, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be sufficient evidence that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.

67. The Governor General in Council may, from time to time, make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under this chapter and generally to carry out the provisions of this chapter.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

CHAPTER IV. SHIP SURVEYORS.

68. The Local Government may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and subject to the control of the Governor-General in Council, make rules—

(a) for the conduct of such examinations and the qualifications to be required,

(b) for the grant of certificates to qualified persons,

(c) for the fees to be paid for such examinations and certificates,

(d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(e) for the suspension and cancellation of such certificates.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

69. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section sixty-eight, exercise such profession in

such port unless he holds a certificate issued under that section.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.

70. Any person exercising the profession, of a ship surveyor in contravention of the provisions of section sixty-nine shall be punished with fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.

CHAPTER V.

RECEIVERS OF WRECK.

71. In this Chapter "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say:—

goods which have been cast into the sea and then sink and remain under water;

goods which have been cast or fall into the sea and remain floating on the surface;

goods which are sunk in the sea, but are attached to a floating object in order that they may be found again,

goods which are thrown away or abandoned, and a vessel abandoned without hope or intention of recovery.

72. Chapter V of the Indian Ports Act, 1875, and section 5 of Act No. XIII of 1878 (*An Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*) are hereby repealed.

But nothing in this chapter shall be deemed to affect section 40 of the Indian Ports Act, 1875, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

73. The Local Government may, from time to time, by notification in the official Gazette, with the previous sanction of the Governor General in Council, appoint such persons as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned within such local limits as it may from time to time prescribe.

Persons so appointed shall be called receivers of wreck.

74. Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, shall as soon as practicable—

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

75. Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of section seventy-four by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

Any dispute arising concerning the amount due under this section shall be determined by a Magistrate, upon application to him for that purpose by either of the disputing parties.

76. The receiver of wreck shall, on taking possession of any wreck, publish notification, in such manner and at such place as the Local Government may from time to time prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

77. If after the publication of such notification the wreck is unclaimed,

or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof,

the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

78. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same.

Provided that he makes his claim within one year from the date of the sale.

79. Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by section seventy-four shall be punished with fine which may extend to one thousand rupees, and in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is

claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

CHAPTER VI.

INSPECTION OF SHIPS WITH REGARD TO LIGHT AND FOG-SIGNALS.

80. Nothing in this chapter contained shall apply to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council, or belonging any foreign Prince or State.

81. The Local Government may, from time to time, appoint persons to inspect in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Act Amendment Act, 1862, or any other similar law for the time being in force, may apply for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law, and may suspend or remove any person so appointed.

Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the powers given to detaining-officers by section eleven.

82. If any such person finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

83. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

CHAPTER VII.

MISCELLANEOUS.

84. Every offence punishable under chapter II, chapter III or chapter V, may be tried in any district or presidency-town in which the offender is found, as well as in any district or presidency town in which it might be tried under the law relating to criminal procedure for the time being in force.

85. And whereas it is also expedient to provide for the assistance of assessors in certain causes in Courts exercising Ad-

miralty or Vice-Admiralty jurisdiction; it is hereby further enacted as follows:—

In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the court, whether it be exercising its original or its appellate jurisdiction, may if it think fit, and upon request of either party to such cause, shall, summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors;

and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

D. FITZPATRICK,

*Secretary to the Government of India,
Legislative Department.*

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1880, and was promulgated for general information in the *Gazette of India* of the 13th March 1880.

Act No. VIII of 1880.

An Act to correct a clerical error in the Indian Limitation Act, 1877.

IN the second schedule to the Indian Limitation Act, 1877, No. 171A, column three, for the words "The date of the plaintiff's death," the words "The sixtieth day from the date of the plaintiff's death" shall be, and be deemed to have always been, substituted.

D. FITZPATRICK,

Secretary to the Government of India, Legislative Department.

[Published with the "Bombay Government Gazette" on the 25th March 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 2nd March 1880, and was promulgated for general information in the *Gazette of India* on the 6th March 1880:—

Act No. VI. of 1880.

An Act to amend the law relating to the licensing of Trades and Dealings.

WHEREAS it is expedient to amend the law at present in force for the licensing of trades, dealings, and industries in certain parts of British India; It is hereby enacted as follows:

1. This Act may be called "The Indian License Acts Amendment Act, 1880."

The Northern India License Act, 1878.

Repeal of portions of Northern India License Act, 1878.

2. The following portions of the Northern India License Act, 1878, are hereby repealed, that is to say—

the portion of section one from and including the words "but nothing herein contained" to the end;

section two; and the portion of the schedule from and including the words and figures "class III" to the end.

Addition to section 3 of the same Act.

3. In the same Act, to section three the following shall be added, that is to say—

"In this Act the word 'trade,' 'dealing' or 'calling' shall not be deemed to include the following, that is to say—

"(a) agriculture;

"(b) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(c) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

IV.—9 a

Substitution of new section for section 4 of same Act.

4. In the same Act, to section four the following shall be added, that is to say—

"Provided that if such person carries on such trade or dealing in more than one such district, he shall take out such license in the district in which his principal place of business in the said territories is situate.

"When any question arises as to what shall, for the purposes of this Act, be deemed to be the principal place of any business, the Governor General in Council, or such authority as the Governor General in Council may from time to time appoint in this behalf, shall decide such question, and his or its decision thereof shall be final."

5. In sections six, seven and eight of the same Act, for the words "such district," wherever they occur, the words "the said territories" shall be substituted.

Amendment of sections 6, 7 and 8 of same Act.

6. In section seven of the same Act, for the words "first day of January" the words "thirty-first day of March" shall be substituted.

7. In sections nine and ten of the same Act, for the figures "1878" the figures "1880" shall be substituted.

In section ten of the same Act, for the word "thirty" the word "sixty" and for the word "February" the word "June" shall be substituted.

Madras License Act, 1878.

8. In section five of the Madras License Act, 1878, the words "and whose annual net earnings or profits exceed two hundred rupees," and the portion of the schedule of the same Act from and including the words and figures "class XII," to the end, are hereby repealed.

Substitution of new section for section 3 of same Act.

9. In the same Act, for section three the following section shall be substituted:—

"In this Act the word 'trade,' 'dealing' or 'industry' shall not be deemed to include the following that is to say—

"(a) agriculture;

"(b) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(c) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

10. In section eight of the same Act, for the words "first day of January," the words "thirty-first day of March" shall be substituted.

Amendment of section 8 of same Act.

11. In sections ten and eleven of the same Act, for the figures "1878," the figures "1880" shall be substituted.

In the same Act, "1880" substituted for "1878."

12. In section eleven of the same Act, for the word "March" in both places in which it occurs, the word "June" shall be substituted.

Amendment of section 11 of same Act.

The Bombay License Act, 1878.

13. In section one of the Bombay License Act, 1878, the words "but nothing herein contained applies to persons earning their livelihood solely by agriculture" are hereby repealed; and to section two of the same Act the following words shall be added:—

"And the word 'trade,' 'dealing,' 'industry,' 'calling' or 'occupation' shall not be deemed to include the following, that is to say:—

'Trade,' 'dealing,' 'industry,' 'calling,' 'occupation' defined.

"(a) agriculture;

"(b) the performance by a cultivator or receiver of rent in kind of any process ordinarily employed by a cultivator or receiver of rent in kind to render the produce raised or received by him fit to be taken to market;

"(c) the sale by a cultivator or receiver of rent in kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce."

14. In sections nine and ten of the same Act, for the figures "1878," the figures "1880" shall be substituted.

In the same Act "1880" substituted for "1878."

15. In section seven of the same Act for the words "first day of January" the words "thirty-first day of March" shall be substituted—

Amendment of sections 7 and 11 of same Act.

and in section ten of the same Act for the word "thirty" where it first occurs, the word "sixty" shall be substituted, and for the words "within thirty days next after the first of January," the words "before the first day of June" shall be substituted.

16. In schedule A annexed to the same Act, for the words and figures "Companies registered under the Indian Companies Act, 1866," the words "Joint Stock Companies" shall be substituted.

Amendment of schedule A of same Act.

17. In schedule B annexed to the same Act, the words and figures "class XII, Rs. 7, class XIII, Rs. 5, class XIV, Rs. 3 class XV, Rs. 2" are hereby repealed.

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18. Notwithstanding anything hereinbefore contained, any money due at the time of the passing of this Act, under any of the Acts hereby amended, may be recovered as if this Act had not been passed.

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19. When any person is engaged in any trade, dealings, industries or callings in two or more of the local areas to which the several Acts hereby amended and the Bengal License Act for the time being in force respectively extend, and is thereby liable to pay fees under two or more of such Acts, he shall, if the Governor General in Council so directs, be chargeable with a fee only under such one of those Acts as the Governor General in Council may direct, and the amount of such fee shall be calculated as if he was engaged in all such trades, dealings, industries, and callings within the local area to which such Act applies.

A direction under this section may be given by general rule or special order.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th March 1880, and was promulgated for general information in the *Gazette of India* on the 13th March 1880:—

Act No. VII of 1880.

**THE INDIAN MERCHANT SHIPPING
ACT, 1880.**

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An Act to amend the law relating to Merchant Shipping, and for other purposes.

WHEREAS it is expedient to prevent the departure of certain ships from
British India ;

Preamble.

and whereas it is also expedient to provide for the relief of distressed seamen and apprentices at ports in British India, and for the recovery of wages due to and expenses incurred in respect of such seamen and apprentices in cases to which section 211 of the Merchant Shipping Act, 1854, and section 16 of the Merchant Shipping Act, 1855, do not apply of their own force ;

and whereas it is also expedient to provide in other respects hereinafter appearing for the regulation and control of merchant shipping ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Merchant Shipping Act, 1880" ;
Short title.
and it shall come into force on the first day of June 1880.
Commencement.
2. In this Act, unless there be something repugnant in the subject or context,—
Interpretation-clause.
"ship", includes every description of vessel used in navigation, not propelled by oars ;
"ship" ;
"master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a ship ;
"master" ;
"port" in any provision of this Act includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, from time to time, by notification in the official Gazette, declare to be included in such port.
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CHAPTER II.

UNSEAWORTHY AND UNSAFE SHIPS.

3. Nothing in this chapter, contained shall apply—

(a) to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council;

(b) to any ship of less than one hundred and fifty tons register employed solely in fishing or in plying coastwise between ports situate in India and Ceylon.

(c) to any pleasure yacht.

4. In this chapter, "British Indian ship" means a ship registered under Act No. XIX of 1838, "British Indian ship": Act No. X of 1841, or Act No. XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India; and

"British ship": "British ship" includes a British Indian ship:

"manner prescribed" means such manner as the Local Government, with the previous sanction of the Governor General in Council, may from time to time, by rules published in the official Gazette prescribe.

A ship is "unseaworthy" within the meaning of this chapter when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of cargo, the tackle, sails, rigging, stores, ballast and other equipment generally are not such as to render her in every respect fit for the proposed voyage or service.

A ship is "unsafe" within the meaning of this chapter when by reason of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.

Sending or taking Unseaworthy Ship to Sea.

5. Every person who sends or attempts to send a British Indian ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Every master of a British Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is

likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

Prosecution to be by, or with consent of, Local Government. No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Implied Condition of Seaworthiness in Contract of Service.

6. In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same:

Provided that nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Proviso. Provisional detention by Local Government. Detention of Unsafe Ships by the Local Government.

7. The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship is in any port to which it may from time to time specially extend this section, is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed.

A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

8. When the Local Government provisionally orders the detention of a ship, it shall forthwith appoint some competent person to survey such ship and report thereon, and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained.

An order of final detention under this section may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection.

of human life; and the Local Government may, from time to time, vary or add to any such order:

Provided that, before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

9. Where a ship has been provisionally detained and a person has been appointed under section eight to survey such ship, the owner or master of the ship, at any time before such person makes such survey, may require that he shall take with him as assessor such person as such owner or master may select, being a person named in the list of assessors prepared under section fifteen, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

but if the surveyor and assessor differ in their report the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided.

10. Notwithstanding anything contained in section eight the Local Government may at any time, when a ship has been provisionally detained, instead of following the procedure hereinbefore provided, refer the matter to the Court of Survey for the port where the ship is detained.

Detaining-officers.

11. For the better execution of this chapter, the Local Government may, from time to time, appoint a sufficient number of fit persons as its officers, and may suspend or remove any of them.

Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this chapter, the following powers, (that is to say):—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such

persons, and may, by a like summons, require returns in writing to any enquiries he thinks fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

12. Every detaining-officer shall, in addition to the powers hereinbefore conferred, have the same power as the

Local Government has under sections seven and eight, respectively, of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

Every such officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

Of the Court of Survey and of Appeals and References thereto.

13. A Court of Survey for a port shall consist of a Judge sitting with two assessors.

14. The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

15. The assessors shall be persons of nautical, engineering or other special skill and experience.

One of them shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

16. The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors, in the manner prescribed, to meet forthwith.

17. Every such appeal and reference shall be heard in open Court.

18. The Judge and each assessor shall, for the purposes of this chapter, have the same powers as are by section eleven conferred on a detaining-officer.

19. The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Judge may appoint surveyor.

20. The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section eighteen or section nineteen.

Owner or master may attend at survey.

21. The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

Power of Judge to detain or release ship.

22. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

Report to Local Government by Court.

23. The Local Government may, with the previous sanction of the Governor General in Council, from time to time make rules to carry into effect the provisions of this chapter with respect to a Court of Survey, and in particular with respect to—

Power of Local Government to make rules with respect to Court of Survey.

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs under this chapter.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Scientific Referees.

24. If the Local Government is of opinion that an appeal under this chapter involves a question of construction or design, or of scientific difficulty or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

Power to appoint referee to hear appeal.

25. The Local Government, if the appellant in any such appeal also requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

Option to appellant to require referee to be appointed.

26. The referee or referees to whom an appeal is referred under section twenty-four or section twenty-five shall have the same powers as a Judge of the Court of Survey.

Referee to have powers of Court of Survey.

Costs of Detention and Damages incidental thereto.

27. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

Liability of Government for costs and damages when ship wrongly detained.

28. If a ship is finally detained under this chapter or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

Liability of shipowner for costs when ship rightly detained.

29. For the purposes of this chapter the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.

What included in costs of detention and survey.

30. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned.

Power to require from complainant security for costs, &c.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this chapter.

Proviso as to complaint by one-fourth of crew.

31. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Costs, &c., payable by Government recoverable from complainant.

Grain Cargoes.

32. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nut-kernels (hereinafter referred to as grain cargo) shall be carried on board any British Indian ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain cargo or part of a grain cargo to be shipped therein for carriage contrary to the provisions of this section, he shall be punished with fine which may extend to three thousand rupees.

Deck and Load Lines.

33. Every British Indian ship shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck plank next the waterway at the place of marking. The lines shall be white or yellow on a dark ground or black on a light ground.

34. The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or if that is not practicable, as soon after as may be, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

The centre of such disc shall indicate the maximum load-line in salt water to which it is intended to load such ship for that voyage.

35. The person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distances in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's deck which is above such centre: and if default is made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

36. A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew; and no shipping-master shall proceed with the engagement of the crew till this entry is made.

The master shall enter a copy of this statement in the official log-book (if any).

37. When a ship has been marked as by section thirty-four required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

38. The master of every British ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878 shall, before proceeding to sea from any port, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

The centre of this disc shall indicate the maximum load-line in salt-water to which it is intended to load the ship, until notice is given of an alteration.

39. He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may from time to time appoint on this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be punished with fine which may extend to one thousand rupees.

40. When a ship has been marked as required by section thirty-eight, she shall be kept so marked until notice is given of an alteration.

41. Any master of a ship who neglects to cause his ship to be marked as by this chapter required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

shall be punished for each such offence with fine which may extend to one thousand rupees.

42. If any of the marks required by this chapter is in any respects inaccurate so as to be likely to mislead, the master of the ship shall be punished with fine which may extend to one thousand rupees.

43. The provisions of this chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and marked with such lines in accordance with the provisions of the laws for the time being there in force.

Supplemental Provisions.

44. The Local Government may at any time, if satisfied that a ship detained under this chapter is not unsafe, order her to be released either upon or without any conditions.

45. When under this chapter a ship is authorized or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or first officer of any of Her Majesty's Indian Government ships, or any Port-officer, Harbour-master, Conservator of a port or officer of Customs, may detain the ship.

46. If any ship after such detention, or after service on the master of any notice of or order for such detention proceeds to sea before she is released by competent authority, the master of the ship shall be punished with fine which may extend to one thousand rupees.

47. When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorized under this chapter to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of and incidental to such person being so taken to sea, and shall also each be punished with fine which may extend to one thousand rupees.

When any owner or master is convicted of an offence under this section, the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided for the recovery of fines.

48. When a ship has been detained under this chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

49. For the purposes of the survey of a ship under this chapter, any person authorized to make the same may go on board the ship and inspect the same, and every

part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

50. Every Judge, assessor, officer or surveyor under this chapter shall be deemed to be a public servant within the meaning of the Indian Penal Code.

51. Where any order, notice, statement or document is required for the purpose of any provision of this chapter to be served on the master of a ship, the same shall be served, where there is no master, on the owner of the ship if he resides in the port where the ship is detained, or, if there is no owner residing there, on some agent of the owner residing there; or where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

52. Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

53. The Local Government may, from time to time, by notification in the official Gazette, delegate either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Act, except the powers conferred by section fourteen, the power of preparing a list of assessors under section fifteen and the power of making rules, and may cancel any such notification.

While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Act by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment now in force credit or pay, as the case may be, the amount of any costs or damages so recovered to or from the funds held by them in trust as such body.

CHAPTER III.

DISTRESSED SEAMEN.

54. This chapter shall be read with, and taken as part of, Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen).

But nothing in this chapter contained applies to seamen or apprentices to whom the provisions of section 211 of the Merchant Shipping Act, 1854, or section 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In this chapter "local authority" means such person as the Local Government may, from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed on the local authority under this chapter.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Power to suspend or dismiss.

55. The local authority may, subject to the rules hereinafter mentioned, provide for the subsistence—

Relief of distressed seamen at Indian ports.

(a) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and who are in distress in any such place; and

(b) of all seamen and apprentices not being Native Indian subjects who have been shipwrecked, discharged or left behind at any place in British India from any British ship, registered in British India and who are in distress in any such place,

until such time as such authority is able to provide them with a passage as hereinafter provided.

56. Subject as aforesaid, the local authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement, and is bound—

Distressed seamen to be sent home on board British ship wanting seamen to make up its crew.

(a) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(b) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

57. In default of any such ship, the local authority may, subject as aforesaid, provide such seamen or appren-

In default of such ship, as board of any ship.

trices with a passage in any ship (whether British or foreign) bound as aforesaid.

58. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section fifty-six or section fifty-seven, the name of every person so sent on board thereof, with such particulars concerning the case as the Governor General in Council may from time to time by rule prescribe.

Name and other particulars with regard to seamen to be indorsed on agreement of British ship.

59. The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section fifty-six or section fifty-seven not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

Master of British ship compelled to convey and give subsistence to such seamen.

60. If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice contrary to the provisions of section fifty-nine, he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be punished with fine which may extend to one thousand rupees, or, when he is tried at any place beyond the limits of British India, to the equivalent of one thousand rupees in the currency of such place.

Penalty for refusing so to do.

61. When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council from time to time appoints:

Conditions under which master may claim payment.

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):—

(a) a certificate signed by the local authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice, and the time when he was received on board; and

(1) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(1) the number of days during which such seaman or apprentice received subsistence and was provided for as aforesaid on board his ship;

(2) the number of men and boys forming the complement of his crew;

(3) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and

(4) every variation (if any) of such number.

The declaration required by this section shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a Shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 212 of the Merchant Shipping Act, 1854.

62. (a). If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this chapter; or

(b) if any such seaman or apprentice, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power or to the subject of any foreign power, become distressed and is relieved as aforesaid; or

(c) if any seaman or apprentice belonging to any British ship, registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

63. All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the seaman or apprentice would be recoverable by him.

64. The Local Government may, from time to time, by notification in the official Gazette, authorize, either generally or specially, such persons as it thinks fit to sue for any such wages and expenses and recover the same.

And every person so authorized shall be entitled to sue and recover accordingly, and shall be deemed to be a person filling a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

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65. When any such wages and expenses are due to or in respect of a seaman or apprentice mentioned in section sixty-two, clause (c), they may, instead of being

Board of Trade may recover such amount from master or owner in certain cases.

recovered by a person authorized under section sixty-four, be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1854, section 213, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

66. In all proceedings under this chapter, whether in India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under this chapter, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be sufficient evidence that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.

67. The Governor General in Council may, from time to time, make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under this chapter and generally to carry out the provisions of this chapter.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

CHAPTER IV.

SHIP SURVEYORS.

68. The Local Government may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and subject to the control of the Governor-General in Council, make rules—

- (a) for the conduct of such examinations and the qualifications to be required,
- (b) for the grant of certificates to qualified persons,
- (c) for the fees to be paid for such examinations and certificates,
- (d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and
- (e) for the suspension and cancellation of such certificates.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Publication of rules.

69. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section sixty-eight, exercise such profession in such port unless he holds a certificate granted under that section.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.

70. Any person exercising the profession, of a ship surveyor in contravention of the provisions of section sixty-nine shall be punished with fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.

CHAPTER V.

RECEIVERS OF WRECK.

71. In this Chapter "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say:—

goods which have been cast into the sea and then sink and remain under water;

goods which have been cast or fall into the sea and remain floating on the surface;

goods which are sunk in the sea, but are attached to a floating object in order that they may be found again,

goods which are thrown away or abandoned, and a vessel abandoned without hope or intention of recovery.

72. Chapter V of the Indian Ports Act, 1875, and section 5 of Act No. XIII of 1878 (*An Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*) are hereby repealed.

But nothing in this chapter shall be deemed to affect section 40 of the Indian Ports Act, 1875, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

73. The Local Government may, from time to time, by notification in the official Gazette, with the previous sanction of the Governor General in Council, appoint such persons as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned

within such local limits as it may from time to time prescribe.

Persons so appointed shall be called receivers of wreck.

74. Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, shall as soon as practicable—

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

75. Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of section seventy-four by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

Any dispute arising concerning the amount due under this section shall be determined by a Magistrate, upon application to him for that purpose by either of the disputing parties.

76. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may from time to time prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

77. If after the publication of such notification the wreck is unclaimed,

or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof,

the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

78. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same.

Provided that he makes his claim within one year from the date of the sale.

79. Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by section seventy-four shall be punished with fine which may extend to one thousand rupees, and in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

CHAPTER VI.

INSPECTION OF SHIPS WITH REGARD TO LIGHT AND FOG-SIGNALS.

80. Nothing in this chapter contained shall apply to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council, or belonging to any foreign Prince or State.

81. The Local Government may, from time to time, appoint persons to inspect in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Act Amendment Act, 1862, or any other similar law for the time being in force, may apply for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law, and may suspend or remove any person so appointed.

Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the powers given to detaining-officers by section eleven.

82. If any such person finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

83. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

CHAPTER VII.

MISCELLANEOUS.

84. Every offence punishable under chapter II, chapter III or chapter V, may be tried in any district or presidency-town in which the offender is found, as well as in any district or presidency town in which it might be tried under the law relating to criminal procedure for the time being in force.

85. And whereas it is also expedient to provide for the assistance of assessors in certain causes in Courts exercising Admiralty or Vice-Admiralty jurisdiction; it is hereby further enacted as follows:—

In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the court, whether it be exercising its original or its appellate jurisdiction, may if it think fit, and upon request of either party to such cause, shall, summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

D. FITZPATRICK,

Secretary to the Government of India,
Legislative Department.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1880, and was promulgated for general information in the *Gazette of India* of the 13th March 1880.

Act No. VIII of 1880.

An Act to correct a clerical error in the Indian Limitation Act, 1877.

IN the second schedule to the Indian Limitation Act, 1877, No. 171A, column three, for the words "The date of the plaintiff's death," the words "The sixtieth day from the date of the plaintiff's death" shall be, and be deemed to have always been, substituted.

D. FITZPATRICK,
Secretary to the Government of India, Legislative Department.



PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 11th March 1880, and was promulgated for general information in the *Gazette of India* on the 13th March 1880:—

Act No. VII of 1880.

THE INDIAN MERCHANT SHIPPING ACT, 1880.

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An Act to amend the law relating to Merchant Shipping, and for other purposes.

WHEREAS it is expedient to prevent the departure of certain ships from British India ;

Preamble.

and whereas it is also expedient to provide for the relief of distressed seamen and apprentices at ports in British India, and for the recovery of wages due to and expenses incurred in respect of such seamen and apprentices in cases to which section 211 of the Merchant Shipping Act, 1854, and section 16 of the Merchant Shipping Act, 1855, do not apply of their own force ;

and whereas it is also expedient to provide in other respects hereinafter appearing for the regulation and control of merchant shipping ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Indian Merchant Shipping Act, 1880" :
 Short title.
 and it shall come into force on the first day of June 1880.
 Commencement.
 2. In this Act, unless there be something repugnant in the subject or context,—
 Interpretation-clause.
 "ship", includes every description of vessel used in navigation, not propelled by oars :
 "ship":
 "master" means any person (except a pilot or harbour-master) having for the time being the charge or control of a ship :
 "master":
 "port" in any provision of this Act includes also any part of a river or channel leading to a port which for the purposes of such provision the Local Government may, from time to time, by notification in the official Gazette, declare to be included in such port.
 "port":

CHAPTER II

UNSEAWORTHY AND UNSAFE SHIPS.

3. Nothing in this chapter contained shall apply—

(a) to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council;

(b) to any ship of less than one hundred and fifty tons register employed solely in fishing or in plying coastwise between ports situate in India and Ceylon.

(c) to any pleasure yacht.

4. In this chapter, "British Indian ship" means a ship registered under Act No. XIX of 1838, "British Indian ship": Act No. X of 1841, or Act No. XI of 1850, or under any other law passed by the Governor General in Council and for the time being in force for the registration of ships in India; and

"British ship": "British ship" includes a British Indian ship: "manner prescribed" means such manner as the Local Government, "manner prescribed": with the previous sanction of the Governor General in Council, may from time to time, by rules published in the official Gazette prescribe.

A ship is "unseaworthy" within the meaning of this chapter when the materials of which she is made, her construction, the qualifications of the master, the number and description of the crew, the weight, description and stowage of cargo, the tackle, sails, rigging, stores, ballast and other equipment generally are not such as to render her in every respect fit for the proposed voyage or service.

A ship is "unsafe" within the meaning of this chapter when by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, she is unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended.

Sending or taking Unseaworthy Ship to Sea.

5. Every person who sends or attempts to send a British Indian ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall, unless he proves that he used all reasonable means to insure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Every master of a British Indian ship who knowingly takes such ship to sea in such unseaworthy state that the life of any person is

Master taking unseaworthy ship to sea liable to penalty.

likely to be thereby endangered shall, unless he proves that her going to sea in such unseaworthy state was under the circumstances reasonable and justifiable, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

For the purpose of giving such proof, every person charged under this section may give evidence in the same manner as any other witness.

Prosecution to be by, or with consent of, Local Government. No prosecution under this section shall be instituted except by, or with the consent of, the Local Government.

Implied Condition of Seaworthiness in Contract of Service.

6. In every contract of service, express or implied, between the owner of a British ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner that such owner and the master, and every agent charged with the loading of such ship or the preparing thereof for sea, or the sending thereof to sea, shall use all reasonable means to secure the seaworthiness of such ship for the voyage at the time when such voyage commences, and to keep her in a seaworthy state for the voyage during the same:

Provided that nothing in this section shall subject such owner to any liability by reason of such ship being sent to sea in an unseaworthy state where, owing to special circumstances, the so sending her to sea is reasonable and justifiable.

Detention of Unsafe Ships by the Local Government.

7. The Local Government, if it has reason to believe, on complaint or otherwise, that a British ship in any port to which it may from time to time specially extend this section, is unsafe, may provisionally order the detention of such ship for the purpose of being surveyed.

A written statement of the grounds of such detention shall be forthwith served on the master of such ship.

8. When the Local Government provisionally orders the detention of a ship, it shall forthwith appoint some competent person to survey such ship and report thereon, and, on receiving his report, may either order the ship to be released or, if in its opinion the ship is unsafe, may order her to be finally detained.

An order of final detention may be either absolute or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, as the Local Government thinks necessary for the protection

Order of final detention.

of human life; and the Local Government may, from time to time, vary or add to any such order:

Provided that, before an order for final detention is made, a copy of the report shall be served upon the master of the ship, and within seven days after such service the owner or master may appeal against such report, in the manner prescribed, to the Court of Survey (hereinafter mentioned) for the port where the ship is detained.

9. Where a ship has been provisionally detained and a person has been appointed under section eight to survey such ship, the owner or master of the ship, at any time before such person makes such survey, may require that he shall take with him as assessor such person as such owner or master may select, being a person named in the list of assessors prepared under section fifteen, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, a person of nautical, engineering or other special skill and experience; and

in such case, if the surveyor and assessor agree that the ship should be detained or released, the Local Government shall cause the ship to be detained or released accordingly, and the owner or master shall have no appeal;

but if the surveyor and assessor differ in their report the Local Government may act as if the requisition had not been made, and the owner or master shall have such appeal touching the report of the surveyor as is hereinbefore provided.

10. Notwithstanding anything contained in section eight the Local Government may at any time, when a ship has been provisionally detained, instead of following the procedure hereinbefore provided, refer the matter to the Court of Survey for the port where the ship is detained.

Detaining-officers.

11. For the better execution of this chapter, the Local Government may, from time to time, appoint a sufficient number of fit persons as its officers, and may suspend or remove any of them.

Every officer so appointed (hereinafter referred to as a detaining-officer) shall have, for the purpose of his duties under this chapter, the following powers, (that is to say):—

(a) he may go on board any British ship and may inspect the same or any part thereof, or any of the machinery, equipments and cargo on board thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unnecessarily detaining or delaying her from discharging, unloading or proceeding on any voyage;

(b) he may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him, may examine such

persons, and may, by a like summons, require returns in writing to any enquiries he thinks fit to make;

(c) he may require and enforce the production of all books, papers or documents which he considers important; and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination.

12. Every detaining-officer shall, in addition to the powers hereinbefore conferred, have the same power as the Local Government has under sections seven and eight, respectively, of provisionally ordering the detention of a ship for the purpose of being surveyed, and of appointing a person to survey her; and if he thinks that a ship so detained by him is not unsafe, may order her to be released.

Every such officer shall forthwith report to the Local Government any order made by him for the detention or release of a ship.

Of the Court of Survey and of Appeals and References thereto.

Of the Court of Survey and of Appeals and References thereto.

13. A Court of Survey for a port shall consist of a Judge sitting with two assessors.

14. The Judge shall be a District Judge, Judge of a Court of Small Causes, Presidency Magistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified case.

15. The assessors shall be persons of nautical, engineering or other special skill and experience.

One of them shall be appointed by the Local Government either generally or in each case, and the other shall be summoned by the Judge, in the manner prescribed, out of a list of persons from time to time prepared for the purpose and published by the Local Government in the official Gazette, or, if there is no such list, or if it is impracticable to procure the attendance of any person named in such list, shall be appointed by the Judge.

16. The Judge shall, on receiving notice of an appeal or a reference from the Local Government, immediately summon the assessors, in the manner prescribed, to meet forthwith.

17. Every such appeal and reference shall be heard in open Court.

18. The Judge and each assessor shall, for the purposes of this chapter, have the same powers as are by section eleven conferred on a detaining-officer.

19. The Judge may appoint any competent person to survey the ship and report thereon to the Court.

Judge may appoint surveyor.

20. The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursuance of the powers conferred by section eighteen or section nineteen.

21. The Judge shall have the same power as the Local Government has to order the ship to be released or finally detained; but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

22. The Judge shall report the proceedings of the Court in each case to the Local Government in the manner prescribed, and each assessor shall either sign such report or report to the Local Government the reasons for his dissent.

23. The Local Government may, with the previous sanction of the Governor General in Council, from time to time make rules to carry into effect the provisions of this chapter with respect to a Court of Survey, and in particular with respect to—

- (a) the procedure before the Court;
- (b) the requiring, on an appeal, of security for costs and damages;
- (c) the amount and application of fees; and
- (d) the ascertainment, in case of dispute, of the proper amount of costs under this chapter.

Such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Scientific Referees.

24. If the Local Government is of opinion that an appeal under this chapter involves a question of construction or design, or of scientific difficulty, or important principle, it may refer the matter to such one or more out of a list of scientific referees, to be from time to time prepared by the Local Government, as may appear to possess the special qualifications necessary for the particular case, and may be selected by agreement between the Port officer and the appellant, or, in default of any such agreement, by the Local Government; and thereupon the appeal shall be determined by the referee or referees instead of by the Court of Survey.

25. The Local Government, if the appellant in any such appeal so requires and gives security to its satisfaction to pay the costs of and incidental to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

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26. The referees or referees to whom an appeal is referred under section twenty-four or section twenty-five shall have the same powers as a Judge of the Court of Survey.

Referee to have powers of Court of Survey.

Costs of Detention and Damages incidental thereto.

27. If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship, the Government shall be liable to pay to the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

28. If a ship is finally detained under this chapter or if it appears that a ship provisionally detained was at the time of such detention unsafe, the owner of the ship shall be liable to pay to the Government its costs of and incidental to the detention and survey of the ship; and such costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

29. For the purposes of this chapter the costs of and incidental to any proceeding before a Court of Survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Local Government, shall be deemed to be part of the costs of the detention and survey of the ship.

30. When a complaint is made to the Local Government or a detaining-officer that a British ship is unsafe, it shall be in the discretion of such Government or officer (as the case may be) to require the complainant to give security to the satisfaction of such Government or officer for the costs and compensation which such complainant may become liable to pay as hereinafter mentioned.

Provided that, where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of such Government or officer frivolous or vexatious, such security shall not be required; and such Government or officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps to ascertain whether the ship ought to be detained under this chapter.

31. Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this chapter to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and compensation as the Government incurs, or is liable to pay, in respect of the detention and survey of the ship.

Costs, &c., payable by Government recoverable from complainant.

Grain Cargoes.

32. No cargo of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts or nut-kernels (hereinafter referred to as grain cargo) shall be carried on board any British Indian ship unless the same be contained in bags, sacks or barrels, or secured from shifting by boards or bulkheads or otherwise.

If the owner or master of any ship, or any agent of such owner who is charged with the loading of such ship or the sending her to sea, knowingly allows any grain cargo or part of a grain cargo to be shipped therein for carriage contrary to the provisions of this section, he shall be punished with fine which may extend to three thousand rupees.

Deck and Load Lines.

33. Every British Indian ship shall be permanently and conspicuously marked with lines of not less than twelve inches in length and one inch in breadth painted longitudinally on each side amidships or as near thereto as is practicable, and indicating the position of each deck which is above water.

The upper edge of each of these lines shall be level with the upper side of the deck plank next the waterway at the place of marking. The lines shall be white or yellow on a dark ground or black on a light ground.

34. The master of every British ship not being a coasting-vessel within the meaning of the Sea Customs Act, 1878, shall, before his ship is entered outwards from any port in British India upon any voyage, or if that is not practicable, as soon after as may be, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre.

The centre of such disc shall indicate the maximum load-line in salt water to which it is intended to load such ship for that voyage.

35. The person applying for entry of any such ship outwards shall insert, in the form of application made to the Customs-collector, a statement in writing of the distances in feet and inches between the centre of such disc and the upper edge of each of the lines indicating the position of the ship's deck which is above such centre: and if default is made in delivering this statement, the Customs-collector may refuse to enter the ship outwards.

36. A copy of this statement shall be entered in the agreement with the crew before it is signed by any member of the crew; and no shipping-master shall proceed with the engagement of the crew till this entry is made.

The master shall enter a copy of this statement in the official log-book (if any).

37. When a ship has been marked as by section thirty-four required, she shall be kept so marked until she next returns to a port of discharge in British India or arrives at a port in the United Kingdom.

38. The master of every British ship which is a coasting vessel within the meaning of the Sea Customs Act, 1878 shall, before proceeding to sea from any port, mark outside upon each of her sides amidship, or as near thereto as is practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc twelve inches in diameter, with a horizontal line eighteen inches in length drawn through its centre:

The centre of this disc shall indicate the maximum load-line in salt-water to which it is intended to load the ship, until notice is given of an alteration.

39. He shall also once in every twelve months, immediately before the ship proceeds to sea, send or deliver to the Collector, or other principal officer of Customs of such port as the Local Government may from time to time appoint on this behalf, a statement in writing of the distance in feet and inches between the centre of the disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre.

The master, before the ship proceeds to sea after any renewal or alteration of the disc, shall send or deliver to the collector or other principal officer of Customs aforesaid notice in writing of such renewal or alteration, together with such statement in writing as before mentioned of the distance between the centre of the disc and the upper edge of each of the deck-lines.

If default is made in sending or delivering any notice or statement required by this section to be sent or delivered, the master shall be punished with fine which may extend to one thousand rupees.

40. When a ship has been marked as required by section thirty-eight, she shall be kept so marked until notice is given of an alteration.

41. Any master of a ship who neglects to cause his ship to be marked as by this chapter required, or to keep her so marked, or who allows the ship to be so loaded that when in perfectly smooth salt-water the centre of the disc is submerged,

and any person who conceals, removes, alters, defaces or obliterates, or suffers any person under his control to conceal, remove, alter, deface or obliterate, any of the said marks, except in the event of the particulars thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy,

shall be punished for each such offence with fine which may extend to one thousand rupees.

42. If any of the marks required by this chapter is in any respects inaccurate so as to be likely to mislead, the master of the ship shall be punished with fine which may extend to one thousand rupees.

43. The provisions of this chapter as to load-lines shall not apply to ships coming from ports in the United Kingdom and marked with such lines in accordance with the provisions of the laws for the time being there in force.

Supplemental Provisions.

44. The Local Government may at any time, if satisfied that a ship detained under this chapter is not unsafe, order her to be released either upon or without any conditions.

45. When under this chapter a ship is authorized or ordered to be detained, any commissioned officer on full pay in the naval or military service of Her Majesty, any commander or first officer of any of Her Majesty's Indian Government ships, or any Port-officer, Harbour-master, Conservator of a port or officer of Customs, may detain the ship.

46. If any ship after such detention, or after service on the master of any notice of order for such detention proceeds to sea before she is released by competent authority, the master of the ship shall be punished with fine which may extend to one thousand rupees.

47. When a ship so proceeding to sea takes to sea, when on board thereof in the execution of his duty, any person authorized under this chapter to detain or survey such ship, the owner and master of such ship shall each be liable to pay all expenses of and incidental to such person being so taken to sea, and shall also each be punished with fine which may extend to one thousand rupees.

When any owner or master is convicted of an offence under this section, the convicting Magistrate may inquire into and determine the amount payable on account of expenses by such owner or master under this section, and may direct that the same shall be recovered from him in manner provided for the recovery of fines.

48. When a ship has been detained under this chapter, she shall not be released by reason of her British or British Indian register being subsequently closed.

49. For the purposes of the survey of a ship under this chapter, any person authorized to make the same may go on board the ship and inspect the same, and every

part thereof, and the machinery, equipments and cargo, and may require the unloading or removal of any cargo, ballast or tackle.

50. Every Judge, assessor, officer or surveyor under this chapter shall be deemed to be a public servant within the meaning of the Indian Penal Code.

51. Where any order, notice, statement or document is required for the purpose of any provision of this chapter to be served on the master of a ship, the same shall be served, where there is no master, on the owner of the ship if he resides in the port where the ship is detained, or, if there is no owner residing there, on some agent of the owner residing there; or where such owner or agent is unknown or cannot be found, a copy of such order, notice, statement or document shall be affixed to the mast of the ship, and shall thereupon be deemed to be duly served.

52. Any such order, notice, statement or document may be served by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode, or, in the case of a master, by leaving it for him on board the ship with the person being or appearing to be in command or charge of the ship.

53. The Local Government may, from time to time, by notification in the official Gazette, delegate either absolutely or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for managing the affairs of a port all or any of the powers, and require the said body to discharge all or any of the functions of a Local Government under the foregoing sections of this Act, except the powers conferred by section fourteen, the power of preparing a list of assessors under section fifteen and the power of making rules, and may cancel any such notification.

While any such notification remains in force, all costs and damages which would otherwise be recoverable under this Act by or from the Government shall be recoverable in like manner by or from such body; and such body shall, notwithstanding anything to the contrary contained in any enactment now in force credit or pay, as the case may be, the amount of any costs or damages so recovered to or from the funds held by them in trust as such body.

CHAPTER III.

DISTRESSED SEAMEN.

54. This chapter shall be read with, and taken as part of, Act No. I of 1859 (for the amendment of the law relating to Merchant Seamen).

But nothing in this chapter contained applies to seamen or apprentices to whom the provisions of section 211 of the Merchant Shipping Act, 1854, or section 16 of the Merchant Shipping Act Amendment Act, 1855, apply.

In this chapter "local authority" means such person as the Local Government may, from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue of his office to exercise the powers conferred, and to perform the duties imposed on the local authority under this chapter.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

55. The local authority may, subject to the rules hereinafter mentioned, provide for the subsistence—

(a) of all seamen and apprentices, being Native Indian subjects of Her Majesty, who have been shipwrecked, discharged or left behind at any place in British India, whether from any British ship employed in the merchant service, or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power, or to the subject of any foreign State, and who are in distress in any such place; and

(b) of all seamen and apprentices not being Native Indian subjects who have been shipwrecked, discharged or left behind at any place in British India from any British ship, registered in British India and who are in distress in any such place,

until such time as such authority is able to provide them with a passage as hereinafter provided.

56. Subject as aforesaid, the local authority may cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty which is in want of men to make up its complement, and is bound—

(a) in the case of seamen or apprentices who are Native Indian subjects of Her Majesty, to their home or to a port in British India near their home;

(b) in the case of other British seamen or apprentices, to any port in the United Kingdom or the British possession to which they belong (as the case requires); and

(c) in the case of seamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Council, may in each case determine.

57. In default of any such ship, the local authority may, subject as aforesaid, provide such seamen or appren-

tics with a passage in any ship (whether British or foreign) bound as aforesaid.

58. The local authority shall indorse on the agreement of any British ship on board of which any seaman or apprentice is sent under section fifty-six or section fifty-seven, the name of every person so sent on board thereof, with such particulars concerning the case as the Governor General in Council may from time to time by rule prescribe.

59. The master of every British ship bound as aforesaid shall receive and afford a passage and subsistence to all seamen and apprentices whom he is required to take on board his ship under the provisions of section fifty-six or section fifty-seven not exceeding one for every fifty tons burden, and shall, during the passage, provide every such seaman or apprentice with a proper berth or sleeping-place effectually protected against sea and weather.

60. If the master of any such ship fails or refuses to receive on board his ship, or to give a passage or subsistence to, or to provide for, any such seaman or apprentice, contrary to the provisions of section fifty-nine, he shall, for each seaman and apprentice with respect to whom he so fails or refuses, be punished with fine which may extend to one thousand rupees, or, when he is tried at any place beyond the limits of British India, to the equivalent of one thousand rupees in the currency of such place.

61. When any master of a British ship has conveyed a seaman or apprentice in excess of the number (if any) wanted to make up the complement of his crew to any place in accordance with the requisition of a local authority under this chapter, such master shall be entitled to be paid by the Secretary of State for India in Council in respect of the subsistence and passage of such seaman or apprentice such sum per diem as the Governor General in Council from time to time appoints:

Provided that no payment shall be made under this section except on the production of the following documents (that is to say):—

(a) a certificate signed by the local authority by whose direction such seaman or apprentice was received on board, specifying the name of such seaman or apprentice, and the time when he was received on board; and

(b) a declaration in writing by such master made and verified in manner hereinafter provided, and stating—

(1) the number of days during which such seaman or apprentice received subsistence as was provided for as aforesaid on board his ship;

(2) the number of men and boys forming the complement of his crew;

(3) the number of seamen and apprentices employed on board his ship during the time such seaman or apprentice was on board; and

(4) every variation (if any) of such number.

The declaration required by this section shall, in the case of a ship conveying Native Indian subjects of Her Majesty to a port in British India, be made before a Shipping-master or such other officer as the Local Government may appoint. In other cases such declaration shall be made and verified in the same manner as declarations made under section 212 of the Merchant Shipping Act, 1854.

62. (a). If any seaman or apprentice, being a Native Indian subject of Her Majesty and belonging to any British ship, is discharged or left behind at any place in British India without full compliance on the part of the master with all the provisions in that behalf of the law for the time being in force, and becomes distressed and is relieved under the provisions of this chapter; or

(b) if any such seaman or apprentice, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power or to the subject of any foreign power, become distressed and is relieved as aforesaid; or

(c) if any seaman or apprentice belonging to any British ship, registered in British India, and not being a Native Indian subject of Her Majesty, is discharged or left behind at any place in British India without full compliance as aforesaid, and becomes distressed and is relieved as aforesaid,

the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and, in case he should die before reaching home, for his burial, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid.

63. All such wages and expenses shall be recoverable with costs either from the master of such ship or from the person who is owner thereof for the time being, or in the case of an engagement for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made, in the same manner as other debts due to the Secretary of State for India in Council, or in the same manner and by the same form and process in which wages due to the seaman or apprentice would be recoverable by him.

64. The Local Government may, from time to time, by notification in the official Gazette, authorize, either generally or specially, such persons as it thinks fit to sue for any such wages and expenses and recover the same.

And every person so authorized shall be entitled to sue and recover accordingly, and shall be deemed to be a person filing a public office within the meaning of the Indian Evidence Act, 1872, section 57, clause 7.

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65. When any such wages and expenses are due to or in respect of a seaman or apprentice mentioned in section sixty-two, clause (c), they may, instead of being recovered by a person authorized under section sixty-four, be recovered by the Board of Trade in manner provided by the Merchant Shipping Act, 1854, section 213, and when so recovered shall be paid by the said Board to the Secretary of State for India in Council.

66. In all proceedings under this chapter, whether in India or elsewhere, the production of a certificate signed by the local authority by which any seaman or apprentice named therein was relieved, or any expenses were incurred, under this chapter, to the effect that such seaman or apprentice was in distress, and that such expenses were incurred in respect of such seaman or apprentice, shall be sufficient evidence that such seaman or apprentice was relieved, conveyed home or buried (as the case may be) at the expense of the revenues of India.

67. The Governor General in Council may, from time to time, make rules to determine under what circumstances and subject to what conditions seamen or apprentices may be relieved and provided with passages under this chapter and generally to carry out the provisions of this chapter.

All such rules shall be published in the *Gazette of India*, and shall thereupon have the force of law.

CHAPTER IV.

SHIP SURVEYORS.

68. The Local Government may, from time to time, appoint competent persons for the purpose of examining the qualifications of persons desirous of practising the profession of a ship surveyor at any port in the territories administered by such Government, and subject to the control of the Governor-General in Council, make rules—

(a) for the conduct of such examinations and the qualifications to be required,

(b) for the grant of certificates to qualified persons,

(c) for the fees to be paid for such examinations and certificates,

(d) for holding inquiries into charges of incompetency and misconduct on the part of holders of such certificates, and

(e) for the suspension and cancelment of such certificates.

All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

69. No person shall, in any port in which there is a person exercising the profession of a ship surveyor and holding a certificate granted under section sixty-eight, exercise such profession in such port, unless he holds a certificate granted under that section.

Provided that nothing herein contained shall prevent any person employed by Lloyd's Register of British and Foreign Shipping or Bureau Veritas from discharging any of the duties of such employment, or apply to any person specially exempted by the Local Government from the operation of this section.

70. Any person exercising the profession, of a ship surveyor in contravention of the provisions of section sixty-nine shall be punished with fine not exceeding one thousand rupees, and shall be incapable of maintaining any suit for any fee or reward for anything done by him in such exercise of such profession.

CHAPTER V.

RECEIVERS OF WRECK.

71. In this Chapter "wreck" includes the following when found in the sea or any tidal water or on the shores thereof, that is to say:—

goods which have been cast into the sea and then sink and remain under water;

goods which have been cast or fall into the sea and remain floating on the surface;

goods which are sunk in the sea, but are attached to a floating object in order that they may be found again,

goods which are thrown away or abandoned, and a vessel abandoned without hope or intention of recovery.

72. Chapter V of the Indian Ports Act, 1875, and section 5 of Act No. XIII of 1878 (*An Act to provide for the recovery in British India of wages due to, and expenses incurred in respect of, certain seamen and apprentices, and to amend the Indian Merchant Shipping Act, 1875, and the Indian Ports Act, 1875*) are hereby repealed.

But nothing in this chapter shall be deemed to affect section 40 of the Indian Ports Act, 1875, or entitle any person to salvage in respect of any property recovered by creeping or sweeping in contravention of that section.

73. The Local Government may, from time to time, by notification in the official Gazette, with the previous sanction of the Governor General in Council, appoint such persons as it thinks fit to receive and take possession of wreck and to perform such duties connected therewith as are hereinafter mentioned

within such local limits as it may from time to time prescribe.

Persons so appointed shall be called receivers of wreck.

74. Any person finding and taking possession of any wreck within any local limits for which a receiver of wreck has been so appointed, shall as soon as practicable—

(a) if he be the owner thereof, give the receiver of wreck notice in writing of the finding thereof and of the marks by which such wreck is distinguished;

(b) if he be not the owner of such wreck, deliver the same to the receiver of wreck.

75. Whenever any wreck is found by the receiver of wreck or has been delivered to him in accordance with the provisions of section seventy-four by any person, not being the owner thereof, the Government or such other person so delivering such wreck, as the case may be, shall be entitled to receive a reasonable sum for salvage, having regard to all the circumstances of the case.

Any dispute arising concerning the amount due under this section shall be determined by a Magistrate, upon application to him for that purpose by either of the disputing parties.

76. The receiver of wreck shall, on taking possession of any wreck, publish a notification, in such manner and at such place as the Local Government may from time to time prescribe in this behalf, containing a description of the same and the time at which and the place where the same was found.

77. If after the publication of such notification the wreck is unclaimed,

or if the person claiming the same fails to pay the amount due for salvage and for charges incurred by the receiver of wreck in respect thereof,

the receiver of wreck may sell such wreck by public auction, if of a perishable nature, forthwith, and if not of a perishable nature, at any period not less than six months after such notification as aforesaid.

78. On the realization of the proceeds of such sale, the amount due for salvage and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the balance shall be paid to the owner of the wreck, or, if no such person appear and claim the same, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same.

Provided that he makes his claim within one year from the date of the sale.

79. Any person omitting to give notice of the finding of, or to deliver, any wreck to the receiver of wreck as required by section seventy-four shall be punished with fine which may extend to one thousand rupees, and in the case of omission to deliver any wreck, shall, in addition to such fine, forfeit all claim to salvage, and pay to the owner of such wreck if the same is claimed, or if the same is unclaimed to the Government, a penalty not exceeding twice the value of such wreck.

CHAPTER VI.

INSPECTION OF SHIPS WITH REGARD TO LIGHT AND FOG-SIGNALS.

80. Nothing in this chapter contained shall apply to any ship belonging to, or hired by, Her Majesty or the Secretary of State for India in Council, or belonging to any foreign Prince or State.

81. The Local Government may, from time to time, appoint persons to inspect in any port, ships to which the regulations for preventing collisions at sea, issued under the provisions of the Merchant Shipping Act Amendment Act, 1862, or any other similar law for the time being in force, may apply for the purpose of seeing that such ships are properly provided with lights and with the means of making fog-signals, in pursuance of such regulations or law, and may suspend or remove any person so appointed.

Every person so appointed shall in the port for which he is appointed have, for the purposes of such inspection, the powers given to detaining-officers by section eleven.

82. If any such person finds that any ship is not so provided, he shall give to the master or owner notice in writing pointing out the deficiency, and also what is, in his opinion, requisite in order to remedy the same.

83. Every notice so given shall be communicated in such manner as the Local Government may direct to the Customs-collector at any port from which such ship may seek to clear; and no Customs-collector to whom such communication is made shall grant such ship a port clearance or allow her to proceed to sea without a certificate under the hand of some person appointed as aforesaid, to the effect that the said ship is properly provided with lights and with the means of making fog-signals in pursuance of the said regulations or law.

CHAPTER VII.

MISCELLANEOUS.

84. Every offence punishable under chapter II, chapter III or chapter V, may be tried in any district or presidency-town in which the offender is found, as well as in any district or presidency town in which it might be tried under the law relating to criminal procedure for the time being in force.

85. And whereas it is also expedient to provide for the assistance of assessors in certain causes in Courts exercising Admiralty or Vice-Admiralty jurisdiction; it is hereby further enacted as follows:—

In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the court, whether it be exercising its original or its appellate jurisdiction, may if it think fit, and upon request of either party to such cause, shall, summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

D. FITZPATRICK,

Secretary to the Government of India,
Legislative Department.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 12th March 1880, and was promulgated for general information in the *Gazette of India* of the 13th March 1880:—

Act No. VIII of 1880.

An Act to correct a clerical error in the Indian Limitation Act, 1877.

IN the second schedule to the Indian Limitation Act, 1877, No. 171A, column three, for the words "The date of the plaintiff's death," the words "The sixtieth day from the date of the plaintiff's death" shall be, and be deemed to have always been, substituted.

D. FITZPATRICK,

Secretary to the Government of India, Legislative Department.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 6TH MAY 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th April 1880, and was promulgated for general information in the *Gazette of India* on the 1st May 1880 :—

Act No. IX. of 1880.

An Act to amend the Bombay Civil Courts Act, 1869.

WHEREAS it is expedient to empower the Governor of Bombay in Council to fix and, from time to time, to alter the local limits of the ordinary jurisdiction of the Subordinate Judges appointed under the Bombay Civil Courts Act, 1869; It is hereby enacted as follows :—

1. This Act may be called "The Bombay Civil Courts Act, 1880";
- and it shall come into force at once.
- Short title.
- Commencement.

Insertion of a new section after section 22 of the Bombay Civil Courts Act.

2. In the said Act, after section 22, the following section shall be inserted :—

"22A. The Governor of Bombay in Council may, by notification in the official Gazette, fix, and, by a like notification, from time to time alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

3. All orders issued by the Governor of Bombay in Council previous to the passing of this Act, fixing or altering the local limits of the jurisdiction of a Subordinate Judge, shall be deemed to have been issued in accordance with law.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Dept.

THE



Bombay Government Gazette.

Published by Authority.

THURSDAY, 6TH MAY 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 10th January 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information:—

Bombay Act No. I. of 1880.

An Act to amend the law relating to the settlement of Villages held by Khots.

WHEREAS it is expedient to make special provision for the settlement and revenue administration of villages in the Ratnágiri district which are held by khots; It is enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as "The
Short title. Khoti Settlement
Act, 1880."

It extends to all villages held by khots
Extent. in the district of
Ratnágiri.

The Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, extend all or any of its provisions to any such village in the Kolába District.

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2. Sections thirty-seven and thirty-eight of the Bombay Survey and Settlement Act, 1865, are repealed so far as they apply to any village to which this Act extends, or may hereafter be extended: Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section twenty-eight of the said Act.

3. In this Act, unless there be something repugnant in the subject or context,
Interpretation.
(1) "village" means a village, or a portion or share of a village, to the extent
"Village."

to which a khot has any right or interest in such village, or portion or share thereof ;

" Khot." (2) " khot " includes :

(a) a mortgagee lawfully in possession of a khotki,

(b) all co-sharers in a khotki ;

(3) " khotki " means the aggregate of the rights and interests vested in a khot as such ;

(4) " jama " means land-revenue payable by a khot to Government ;

" Privileged occupant." (5) " privileged occupant " means :

(a) a dhárekari, or

(b) a quasi-dhárekari, or

(c) an occupancy-tenant ;

(6) " dhárekari " means a land-holder who holds on the " dhára " tenure ;

(7) " quasi-dhárekari " means a land-holder of any of the denominations named in the first column of the Schedule hereto annexed ;

(8) " occupancy-tenant " means a holder of khoti land who has a right of occupancy in such land ;

(9) " dhára land " means land held by a dhárekari, or by a quasi-dhárekari ;

(10) " khoti land " means land in respect of which a khot has, as such, any right or interest and which is not dhára land ;

(11) " part " and " section " mean respectively a part and section of this Act ;

(12) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not herebefore defined, shall

be deemed to have the meaning given to it by that Code

PART II.—GENERAL PROVISIONS RELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Khots.

4. Khots shall continue to hold their villages conditionally on the payment of the amounts due on account of the jama

Continuance of khots' villages to be subject to payment of jama.

of the same, according to the provisions of this Act and of the Bombay Land Revenue Code, 1879, and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure.

Inferior Holders.

5. Every holder of khoti land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

What holders are to be deemed occupancy-tenants.

The occupation or cultivating of the father or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be the occupation or cultivating of the present holder within the meaning of this section ;

and in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

6. If an occupancy right which is not transferable otherwise than by inheritance, when land has been wrongfully transferred, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein :

Provided that if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

7. Privileged occupants shall continue to hold their lands conditionally on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

Continuance of privileged occupants' tenures.

8. Tenants other than occupancy tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate, provided that the said rates shall not exceed the maxima prescribed in section 33, clause (c.)

Ordinary tenants.

Transfer, &c., of Rights.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

What rights are transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66, or unless in the case of an occupancy right conferred by the khot under section 11, the khot grants such right of transfer of the same.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed, or forfeited, shall be at the disposal of the khot as khoti land free of all encumbrances, other than liens or charges created or existing in favor of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

Grant of Privileged Occupants' Rights by Khots.

11. It shall be competent to the khot at any time to confer on any tenant the right of a privileged occupant of any class, or on a privileged occupant of one class, the right of a privileged occupant of a superior class: Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest produce of such land.

Privileged occupants' rights may be conferred by khots.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall cause an entry to be made in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated by the Collector's signature shall be conclusive proof of the facts therein recorded.

Record of grant.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession of a khotki unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

13. Whenever application is made to the Collector under section 86 of the Bombay Land Revenue Code, 1879, for assistance to recover rent from a privileged occupant, tenant or co-sharer and the rent claimed is payable in kind, the Collector may, if he thinks fit, direct the recovery of the money-value of such rent, and in such case the money-value shall be estimated at such commutation-rates as the Collector may fix in this behalf for the year for which such rent is due.

14. If an occupancy-tenant neglect to raise a crop on any land in his holding on account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

Rent of land which an occupancy-tenant neglects to cultivate.

In the event of a dispute as to the amount of rent due under this section such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

Accounts.

15. The khot shall

(a) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

(b) produce such accounts, whenever and to produce them when required; and to produce required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahalkari, and

(c) give a written receipt for every payment of rent or land revenue made to him whether by a privileged occupant or tenant, or by a co-sharer in his khotki.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector, or the Assistant or Deputy Collector in charge of the taluka in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jama.

PART III.—SURVEY AND SETTLEMENT.

Settlement Records.

16. Whenever a survey settlement of the land revenue of any village to which this Act extends is made, or revised under the provisions of Chapter VIII of the Bombay Land Revenue Code, 1879, the Settlement Register prepared under section 108 of the said Code shall show the area and assessment of each survey number and also whether such survey number is held by a privileged occupant or not.

If a survey number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number is held, the name of the registered occupant thereof, and, in the case of a survey number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or if a partition of the khotki has taken place, of the co-sharers to whose shares they respectively belong.

The said register shall also contain a list of all the co-sharers of the khotki, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotki.

17. The other records prepared under the said section shall specify the nature and amount of rent payable to the khot by each privileged occupant according to the provisions of section 33 of this Act, and any entry in any record duly made under this section shall be conclusive and final evidence of the liability thereby established.

18. If the khotki is undivided the said records shall also specify:—

(a) the survey numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same, and

(b) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility, and

(c) the order of rotation in which the said co-sharers agree in writing, if they do so agree, to take the management of the village under the provisions of section 27 of this Act.

19. If a partition has been effected and the co-sharers of the khotki hold their respective shares in severalty, the said records shall specify:—

(a) the extent and limits of each such separate share, and

(b) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by the last preceding section to be given concerning all the co-sharers when a khotki is undivided.

Determination of Disputes.

20. If it shall appear to the survey officer, who frames the said register or other record, that there exists any dispute as to any matter which he is bound to record, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the said register or other record accordingly.

21. In any such matter the decision of the said survey officer, when not final, shall be binding upon all the parties affected thereby until reversed or modified by a final decree of a competent court.

22. No suit shall lie against the said survey officer, or against Government, or any officer of Government to set aside any such decision of a survey officer; but the record shall from time to time be amended by the said survey officer, or when the survey settlement is concluded, by the Collector, in accordance with any such decree as aforesaid which the parties may obtain *inter se* on an application, accompanied by a certified copy of such decree, being duly made to the said survey officer, or to the Collector for that purpose.

PART IV.—ADMINISTRATION OF SURVEY SETTLEMENTS MADE UNDER THIS ACT.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey settlement, or a revised survey settlement of such village and declares the assessments settled thereunder fixed for a period of years, in accordance with section 102 of the Bombay Land Revenue Code, 1879.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in this Part shall continue to be such as they would be if this Part had not been enacted.

IV.—12

Khots' Jama.

24. The jama payable to Government by the khot shall be the aggregate of the survey assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

The amount of the said jama shall be from time to time fixed for the same period for which the survey assessments are fixed.

Managing Khots.

25. The annual *kaḥulāyats* hitherto executed by khots shall no longer be required from them: Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jama, but one of their number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the Bombay Land Revenue Code, 1879, be deemed to be the registered occupant of all survey numbers in the village not held by privileged occupants.

27. If the co-sharers have, at the time of the framing of the survey settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, the co-sharers shall be called upon to nominate one of their number year by year, and in the event of their failing so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing

khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the Bombay Land Revenue Code, 1879.

28. A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the management, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree.

29. Except as is hereinafter provided, the *mámlatdár* shall furnish every managing khot with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates and a certificate so signed and sealed shall be conclusive evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

31. When a managing khot has been duly appointed under any of the foregoing provisions he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the Bombay Land Revenue Code, 1879.

Separated Sharers.

32. When the khots have divided their khotki or a partition thereof has been effected by the civil court, or otherwise, and the separated sharers to be severally responsible for their respective shares. or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jama payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jama so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkis.

Privileged Occupants' Rents.

33. The rent payable to the khot by privileged occupants of rent payable by privileged occupants. shall be as follows, (namely):—

(a) by a *dhárekari*: the survey assessment of his land;

(b) by a quasi-*dhárekari*: the survey assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule hereto annexed.

(c) by an occupancy-tenant: such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the framing of the survey record, or at any subsequent period, be agreed upon between the khot and the said tenant;

or on the expiry of the term for which any such agreement shall have been, or shall be made, or if no such agreement have been, or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-third in the case of warkas-land and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the survey officer who frames the survey record, shall determine to be the customary amount hitherto paid by occupancy tenants in the village in which the said land is situate.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments and subject to such rules not inconsistent with the provisions of this Act as may from time to time be prescribed in this behalf by the Governor in Council.

Cesses, &c.

35. It shall not be lawful for any khot to levy *phaski, veth, nāngarveih, wartāla,* or any other cess, rate, tax or service of any description, or denomination whatsoever from any privileged occupant other than the rent lawfully leviable under the provisions of this Act.

Local Fund Cess.

36. Local Fund cess at such rate as shall from time to time be fixed by Government under section 6 of the Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jama.

The khot shall be entitled to assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, for recovery of the said cess at the said rate from dhārekaris and quasi-dhārekaris on every rupee of the survey assessment of the lands in their respective holdings.

Inferior holders of khoti lands shall not be liable to Local Fund cess, anything contained in section 8 of the Bombay Local Funds Act, 1869, to the contrary notwithstanding.

PART V.—MISCELLANEOUS.

37. Existing survey settlements of the land revenue of any village to which this Act extends, made, approved, and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

38. Upon the expiry of the period of any such guarantee, or if it shall appear to the Governor in Council that a majority of the landholders affected by any such guarantee so desire, at any time previous

to the expiry of the said period (such time being fixed by the Governor in Council), a new survey settlement shall be introduced into the village in which such guarantee was in force and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

39. Nothing in sections 68, 72, 73, 74, 99 clause (b), 104 para. 2, 112, 150 clause (b), and 153 of the Bombay Land Revenue Code, 1879, how far inapplicable to the Bombay Land Revenue Code, 1879, shall be deemed to apply to any village to which this Act extends.

The provisions of the said Code when applied to any such village shall be subject to the following modifications (namely):—

(a) when a survey settlement is being introduced under section 103, the rent payable by each privileged occupant, and the amount of jama payable by the khot shall be announced in lieu of the assessment fixed on each survey number.

(b) sections 118, 119, and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village officers," and the words "village officers" and the words "village officers and servants," wherever they occur.

(c) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jama of his village.

(d) the word alienated in clause (f) of section 150 shall be deemed to be omitted, and

(e) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within 12 years from the first day of August next after such date.

40. The Governor in Council may, by Rules to be made by notification in the the Governor in Council. *Bombay Government Gazette*, from time to time frame, and from time to time vary, or rescind rules not inconsistent with the provisions of this Act—

(a) for the inspection and appraisal of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land;

(b) for determining what land is dhāra land;

(c) for allotting to each privileged occupant, when the exact limits of his warkas holding are not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas land and such rights or privileges in respect of any other such land as may be fair and reasonable;

(d) determining to what extent, if any, any rule, or order made under section 214 of the Bombay Land Revenue Code, 1879, shall be applicable to villages to which this Act extends;

(e) for the furtherance of the objects of this Act in matters not expressly provided for therein;

(f) generally for the guidance of all persons in matters connected with the enforcement of this Act.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots, it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest. But nothing in this section con-

Government may constitute uncultivated land a reserved forest.

tained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority.

Explanation.—For the purposes of this section “uncultivated land” means land which has not been tilled for a period of 20 years next before the 1st June 1879, or the date of the order constituting such reserved forest.

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the Indian Forest Act, 1878, and of any other law relating to forests for the time being in force, provided

(1) that upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management.

(2) that in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the Indian Forest Act, 1878, shall be applicable.

SCHEDULE (see Section 3, Cl. 7, and Section 33.)

Denomination of Quasi-dharkaris.	EXCESS AMOUNT OF RENT PAYABLE FOR EVERY RUPEE AND PROPORTIONATELY FOR EVERY FRACTION OF A RUPEE OF THE SURVEY ASSESSMENT IN RESPECT OF		
	Rice lands.	Warkas lands.	Bagayat or Kabi lands.
Daspatkari ...	2 annas...	2 annas ...	2 annas.
Dupatkari ...	$\frac{1}{2}$ maund of rice in the husk.	$5\frac{1}{2}$ pailis of grain (half <i>nachani</i> and half <i>vari</i>).	8 annas.
Didpatkari or Didi-wala.	3 pailis of rice in the husk.	2 pailis of grain (half <i>nachani</i> and half <i>vari</i>).	3 annas.
Paunedupatkari ...	6 pailis of rice in the husk.	4 pailis of grain (half <i>nachani</i> and half <i>vari</i>).	6 annas.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 27th January 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information :—

Bombay Act No. II. of 1880.

An Act to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay.

WHEREAS the Government of India has agreed to advance to the Municipal Corporation of the City of Bombay a sum not exceeding thirty-six lakhs of rupees for the purpose of constructing new water-works, and a further sum not exceeding six lakhs of rupees for the purpose of improving the surface-drainage of the Island of Bombay; and to permit the balances still due on account of the two loans of fifteen lakhs of rupees and four lakhs of rupees, of which the payment is secured by Bombay Act II. of 1872, to be repaid on the same terms as the said new loans;

And whereas in accordance with the terms of the said agreement the said Municipal Corporation has since the 2nd November 1876 ceased to pay the monthly instalments accruing due under Bombay Act II. of 1872, but has since the said date paid interest at the rate of four and a half per cent. per annum upon the said balances and upon the portions of the said new loans of thirty-six and six lakhs of rupees from time to time taken up by the said Municipal Corporation;

And whereas it is necessary to provide for the re-payment of the consolidated amount of the said new loans and of the balances of the said former loans out of the Municipal Fund of the City of Bombay in manner hereinafter appearing; It is enacted as follows :—

1. This Act may be cited as "The Bombay Municipality's Consolidated Loan Act, 1880."

It shall come into force on such date as may be notified by the Governor in Council in the *Bombay Government Gazette*.

2. Bombay Act II. of 1872 is repealed.

3. In this Act :

(1.) "The Corporation" means the Municipal Corporation of the City of Bombay as constituted by Bombay Acts III. of 1872 and IV. of 1878, or by any other law for the time being in force;

(2.) "Municipal Fund" means the Municipal Fund as defined by Section 65 of Bombay Act III. of 1872 or by any other law for the time being in force relating to the Municipal affairs of the City of Bombay.

(3.) "Consolidated loan" means the aggregate amount of the following sums, that is to say :

- (a) The sum of thirty-six lakhs of rupees to be advanced by the Government of India to the Corporation for the purpose of constructing new water-works, or such portion thereof as may be taken up by the Corporation;
- (b) The sum of six lakhs of rupees to be similarly advanced for the purpose of carrying out the surface-drainage of the Island of Bombay, or such portion thereof as may be taken up by the Corporation;
- (c) The sum of rupees twelve lakhs and seventy thousand certified by the Accountant General of Bombay as the balance due by the Corporation to the Government of India on the 2nd November 1876 on account of the loan of fifteen lakhs of rupees secured by Bombay Act II. of 1872;
- (d) The sum of rupees three lakhs and seventy thousand certified by the said Accountant General as the balance due by the Corporation to the Government of India on the said date on account of the loan of four lakhs of rupees secured by the said Act.

4. Until the 1st January 1881 the
 Interest only to be paid at first. Municipal Commissioner on behalf of the Corporation shall continue to pay interest on the portion of the consolidated loan for the time being due by the Corporation to the Government of India at the rate of four-and-a-half per centum per annum.

The said payments of interest shall be made half-yearly on the first of January and the first of July.
 Payments when to be made.

5. The whole of the consolidated loan shall be repaid with interest at the aforesaid rate within thirty years next after the 1st January 1881:
 Period of re-payment.

And for the better securing of the repayment of the consolidated loan with interest as aforesaid within the said period, the Municipal Commissioner on behalf of the Corporation shall after the aforesaid date until the whole of the consolidated loan be liquidated, pay half-yearly on the first of January and the first of July the sum of one lakh seventy-eight thousand three hundred and twenty-six rupees and two annas and five pies, the first of such payments to be made on the 1st of July 1881.
 Mode of re-payment.

Every payment made by the Corporation under this Section and all moneys recovered from the Corporation in any of the manners hereinafter prescribed shall be appropriated first to the payment of the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

6. All payments to be made by the Municipal Commissioner, under either of the last two sections shall be made out of the Municipal Fund into Her Majesty's Treasury at Bombay, or to the credit of the Secretary of State in Council in any Bank which may now or hereafter be appointed to act as bankers and receive money in Bombay in behalf of the Government.
 Payments where to be made.

and notice of every such payment having been made shall be forthwith published by the Municipal
 Notice of payment to be published

Commissioner in the *Bombay Government Gazette*.

7. If the Municipal Commissioner fail to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.
 In case of non-payment, report to be made to the Chief Secretary to Government.

8. It shall be lawful for the Chief Secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being an officer of the Bombay Municipality, to detain to the extent of any payment or payments then in arrear any moneys due or that may become due to the Corporation, which he may then or thereafter have in his custody or control, and such officer shall be bound to detain the moneys which he is so directed to detain and to pay the same as they become due to the Corporation into Her Majesty's Treasury or into any Bank as aforesaid to the credit of the Secretary of State for India in Council, and the moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the consolidated loan and of all other sums payable under this Act, in preference to and with priority over all incumbrances on and claims to such moneys other than those created under Bombay Act III. of 1870.
 Arrear may be recovered by detention of moneys due to the Corporation.

9. If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any rate, tax, toll, or duty leviable by the Corporation.
 Or, by attachment of the municipal fund, &c.

After such attachment no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund, rate, tax, toll, or duty; but such officer may do all acts in respect thereof which the Corporation or the Municipal Commissioner might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the fund, rate, tax, toll, or duty attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund, rate, tax, toll, or duty attached before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

10. Nothing in this Act shall affect the rights or remedies which the Government of India has or shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

11. The Municipal Commissioner shall in the month of January in each year publish in the *Bombay Government Gazette* an account showing the

Account of balances due to Government of India to be published by the Municipal Commissioner yearly.

balances due by the Corporation on the 31st December preceding on account of the consolidated loan, and of every other loan, if any, still repayable to the Government of India.

12. Unless under the provisions of Section 7 of Act XI. of 1879, the Corporation shall not hereafter borrow money except from Government of India or with its sanction.

If any new loan shall hereafter be granted to the Corporation by the Government of India, the same shall be subject, as regards re-payment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan; save only that the rate of interest, the period of re-payment, and the number and amount of the instalments shall, in the case of every such new loan, be fixed under the orders of the Government of India by the Governor in Council.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 11th March 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information :—

Bombay Act No. III. of 1880.

An Act to amend the Bombay Irrigation Act No. VII. of 1879.

Whereas it is deemed expedient to repeal
 Preamble. certain sections of
 the Bombay Irriga-
 tion Act No. VII. of
 1879,

It is hereby enacted as follows :—
 Sections 49 to 56, both inclusive, of the
 Repeal of Sections 49 Bombay Irrigation
 to 56 of Bombay Irri- Act No. VII. of 1879
 gation Act, 1879. are hereby repealed.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
 Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

[Published with the "Bombay Government Gazette" on the 13th May 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 10th January 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information:—

Bombay Act No. I. of 1880.

An Act to amend the law relating to the settlement of Villages held by Khots.

WHEREAS it is expedient to make special provision for the settlement and revenue administration of villages in the Ratnágiri district which are held by khots; It is enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as "The
Short title. Khoti Settlement
Act, 1880."

It extends to all villages held by khots
Extent. in the district of
Ratnágiri.

The Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, extend all or any of its provisions to any such village in the Kolába District.

2. Sections thirty-seven and thirty-eight of the Bombay Survey and Settlement Act, 1865, are repealed so far as they apply to any village to which this Act extends, or may hereafter be extended: Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section twenty-eight of the said Act.

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

Interpretation.

iv.—13 a

(1) "village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof;

"Village."
"Khot." (2) "khot" includes:

(a) a mortgagee lawfully in possession of a khotki,

(b) all co-sharers in a khotki;

(3) "khotki" means the aggregate of the rights and interests vested in a khot as such;

(4) "jama" means land-revenue payable by a khot to Government;

"Jama."
"Privileged occupant." (5) "privileged occupant" means:

(a) a dhárekari, or

(b) a quasi-dhárekari, or

(c) an occupancy-tenant;

(6) "dhárekari" means a land-holder who holds on the "dhára" tenure;

(7) "quasi-dhárekari" means a land-holder of any of the denominations named in the first column of the Schedule hereto annexed;

(8) "occupancy-tenant" means a holder of khoti land who has a right of occupancy in such land;

(9) "dhára land" means land held by a dhárekari, or by a quasi-dhárekari;

(10) "khoti land" means land in respect of which a khot has, as such, any right or interest and which is not dhára land;

(11) "part" and "section" mean respectively a part and section of this Act;

(12) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

PART II.—GENERAL PROVISIONS RELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Khots.

4. Khots shall continue to hold their villages conditionally on the payment of the amounts due on account of the jama of the same, according to the provisions of this Act and of the Bombay Land Revenue Code, 1879, and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure.

Inferior Holders.

5. Every holder of khoti land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

The occupation or cultivating of the father, or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be

the occupation or cultivating of the present holder within the meaning of this section;

and in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

6. If an occupancy right which is not transferable otherwise than by inheritance, when land has been wrongfully transferred, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein:

Provided that if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

7. Privileged occupants shall continue to hold their lands conditionally on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

8. Tenants other than occupancy tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate, provided that the said rates shall not exceed the maxima prescribed in section 33, clause (c).

Transfer, &c., of Rights.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66, or unless in the case of an occupancy right conferred by the khot under section 11, the khot grants such right of transfer of the same.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed, or forfeited, shall be at the disposal of the khot as khoti land free of all encumbrances, other than liens or charges created or existing in favor of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

*Grant of Privileged Occupants'
Rights by Khots.*

11. It shall be competent to the khot at any time to confer on any tenant the right of a privileged occupant of any class, or on a privileged occupant, of one class, the right of a privileged occupant of a superior class: Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest produce of such land.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall cause an entry to be made in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated

by the Collector's signature shall be conclusive proof of the facts therein recorded.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession of a khotki unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

13. Whenever application is made to the Collector under section 86 of the Bombay Land Revenue Code, 1879, for assistance to recover rent from a privileged occupant, tenant or co-sharer and the rent claimed is payable in kind, the Collector may, if he thinks fit, direct the recovery of the money-value of such rent, and in such case the money-value shall be estimated at such commutation-rates as the Collector may fix in this behalf for the year for which such rent is due.

14. If an occupancy-tenant neglect to raise a crop on any land in his holding or neglects to cultivate account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

In the event of a dispute as to the amount of rent due under this section such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

Accounts.

15. The khot shall

(a) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

(b) produce such accounts, whenever required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahalkari, and

(c) give a written receipt for every payment of rent or land revenue made to him whether by a privileged occupant or tenant, or by a co-sharer in his khotki.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector, or the Assistant or Deputy Collector in charge of the taluka in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jama.

PART III.—SURVEY AND SETTLEMENT.

Settlement Records.

16. Whenever a survey settlement of the land revenue of any village to which this Act extends is made, or revised under the provisions of Chapter VIII of the Bombay Land Revenue Code, 1879, the Settlement Register prepared under section 108 of the said Code shall show the area and assessment of each survey number and also whether such survey number is held by a privileged occupant or not.

If a survey number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number is held, the name of the registered occupant thereof, and, in the case of a survey number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or if a partition of the khotki has taken place, of the co-sharers to whose shares they respectively belong.

The said register shall also contain a list of all the co-sharers of the khotki, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotki.

17. The other records prepared under the said section shall specify the nature and amount of rent

payable to the khot by each privileged occupant according to the provisions of section 33 of this Act, and any entry in any record duly made under this section shall be conclusive and final evidence of the liability thereby established.

18. If the khotki is undivided the said records shall also specify:—

(a) the survey numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same, and

(b) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility, and

(c) the order of rotation in which the said co-sharers agree in writing, if they do so agree, to take the management of the village under the provisions of section 27 of this Act.

19. If a partition has been effected and the co-sharers of the khotki hold their respective shares in severalty, the said records shall specify:—

(a) the extent and limits of each such separate share, and

(b) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by the last preceding section to be given concerning all the co-sharers when a khotki is undivided.

Determination of Disputes.

20. If it shall appear to the survey officer, who frames the said register or other record, that there exists any dispute as to any matter which he is bound to record, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the said register or other record accordingly.

21. In any such matter the decision of the said survey officer, when not final, shall be binding upon all the parties affected thereby until reversed

or modified by a final decree of a competent court.

22. No suit shall lie against the said survey officer, or against Government, or any officer of Government to set aside any such decision of a survey officer; but the record shall from time to time be amended by the said survey officer, or when the survey settlement is concluded, by the Collector, in accordance with any such decree as aforesaid which the parties may obtain *inter se* on an application, accompanied by a certified copy of such decree, being duly made to the said survey officer, or to the Collector for that purpose.

PART IV.—ADMINISTRATION OF SURVEY SETTLEMENTS MADE UNDER THIS ACT.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey settlement, or a revised survey settlement of such village and declares the assessments settled thereunder fixed for a period of years, in accordance with section 102 of the Bombay Land Revenue Code, 1879.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in this Part shall continue to be such as they would be if this Part had not been enacted.

Khots' Jama.

24. The jama payable to Government by the khot shall be the aggregate of the survey assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

The amount of the said jama shall be from time to time fixed for the same period for which the survey assessments are fixed.

Managing Khots.

25. The annual kabuláyats hitherto executed by khots shall no longer be required from them: Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their

tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jama, but one of their number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the Bombay Land Revenue Code, 1879, be deemed to be the registered occupant of all survey numbers in the village not held by privileged occupants.

27. If the co-sharers have, at the time of the framing of the survey settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, the co-sharers shall be called upon to nominate one of their number year by year, and in the event of their failing so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the Bombay Land Revenue Code, 1879.

28. A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the man-

agement, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree.

29. Except as is hereinafter provided, the *mámlatdár* shall furnish every managing khot with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates and a certificate so signed and sealed shall be conclusive evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

31. When a managing khot has been duly appointed under any of the foregoing provisions he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the Bombay Land Revenue Code, 1879.

Separated Sharers.

32. When the khots have divided their khotki or a partition thereof has been effected by the civil court, or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jama payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jama so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkis.

Privileged Occupants' Rents.

33. The rent payable to the khot by privileged occupants shall be as follows, (namely):—

(a) by a *dhárekari*: the survey assessment of his land;

(b) by a quasi-*dhárekari*: the survey assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule hereto annexed.

(c) by an occupancy-tenant: such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the framing of the survey record, or at any subsequent period, be agreed upon between the khot and the said tenant;

or on the expiry of the term for which any such agreement shall have been, or shall be made, or if no such agreement have been, or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-third in the case of warkas-land and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the survey officer who frames the survey record, shall determine to be the customary amount hitherto paid by occupancy tenants in the village in which the said land is situate.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments and subject to such rules not inconsistent with the provisions of this Act as may from time to time be prescribed in this behalf by the Governor in Council.

Cesses, &c.

35. It shall not be lawful for any khot to levy *phaski*, *veth*, *nángarveth*, *wartála*, or any other cess, rate, tax or service of any description, or denomination whatsoever from any privileged occupant other than the rent lawfully leviable under the provisions of this Act.

Local Fund Cess.

36. Local Fund cess at such rate as shall from time to time be fixed by Government under section 6 of the Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jama.

The khot shall be entitled to assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, for recovery of the said cess at the said rate from dhárekaris and quasi-dhárekaris on every rupee of the survey assessment of the lands in their respective holdings.

Inferior holders of khoti lands shall not be liable to Local Fund cess, anything contained in section 8 of the Bombay Local Funds Act, 1869, to the contrary notwithstanding.

PART V.—MISCELLANEOUS.

37. Existing survey settlements of the land revenue of any village to which this Act extends, made, approved, and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

38. Upon the expiry of the period of any such guarantee, or if it shall appear to the Governor in Council that a majority of the landholders affected by any such guarantee so desire, at any time previous to the expiry of the said period (such time being fixed by the Governor in Council), a new survey settlement shall be introduced into the village in which such guarantee was in force and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

39. Nothing in sections 68, 72, 73, 74, 99 clause (b), 104 para. 2, 112, 150 clause (b), and 153 of the Bombay Land Revenue Code, 1879, shall be deemed to apply to any village to which this Act extends.

The provisions of the said Code when applied to any such village shall be subject to the following modifications (namely) :—

(a) when a survey settlement is being introduced under section 103, the rent payable by each privileged occupant, and the amount of jama payable by the khot shall be announced in lieu of the assessment fixed on each survey number ;

(b) sections 118, 119, and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village officers," and the words "village officers" and the words "village officers and servants," wherever they occur ;

(c) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jama of his village ;

(d) the word alienated in clause (f) of section 150 shall be deemed to be omitted ; and

(e) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within 12 years from the first day of August next after such date.

40. The Governor in Council may, by Rules to be made by notification in the the Governor in Coun. *Bombay Government* cil. *Gazette*, from time to time frame, and from time to time vary, or rescind rules not inconsistent with the provisions of this Act—

(a) for the inspection and appraisal of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land ;

(b) for determining what land is dhára land ;

(c) for allotting to each privileged occupant, when the exact limits of his warkas holding are not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas land and such rights or privileges in respect of any other such land as may be fair and reasonable ;

(d) determining to what extent, if any, any rule, or order made under section 214 of the Bombay Land Revenue Code, 1879, shall be applicable to villages to which this Act extends ;

(e) for the furtherance of the objects of this Act in matters not expressly provided for therein ;

(f) generally for the guidance of all persons in matters connected with the enforcement of this Act.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots, it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest. But nothing in this section contained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority.

Explanation.—For the purposes of this section “uncultivated land” means land which has not been tilled for a period of 20 years next before the 1st June 1879, or the date of the order constituting such reserved forest.

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the Indian Forest Act, 1878, and of any other law relating to forests for the time being in force, provided

(1) that upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management;

(2) that in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the Indian Forest Act, 1878, shall be applicable.

SCHEDULE (see Section 3, Cl. 7, and Section 33.)

Denomination of Quasi-dharkaria,	EXCESS AMOUNT OF RENT PAYABLE FOR EVERY RUPEE AND PROPORTIONATELY FOR EVERY FRACTION OF A RUPEE OF THE SURVEY ASSESSMENT IN RESPECT OF		
	Rice lands.	Warkas lands.	Bagayat or Kabi lands.
Daspatkari ...	2 annas...	2 annas ...	2 annas.
Dupatkari ...	½ maund of rice in the husk.	5½ pails of grain (half <i>nachani</i> and half <i>vari</i>).	8 annas.
Didpatkari or Didi-wala.	3 pails of rice in the husk.	2 pails of grain (half <i>nachani</i> and half <i>vari</i>).	3 annas.
Paunedupatkari ...	6 pails of rice in the husk.	4 pails of grain (half <i>nachani</i> and half <i>vari</i>).	6 annas.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay Castle, 5th May 1890.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 27th January 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information :—

Bombay Act No. II. of 1880.

An Act to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay.

WHEREAS the Government of India has agreed to advance to the Municipal Corporation of the City of Bombay a sum not exceeding thirty-six lakhs of rupees for the purpose of constructing new water-works, and a further sum not exceeding six lakhs of rupees for the purpose of improving the surface-drainage of the Island of Bombay; and to permit the balances still due on account of the two loans of fifteen lakhs of rupees and four lakhs of rupees, of which the payment is secured by Bombay Act II. of 1872, to be repaid on the same terms as the said new loans;

And whereas in accordance with the terms of the said agreement the said Municipal Corporation has since the 2nd November 1876 ceased to pay the monthly instalments accruing due under Bombay Act II. of 1872, but has since the said date paid interest at the rate of four-and-a-half per cent. per annum upon the said balances and upon the portions of the said new loans of thirty-six and six lakhs of rupees from time to time taken up by the said Municipal Corporation;

And whereas it is necessary to provide for the re-payment of the consolidated amount of the said new loans and of the balances of the said former loans out of the Municipal Fund of the City of Bombay in manner hereinafter appearing; It is enacted as follows :—

1. This Act may be cited as "The Bombay Municipality's Consolidated Loan Act, 1880."

It shall come into force on such date as may be notified by the Governor in Council in the *Bombay Government Gazette*.

2. Bombay Act II. of 1872 is repealed.

3. In this Act :

IV.—13 c

(1.) "The Corporation" means the "The Corporation." Municipal Corporation of the City of Bombay as constituted by Bombay Acts III. of 1872 and IV. of 1878, or by any other law for the time being in force;

(2.) "Municipal Fund" means the "Municipal Fund." Municipal Fund as defined by Section 65 of Bombay Act III. of 1872 or by any other law for the time being in force relating to the Municipal affairs of the City of Bombay.

(3.) "Consolidated loan" means the aggregate amount of "Consolidated loan." the following sums, that is to say :

(a) The sum of thirty-six lakhs of rupees to be advanced by the Government of India to the Corporation for the purpose of constructing new water-works, or such portion thereof as may be taken up by the Corporation;

(b) The sum of six lakhs of rupees to be similarly advanced for the purpose of carrying out the surface-drainage of the Island of Bombay, or such portion thereof as may be taken up by the Corporation;

(c) The sum of rupees twelve lakhs and seventy thousand certified by the Accountant General of Bombay as the balance due by the Corporation to the Government of India on the 2nd November 1876 on account of the loan of fifteen lakhs of rupees secured by Bombay Act II. of 1872;

(d) The sum of rupees three lakhs and seventy thousand certified by the said Accountant General as the balance due by the Corporation to the Government of India on the said date on account of the loan of four lakhs of rupees secured by the said Act.

4. Until the 1st January 1881 the Municipal Commissioner on behalf of the Corporation shall continue to pay interest on the portion of the consolidated loan for the time being due by the Corporation to the Government of India at the rate of four-and-a-half per centum per annum.

The said payments of interest shall be made half-yearly on the first of January and the first of July.

5. The whole of the consolidated loan shall be repaid with interest at the aforesaid rate within thirty years next after the 1st January 1881:

And for the better securing of the repayment of the consolidated loan with interest as aforesaid within the said period, the Municipal Commissioner on behalf of the Corporation shall after the aforesaid date until the whole of the consolidated loan be liquidated, pay half-yearly on the first of January and the first of July the sum of one lakh seventy-eight thousand three hundred and twenty-six rupees and two annas and five pies, the first of such payments to be made on the 1st of July 1881.

Every payment made by the Corporation under this Section and all moneys recovered from the Corporation in any of the manners hereinafter prescribed shall be appropriated first to the payment of the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

6. All payments to be made by the Municipal Commissioner under either of the last two sections shall be made out of the Municipal Fund into Her Majesty's Treasury at Bombay, or to the credit of the Secretary of State in Council in any Bank which may now or hereafter be appointed to act as bankers and receive money in Bombay in behalf of the Government;

and notice of every such payment having been made shall be forthwith published by the Municipal

Commissioner in the *Bombay Government Gazette*.

7. If the Municipal Commissioner fail to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.

8. It shall be lawful for the Chief Secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being an officer of the Bombay Municipality, to detain to the extent of any payment or payments then in arrear any moneys due or that may become due to the Corporation, which he may then or thereafter have in his custody or control, and such officer shall be bound to detain the moneys which he is so directed to detain and to pay the same as they become due to the Corporation into Her Majesty's Treasury or into any Bank as aforesaid to the credit of the Secretary of State for India in Council, and the moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the consolidated loan and of all other sums payable under this Act, in preference to and with priority over all incumbrances on and claims to such moneys other than those created under Bombay Act III. of 1870.

9. If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any rate, tax, toll, or duty leviable by the Corporation.

After such attachment no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund, rate, tax, toll, or duty; but such officer may do all acts in respect thereof which the Corporation or the Municipal Commissioner might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the fund, rate, tax, toll, or duty attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund, rate, tax, toll, or duty attached before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

10. Nothing in this Act shall affect the rights or remedies of the Government of India which the Government of India has or shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

11. The Municipal Commissioner shall in the month of January in each year publish in the *Bombay Government Gazette* an account showing the

Account of balances due to Government of India to be published by the Municipal Commissioner yearly.

balances due by the Corporation on the 31st December preceding on account of the consolidated loan, and of every other loan, if any, still repayable to the Government of India.

12. Unless under the provisions of Section 7 of Act XI. of 1879, the Corporation shall not hereafter borrow money except from the Government of India or with its sanction.

If any new loan shall hereafter be granted to the Corporation by the Government of India, the same shall be subject, as regards re-payment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan; save only that the rate of interest, the period of re-payment, and the number and amount of the instalments shall, in the case of every such new loan, be fixed under the orders of the Government of India by the Governor in Council.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 11th March 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information :—

Bombay Act No. III. of 1880.

An Act to amend the Bombay Irrigation Act No. VII. of 1879.

Whereas it is deemed expedient to repeal
 Preamble. certain sections of
 the Bombay Irriga-
 tion Act No. VII. of
 1879,

It is hereby enacted as follows :—
 Sections 49 to 56, both inclusive, of the
 Repeal of Sections 49 Bombay Irrigation
 to 56 of Bombay Irri- Act No. VII. of 1879
 gation Act, 1879. are hereby repealed.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
 Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th April 1880, and was promulgated for general information in the *Gazette of India* on the 1st May 1880:—

Act No. IX. of 1880.

An Act to amend the Bombay Civil Courts Act, 1869.

WHEREAS it is expedient to empower the Governor of Bombay in Council to fix and, from time to time, to alter the local limits of the ordinary jurisdiction of the Subordinate Judges appointed under the Bombay Civil Courts Act, 1869; It is hereby enacted as follows:—

- | | |
|---------------|--|
| Short title. | 1. This Act may be called "The Bombay Civil Courts Act, 1880"; |
| Commencement. | and it shall come into force at once. |

* Insertion of a new section after section 22 of the Bombay Civil Courts Act.

2. In the said Act, after section 22, the following section shall be inserted:—

"22A. The Governor of Bombay in Council may, by notification in the official Gazette, fix, and, by a like notification, from time to time alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

3. All orders issued by the Governor of Bombay in Council previous to the passing of this Act, fixing or altering the local limits of the jurisdiction of a Subordinate Judge, shall be deemed to have been issued in accordance with law.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Dept.

[Published with the "Bombay Government Gazette" on the 20th May 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF BOMBAY.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 10th January 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information:—

Bombay Act No. I. of 1880.

An Act to amend the law relating to the settlement of Villages held by Khots.

WHEREAS it is expedient to make special provision for the settlement and revenue administration of villages in the Ratnágiri district which are held by khots; It is enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as "The
Short title. Khoti Settlement
Act, 1880."

It extends to all villages held by khots
Extent. in the district of
Ratnágiri.

The Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, extend all or any of its provisions to any such village in the Kolába District.

2. Sections thirty-seven and thirty-eight of the Bombay Survey and Settlement Act, 1865, are repealed so far as they apply to any village to which this Act extends, or may hereafter be extended: Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section twenty-eight of the said Act.

3. In this Act, unless there be something repugnant in the subject or context,
Interpretation.

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(1) "village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof;

"Khot." (2) "khot" includes:

(a) a mortgagee lawfully in possession of a khotki,

(b) all co-sharers in a khotki;

(3) "khotki" means the aggregate of the rights and interests vested in a khot as such;

(4) "jama" means land-revenue payable by a khot to Government;

"Privileged occupant." (5) "privileged occupant" means:

(a) a dhárekari, or

(b) a quasi-dhárekari, or

(c) an occupancy-tenant;

(6) "dhárekari" means a land-holder who holds on the "dhára" tenure

(7) "quasi-dhárekari" means a land-holder of any of the denominations named in the first column of the Schedule hereto annexed;

(8) "occupancy-tenant" means a holder of khoti land who has a right of occupancy in such land;

(9) "dhára land" means land held by a dhárekari, or by a quasi-dhárekari;

(10) "khoti land" means land in respect of which a khot has, as such, any right or interest and which is not dhára land;

(11) "part" and "section" mean respectively a part and section of this Act;

(12) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code

PART II.—GENERAL PROVISIONS RELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Khots.

4. Khots shall continue to hold their villages conditionally on the payment of the amounts due on account of the jama of the same, according to the provisions of this Act and of the Bombay Land Revenue Code, 1879, and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure.

Inferior Holders.

5. Every holder of khoti land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

The occupation or cultivating of the father or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be

the occupation or cultivating of the present holder within the meaning of this section;

and in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

6. If an occupancy right which is not transferable otherwise than by inheritance, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein :

Right of occupancy when land has been wrongfully transferred.

Provided that if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

7. Privileged occupants shall continue to hold their lands conditionally on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

8. Tenants other than occupancy tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate, provided that the said rates shall not exceed the maxima prescribed in section 33, clause (c.)

Transfer, &c., of Rights.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

What rights are transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66, or unless in the case of an occupancy right conferred by the khot under section 11, the khot grants such right of transfer of the same.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed, or forfeited, shall be at the disposal of the khot as khoti land free of all encumbrances, other than liens or charges created or existing in favor of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

Grant of Privileged Occupants' Rights by Khots.

11. It shall be competent to the khot at any time to confer on any tenant the right of a privileged occupant of one class, or on a privileged occupant of one class, the right of a privileged occupant of a superior class: Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest produce of such land.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall cause an entry to be made in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated

by the Collector's signature shall be conclusive proof of the facts therein recorded.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession of a khotki unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

13. Whenever application is made to the Collector under section 86 of the Bombay Land Revenue Code, 1879, for assistance to recover rent from a privileged occupant, tenant or co-sharer and the rent claimed is payable in kind, the Collector may, if he thinks fit, direct the recovery of the money-value of such rent, and in such case the money-value shall be estimated at such commutation-rates as the Collector may fix in this behalf for the year for which such rent is due.

14. If an occupancy-tenant neglect to raise a crop on any land in his holding or neglects to cultivate account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

In the event of a dispute as to the amount of rent due under this section such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

Accounts.

15. The khot shall

(a) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

(b) produce such accounts, whenever and to produce them when required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahalkari, and

(c) give a written receipt for every payment of rent or land revenue made to him whether by a privileged occupant or tenant, or by a co-sharer in his khotki.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector, or the Assistant or Deputy Collector in charge of the taluka in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jama.

PART III.—SURVEY AND SETTLEMENT.

Settlement Records.

16. Whenever a survey settlement of the land revenue of any village to which this Act extends is made, or revised under the provisions of Chapter VIII of the Bombay Land Revenue Code, 1879, the Settlement Register prepared under section 108 of the said Code shall show the area and assessment of each survey number and also whether such survey number is held by a privileged occupant or not.

If a survey number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number is held, the name of the registered occupant thereof, and, in the case of a survey number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or if a partition of the khotki has taken place, of the co-sharers to whose shares they respectively belong.

The said register shall also contain a list of all the co-sharers of the khotki, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotki.

17. The other records prepared under the said section shall specify the nature and amount of rent

payable to the khot by each privileged occupant according to the provisions of section 33 of this Act, and any entry in any record duly made under this section shall be conclusive and final evidence of the liability thereby established.

18. If the khotki is undivided the said records shall also specify:—

(a) the survey numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same, and

(b) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility, and

(c) the order of rotation in which the said co-sharers agree in writing, if they do so agree, to take the management of the village under the provisions of section 27 of this Act.

19. If a partition has been effected and the co-sharers of the khotki hold their respective shares in severalty, the said records shall specify:—

(a) the extent and limits of each such separate share, and

(b) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by the last preceding section to be given concerning all the co-sharers when a khotki is undivided.

Determination of Disputes.

20. If it shall appear to the survey officer, who frames the said register or other record, that there exists any dispute as to any matter which he is bound to record, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the said register or other record accordingly.

21. In any such matter the decision of the said survey officer, when not final, shall be binding upon all the parties affected thereby until reversed

or modified by a final decree of a competent court.

22. No suit shall lie against the said survey officer, or against Government, or any officer of Government to set aside any such decision of a survey officer; but the record shall from time to time be amended by the said survey officer, or when the survey settlement is concluded, by the Collector, in accordance with any such decree as aforesaid which the parties may obtain *inter se* on an application, accompanied by a certified copy of such decree, being duly made to the said survey officer, or to the Collector for that purpose.

PART IV.—ADMINISTRATION OF SURVEY SETTLEMENTS MADE UNDER THIS ACT.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey settlement, or a revised survey settlement of such village and declares the assessments settled thereunder fixed for a period of years, in accordance with section 102 of the Bombay Land Revenue Code, 1879.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in this Part shall continue to be such as they would be if this Part had not been enacted.

Khots' Jama.

24. The jama payable to Government by the khot shall be the aggregate of the survey assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

The amount of the said jama shall be from time to time fixed for the same period for which the survey assessments are fixed.

Managing Khots.

25. The annual kabuláyats hitherto executed by khots shall no longer be required from them: Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their

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tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jama, but one of their number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the Bombay Land Revenue Code, 1879, be deemed to be the registered occupant of all survey numbers in the village not held by privileged occupants.

27. If the co-sharers have, at the time of the framing of the survey settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, the co-sharers shall be called upon to nominate one of their number year by year, and in the event of their failing, so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the Bombay Land Revenue Code, 1879.

28. A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the man-

But suits in respect to the right of management not barred amongst the khots themselves.

agement, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree,

29. Except as is hereinafter provided, the *mámlatdár* shall furnish every managing khot with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates and a certificate so signed and sealed shall be conclusive evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

31. When a managing khot has been duly appointed under any of the foregoing provisions he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the Bombay Land Revenue Code, 1879.

Separated Sharers.

32. When the khots have divided their khotki or a partition thereof has been effected by the civil court, or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jama payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jama so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkis.

Privileged Occupants' Rents.

33. The rent payable to the khot by privileged occupants shall be as follows, (namely):—

(a) by a dhárekari: the survey assessment of his land;

(b) by a quasi-dhárekari: the survey assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule hereto annexed.

(c) by an occupancy-tenant: such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the framing of the survey record, or at any subsequent period, be agreed upon between the khot and the said tenant;

or on the expiry of the term for which any such agreement shall have been, or shall be made, or if no such agreement have been, or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-third in the case of warkas-land and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the survey officer who frames the survey record, shall determine to be the customary amount hitherto paid by occupancy tenants in the village in which the said land is situate.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments and subject to such rules not inconsistent with the provisions of this Act as may from time to time be prescribed in this behalf by the Governor in Council.

Cesses, &c.

35. It shall not be lawful for any khot to levy *phaski*, *veth*, *núngarveth*, *wartala*, &c. or any other cess, rate, tax or service of any description, or denomination whatsoever from any privileged occupant other than the rent lawfully leviable under the provisions of this Act.

Local Fund Cess.

36. Local Fund cess at such rate as shall from time to time be fixed by Government under section 6 of the Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jama.

The khot shall be entitled to assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, for recovery of the said cess at the said rate from dhárekaris and quasi-dhárekaris on every rupee of the survey assessment of the lands in their respective holdings.

Inferior holders of khoti lands shall not be liable for the cess. Other inferior holders not liable for the cess. Fund cess, anything contained in section 8 of the Bombay Local Funds Act, 1869, to the contrary notwithstanding.

PART V.—MISCELLANEOUS.

37. Existing survey settlements of the land revenue of any village to which this Act extends, made, approved, and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

38. Upon the expiry of the period of any such guarantee, or if it shall appear to the Governor in Council that a majority of the landholders affected by any such guarantee so desire, at any time previous to the expiry of the said period (such time being fixed by the Governor in Council), a new survey settlement shall be introduced into the village in which such guarantee was in force and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

39. Nothing in sections 68, 72, 73, 74, 99 clause (b), 104 para. 2, 112, 150 clause (b), and 153 of the Bombay Land Revenue Code, 1879, shall be deemed to apply to any village to which this Act extends.

The provisions of the said Code when applied to any such village shall be subject to the following modifications (namely):—

(a) when a survey settlement is being introduced under section 103, the rent payable by each privileged occupant, and the amount of jama payable by the khot shall be announced in lieu of the assessment fixed on each survey number;

(b) sections 118, 119, and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village officers," and the words "village officers" and the words "village officers and servants," wherever they occur;

(c) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jama of his village;

(d) the word alienated in clause (f) of section 150 shall be deemed to be omitted; and

(e) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within 12 years from the first day of August next after such date.

40. The Governor in Council may, by Rules to be made by notification in the Bombay Government Gazette, from time to time frame, and from time to time vary, or rescind rules not inconsistent with the provisions of this Act—

(a) for the inspection and appraisal of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land;

(b) for determining what land is dhára land;

(c) for allotting to each privileged occupant, when the exact limits of his warkas holding are not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas land and such rights or privileges in respect of any other such land as may be fair and reasonable;

(d) determining to what extent, if any, any rule, or order made under section 214 of the Bombay Land Revenue Code, 1879, shall be applicable to villages to which this Act extends;

(e) for the furtherance of the objects of this Act in matters not expressly provided for therein;

(f) generally for the guidance of all persons in matters connected with the enforcement of this Act.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots, it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest. But nothing in this section contained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority.

Explanation.—For the purposes of this section “uncultivated land” means land which has not been tilled for a period of 20 years next before the 1st June 1879, or the date of the order constituting such reserved forest.

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the Indian Forest Act, 1878, and of any other law relating to forests for the time being in force, provided

Reserved forest constituted under the last preceding section to be subject to the provisions of the Indian Forest Act, 1878.

(1) that upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management;

(2) that in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the Indian Forest Act, 1878, shall be applicable.

SCHEDULE (see Section 3, Cl. 7, and Section 33.)

Denomination of Quasi-dharkaris,	EXCESS AMOUNT OF RENT PAYABLE FOR EVERY RUPEE AND PROPORTIONATELY FOR EVERY FRACTION OF A RUPEE OF THE SURVEY ASSESSMENT IN RESPECT OF		
	Rice lands.	Warkas lands.	Bagayat or Kabi lands.
Daspatkari ...	2 annas...	2 annas	2 annas.
Dupatkari ...	$\frac{1}{2}$ maund of rice in the husk.	5 $\frac{1}{2}$ pails of grain (half <i>nachani</i> and half <i>vari</i>).	8 annas.
Didpatkari or Didi-wala.	3 pails of rice in the husk.	2 pails of grain (half <i>nachani</i> and half <i>vari</i>).	3 annas.
Paunedupatkari ...	6 pails of rice in the husk.	4 pails of grain (half <i>nachani</i> and half <i>vari</i>).	6 annas.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 27th January 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information :—

Bombay Act No. II. of 1880.

An Act to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay.

WHEREAS the Government of India has agreed to advance to the Municipal Corporation of the City of Bombay a sum not exceeding thirty-six lakhs of rupees for the purpose of constructing new water-works, and a further sum not exceeding six lakhs of rupees for the purpose of improving the surface-drainage of the Island of Bombay; and to permit the balances still due on account of the two loans of fifteen lakhs of rupees and four lakhs of rupees, of which the payment is secured by Bombay Act II. of 1872, to be repaid on the same terms as the said new loans;

And whereas in accordance with the terms of the said agreement the said Municipal Corporation has since the 2nd November 1876 ceased to pay the monthly instalments accruing due under Bombay Act II. of 1872, but has since the said date paid interest at the rate of four-and-a-half per cent. per annum upon the said balances and upon the portions of the said new loans of thirty-six and six lakhs of rupees from time to time taken up by the said Municipal Corporation;

And whereas it is necessary to provide for the re-payment of the consolidated amount of the said new loans and of the balances of the said former loans out of the Municipal Fund of the City of Bombay in manner hereinafter appearing; It is enacted as follows :—

1. This Act may be cited as "The Bombay Municipality's Consolidated Loan Act, 1880."

It shall come into force on such date as may be notified by the Governor in Council in the *Bombay Government Gazette*.

2. Bombay Act II. of 1872 is repealed.

3. In this Act :

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(1.) "The Corporation" means the Municipal Corporation of the City of Bombay as constituted by Bombay Acts III. of 1872 and IV. of 1878, or by any other law for the time being in force;

(2.) "Municipal Fund" means the Municipal Fund as defined by Section 65 of Bombay Act III. of 1872 or by any other law for the time being in force relating to the Municipal affairs of the City of Bombay.

(3.) "Consolidated loan" means the aggregate amount of the following sums, that is to say :

(a) The sum of thirty-six lakhs of rupees to be advanced by the Government of India to the Corporation for the purpose of constructing new water-works, or such portion thereof as may be taken up by the Corporation;

(b) The sum of six lakhs of rupees to be similarly advanced for the purpose of carrying out the surface-drainage of the Island of Bombay, or such portion thereof as may be taken up by the Corporation;

(c) The sum of rupees twelve lakhs and seventy thousand certified by the Accountant General of Bombay as the balance due by the Corporation to the Government of India on the 2nd November 1876 on account of the loan of fifteen lakhs of rupees secured by Bombay Act II. of 1872;

(d) The sum of rupees three lakhs and seventy thousand certified by the said Accountant General as the balance due by the Corporation to the Government of India on the said date on account of the loan of four lakhs of rupees secured by the said Act.

4. Until the 1st January 1881 the Municipal Commissioner on behalf of the Corporation shall continue to pay interest on the portion of the consolidated loan for the time being due by the Corporation to the Government of India at the rate of four-and-a-half per centum per annum.

The said payments of interest shall be made half-yearly on the first of January and the first of July.

5. The whole of the consolidated loan shall be repaid with interest at the aforesaid rate within thirty years next after the 1st January 1881:

And for the better securing of the repayment of the consolidated loan with interest as aforesaid within the said period, the Municipal Commissioner on behalf of the Corporation shall after the aforesaid date until the whole of the consolidated loan be liquidated, pay half-yearly on the first of January and the first of July the sum of one lakh seventy-eight thousand three hundred and twenty-six rupees and two annas and five pies, the first of such payments to be made on the 1st of July 1881.

Every payment made by the Corporation under this Section and all moneys recovered from the Corporation in any of the manners hereinafter prescribed shall be appropriated first to the payment of the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

6. All payments to be made by the Municipal Commissioner under either of the last two sections shall be made out of the Municipal Fund into Her Majesty's Treasury at Bombay, or to the credit of the Secretary of State in Council in any Bank which may now or hereafter be appointed to act as bankers and receive money in Bombay in behalf of the Government;

and notice of every such payment having been made shall be forthwith published by the Municipal

Commissioner in the *Bombay Government Gazette*.

7. If the Municipal Commissioner fail to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.

8. It shall be lawful for the Chief Secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being an officer of the Bombay Municipality, to detain to the extent of any payment or payments then in arrear any moneys due or that may become due to the Corporation, which he may then or thereafter have in his custody or control, and such officer shall be bound to detain the moneys which he is so directed to detain and to pay the same as they become due to the Corporation into Her Majesty's Treasury or into any Bank as aforesaid to the credit of the Secretary of State for India in Council, and the moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the consolidated loan and of all other sums payable under this Act, in preference to and with priority over all incumbrances on and claims to such moneys other than those created under Bombay Act III. of 1870.

9. If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any rate, tax, toll, or duty leviable by the Corporation.

After such attachment no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund, rate, tax, toll, or duty; but such officer may do all acts in respect thereof which the Corporation or the Municipal Commissioner might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

Provided that no such attachment shall defeat or prejudice any debt for which the fund, rate, tax, toll, or duty attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund, rate, tax, toll, or duty attached before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

10. Nothing in this Act shall affect the rights or remedies which the Government of India has or shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

11. The Municipal Commissioner shall in the month of January in each year publish in the *Bombay Government Gazette* an account showing the

Account of balances due to Government of India to be published by the Municipal Commissioner yearly.

balances due by the Corporation on the 31st December preceding on account of the consolidated loan, and of every other loan, if any, still repayable to the Government of India.

12. Unless under the provisions of Section 7 of Act XI. of 1879, the Corporation shall not hereafter borrow money except from the Government of India or with its sanction.

If any new loan shall hereafter be granted to the Corporation by the Government of India, the same shall be subject, as regards repayment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan; save only that the rate of interest, the period of repayment, and the number and amount of the instalments shall, in the case of every such new loan, be fixed under the orders of the Government of India by the Governor in Council.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

The following Act of the Governor of Bombay in Council received the assent of His Excellency the Governor on the 11th March 1880, and the assent of His Excellency the Viceroy and Governor General on the 21st April 1880, and is published for general information :—

Bombay Act No. III. of 1880.

An Act to amend the Bombay Irrigation Act No. VII. of 1879.

Whereas it is deemed expedient to repeal certain sections of the Bombay Irrigation Act No. VII. of 1879,

Preamble.

It is hereby enacted as follows :—
Sections 49 to 56, both inclusive, of the Bombay Irrigation Act No. VII. of 1879 are hereby repealed.

Repeal of Sections 49 to 56 of Bombay Irrigation Act, 1879.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay Castle, 5th May 1880.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th April 1880, and was promulgated for general information in the *Gazette of India* on the 1st May 1880:—

Act No. IX. of 1880.

An Act to amend the Bombay Civil Courts-Act, 1869.

WHEREAS it is expedient to empower the Governor of Bombay in Council to fix and, from time to time, to alter the local limits of the ordinary jurisdiction of the Subordinate Judges appointed under the Bombay Civil Courts Act, 1869; It is hereby enacted as follows:—

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|---------------|--|
| Short title. | 1. This Act may be called "The Bombay Civil Courts Act, 1880"; |
| Commencement. | and it shall come into force at once. |

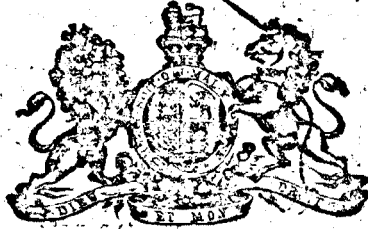
Insertion of a new section after section 22 of the Bombay Civil Courts Act.

2. In the said Act, after section 22, the following section shall be inserted:—

"22A. The Governor of Bombay in Council may, by notification in the official Gazette, fix, and, by a like notification, from time to time alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

3. All orders issued by the Governor of Bombay in Council previous to the passing of this Act, fixing or altering the local limits of the jurisdiction of a Subordinate Judge, shall be deemed to have been issued in accordance with law.

D. FITZPATRICK,
*Secy. to the Govt. of India,
Legislative Dept.*



Bombay Government Gazette.

Published by Authority.

THURSDAY, 15TH JULY 1880.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th July 1880, and was promulgated for general information in the *Gazette of India* on the 10th July 1880:—

Act No. XII. of 1880.

An Act for the appointment of persons to the office of Kázi.

WHEREAS by the preamble to Act No. XI. of 1864 (*An Act to repeal the law relating to the offices of Hindú and Muhammadan Law Officers and to the offices of Kázi-ul-Kuzáat and of Kázi and to abolish the former offices*) it was (among other things) declared that it was inexpedient that the appointment of the Kázi-ul-Kuzáat, or of City, Town or Pargana Kázis should be made by the Government, and by the same Act the enactments relating to the appointment by the Government of the said officers were repealed; and whereas by the usage of the Muhammadan community in some parts of British India the presence of Kázis appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kázi; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The Kázis Act, 1880";

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Commencement. and it shall come into force at once.

It extends, in the first instance, only to the territories administered by the Governor of Fort St. George in Council. But any other Local Government may, from time to time, by notification in the official Gazette, extend it to the whole or any part of the territories under its administration.

2. Whenever it appears to the Local Government that any considerable number of the Muhammadans resident in any local area desire that one or more Kázis should be appointed for such local area, the Local Government may, if it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kázis for such local area.

If any question arises whether any person has been rightly appointed Kázi under this section, the decision thereof by the Local Government shall be conclusive.

The Local Government may, if it thinks fit, suspend or remove any Kázi appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged

from the office, or who refuses or becomes in the opinion of the Local Government unfit, or personally incapable, to discharge the duties of the office.

3. Any Kázi appointed under this Act may appoint one or more persons as his náib or náibs to act in his place in all or any of the matters appertaining to his office throughout the whole or in any portion of the local area for which he is appointed, and may suspend or remove any náib so appointed.

When any Kázi is suspended or removed under section two, his náib or náibs (if any) shall be deemed to be suspended or removed, as the case may be.

4. Nothing herein contained, and no appointment made hereunder, shall be deemed—

Nothing in Act to confer judicial or other powers on Kázi; or

(a) to confer any judicial or administrative powers on any Kázi or Náib Kázi appointed hereunder; or

to render the presence of a Kázi necessary; or of any rite or ceremony; or

(b) to render the presence of a Kázi or Náib Kázi necessary at the celebration of any marriage or the performance

to prevent any one acting as Kázi.

(c) to prevent any person discharging any of the functions of a Kázi.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 22nd July 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 9th July 1880, and was promulgated for general information in the *Gazette of India* on the 10th July 1880:—

Act No. XII. of 1880.

An Act for the appointment of persons to the office of Kázi.

WHEREAS by the preamble to Act No. XI. of 1864 (*An Act to repeal the law relating to the offices of Hindú and Muhammadan Law Officers and to the offices of Kázi-ul-Kuziat and of Kázi and to abolish the former offices*) it was (among other things) declared that it was inexpedient that the appointment of the Kázi-ul-Kuziat, or of City, Town or Pargana Kázis should be made by the Government, and by the same Act the enactments relating to the appointment by the Government of the said officers were repealed; and whereas by the usage of the Muhammadan community in some parts of British India the presence of Kázis appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kázi; It is hereby enacted as follows:—

1. This Act may be called "The Kázis Act, 1880" and it shall come into force at once.
2. Whenever it appears to the Local Government that any considerable number of the Muhammadans resident in any local area desire that one or more Kázis should be appointed for such local area, the Local Government may, if
- Short title.
- Commencement.
- It extends, in the first instance, only to the territories administered by the Governor of Fort St. George in Council. But any other Local Government may, from time to time, by notification in the official Gazette, extend it to the whole or any part of the territories under its administration.
- Local extent.
- Power to Government to appoint Kázis for any local area.

IV.—14 a

it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kázis for such local area.

If any question arises whether any person has been rightly appointed Kázi under this section, the decision thereof by the Local Government shall be conclusive.

The Local Government may, if it thinks fit, suspend or remove any Kázi appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged from the office, or who refuses or becomes in the opinion of the Local Government unfit, or personally incapable, to discharge the duties of the office.

3. Any Kázi appointed under this Act may appoint one or more persons as his náib or náibs to act in his place in all or any of the matters appertaining to his office throughout the whole or in any portion of the local area for which he is appointed, and may suspend or remove any náib so appointed.

When any Kázi is suspended or removed under section two, his náib or náibs (if any) shall be deemed to be suspended or removed, as the case may be.

4. Nothing herein contained, and no appointment made hereunder, shall be deemed—

(a) to confer any judicial or administrative powers on any Kázi or Náib Kázi appointed hereunder; or

(b) to render the presence of a Kázi or Náib Kázi necessary at the celebration of any marriage or the performance of any rite or ceremony; or

(c) to prevent any person discharging any of the functions of a Kázi.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 29th July 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 9th July 1880, and was promulgated for general information in the *Gazette of India* on the 10th July 1880:—

Act No. XII. of 1880.

An Act for the appointment of persons to the office of Kázi.

WHEREAS by the preamble to Act No. XI. of 1864 (*An Act to repeal the law relating to the offices of Hindú and Muhammadan Law Officers and to the offices of Kázi-ul-Kuzáat and of Kázi and to abolish the former offices*) it was (among other things) declared that it was inexpedient that the appointment of the Kázi-ul-Kuzáat, or of City, Town or Pargana Kázis should be made by the Government, and by the same Act the enactments relating to the appointment by the Government of the said officers were repealed; and whereas by the usage of the Muhammadan community in some parts of British India the presence of Kázis appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kázi; It is hereby enacted as follows:—

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| Short title. | 1. This Act may be called "The Kázis' Act, 1880"; |
| Commencement. | and it shall come into force at once. |
| It extends, in the first instance, only to the territories administered by the Governor of Fort St. George in Council. But any other Local Government may, from time to time, by notification in the official Gazette, extend it to the whole or any part of the territories under its administration. | |
| Local extent. | |
| 2. Whenever it appears to the Local Government that any considerable number of the Muhammadans resident in any local area desire that one or more Kázis should be appointed for such local area, the Local Government may, if | |
| Power to appoint Kázis for any local area. | |

IV.—14 b

it thinks fit, after consulting the principal Muhammadan residents of such local area, select one or more fit persons and appoint him or them to be Kázis for such local area.

If any question arises whether any person has been rightly appointed Kázi under this section, the decision thereof by the Local Government shall be conclusive.

The Local Government may, if it thinks fit, suspend or remove any Kázi appointed under this section who is guilty of any misconduct in the execution of his office, or who is for a continuous period of six months absent from the local area for which he is appointed, or leaves such local area for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged from the office, or who refuses or becomes in the opinion of the Local Government unfit, or personally incapable, to discharge the duties of the office.

3. Any Kázi appointed under this Act may Náib Kázis, appoint one or more persons

to act in his place in all or any of the matters appertaining to his office throughout the whole or in any portion of the local area for which he is appointed, and may suspend or remove any náib so appointed.

When any Kázi is suspended or removed under section two, his náib or náibs (if any) shall be deemed to be suspended or removed, as the case may be.

4. Nothing herein contained, and no appointment made hereunder, shall be deemed—

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|--|--|
| Nothing in Act to confer judicial or administration powers; or | (a) to confer any judicial or administrative powers on any Kázi or Náib Kázi appointed hereunder; or |
| (b) to render the presence of Kázi necessary; or | Kázi necessary at the celebration of any marriage or the performance of any rite or ceremony; or |
| to prevent any one acting as Kázi. | (c) to prevent any person discharging any of the functions of a Kázi. |

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 18th November 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 3rd November 1880, and was promulgated for general information in the *Gazette of India* on the 6th November 1880:—

Act No. XIV. of 1880.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

1. This Act may be called "The Indian Census Act, 1880," and shall come into force on the passing thereof.

2. This section and sections three, four and thirteen extend to the whole of British India.

The remaining sections extend only to such parts of British India as the Local Government may, from time to time, by notification in the official Gazette, direct.

3. The Local Government may appoint any person by name or in virtue of his office to take, or aid in or supervise the taking of, the census within any specified local area.

Persons so appointed shall be called "Census-officers."

The Local Government may delegate to such authority as it thinks fit the power conferred by this section.

4. A declaration in writing, signed by any officer authorized by the Local Government in this behalf, that any person has been duly appointed Census-officer for any local area shall be conclusive proof of such appointment.

All Census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

5. (a) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper or manager of any serai, hotel, boarding-house, lodging-house, or club, and

(e) every occupant of immovable property having at the time of taking the census not less than fifty persons employed under him on or in such property,

shall, if so required by the Magistrate of the District, or in the towns of Calcutta, Madras and Bombay, by such officer as the Local Government may appoint in this behalf, perform such of the duties of a Census-officer in relation to the persons who at the time of taking the census are under his command or charge, or inmates of his house, or present on or in such property, as such Magistrate or officer may, by an order written, printed or lithographed, direct.

All the provisions of this Act relating to Census-officers shall apply (so far as they are applicable) to all such persons while performing such duties; and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

6. The Magistrate of the district may, by an order written, printed or lithographed, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents; and upon all members of panchayats appointed in his district under Bengal Act No. VI. of 1870 (to provide for the appointment, dismission and maintenance of Village Charukildars), to give such assistance as he needs towards the taking of a census of the persons who are at the time of taking the census on the lands of such owners, occupiers, holders, farmers and assignees, within the limits of such fisheries

[Published with the "Bombay Government Gazette" on the 18th November 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 3rd November 1880, and was promulgated for general information in the *Gazette of India* on the 6th November 1880:—

Act No. XIV. of 1880.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

1. This Act may be called "The Indian Census Act, 1880," and shall come into force on the passing thereof.
2. This section and sections three, four and thirteen extend to the whole of British India.

The remaining sections extend only to such parts of British India as the Local Government may, from time to time, by notification in the official Gazette, direct.

3. The Local Government may appoint any person by name or in virtue of his office to take, or aid in or supervise the taking of, the census within any specified local area.

Persons so appointed shall be called "Census-officers."

The Local Government may delegate to such authority as it thinks fit the power conferred by this section.

4. A declaration in writing, signed by any officer authorized by the Local Government in this behalf, that any person has been duly appointed Census-officer for any local area shall be conclusive proof of such appointment.

All Census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

IV.—15 a

5. (a) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper or manager of any serai, hotel, boarding-house, lodging-house, or club, and

(e) every occupant of immovable property having at the time of taking the census not less than fifty persons employed under him on or in such property,

shall, if so required by the Magistrate of the District, or in the towns of Calcutta, Madras and Bombay, by such officer as the Local Government may appoint in this behalf, perform such of the duties of a Census-officer in relation to the persons who at the time of taking the census are under his command or charge, or inmates of his house, or present on or in such property, as such Magistrate or officer may, by an order written, printed or lithographed, direct.

All the provisions of this Act relating to Census-officers shall apply (so far as they are applicable) to all such persons while performing such duties; and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

6. The Magistrate of the district may, by an order written, printed or lithographed, call upon all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents; and upon all members of panchayats appointed in his district under Bengal Act No. VI of 1870 (to provide for the appointment, dismissal and maintenance of Village Chaukidars), to give such assistance as he needs towards the taking of a census of the persons who are at the time of taking the census on the lands of such owners, occupiers, holders, farmers and assignees, within the limits of such fisheries

or in the villages for which such pancháyats are appointed, as the case may be.

Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees, or their agents, and the members of such pancháyats, shall be bound to obey it.

7. Every Census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask:

8. Every person of whom any question is asked under section seven shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household; and that no woman shall be bound to state the name of her husband or deceased husband.

9. Every person occupying any house, enclosure, vessel or other place shall allow the Census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable.

10. Subject to such orders as the Local Government may issue in this behalf, any Census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the persons present in such house or part at the time of taking the census.

When any such schedule has been so left, the occupier of the house or part to which it relates shall fill up the same to the best of his knowledge or belief, so far as regards the persons present in such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the Census-officer or to such person as he may direct.

Any occupier of a dwelling-house or part thereof who knowingly and without sufficient cause fails to comply with the provisions of this section, or makes any false return hereunder shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

11. Any Census-officer who, knowingly and without sufficient cause, disobeys the instructions published by the Local Government under section seven, puts any offensive or improper question, or makes any false return, shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

12. The Local Government may, by notification in the official Gazette,

(a) declare before what classes of Magistrates prosecutions under this Act, or for neglecting or refusing to do anything required by this Act to be done, may be instituted; and

(b) direct that no such prosecution shall be instituted except with its previous sanction, or with the previous sanction of some officer authorized by it in this behalf.

Unless and until a notification is published, under Clause (a) of this section, all prosecutions under this Act shall, in the Towns of Calcutta, Madras, and Bombay, be instituted before a Presidency Magistrate, and elsewhere, before the Magistrate of the District.

13. Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872, no entry in any book, register or record made by a Census-officer in the discharge of his duty as such officer shall be admissible as evidence in any civil proceeding or any proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates Act, 1877.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 3rd November 1880, and was promulgated for general information in the *Gazette of India* on the 6th November 1880:—

Act No. XV. of 1880.

An Act to amend the Bombay Revenue Jurisdiction Act, 1876.

WHEREAS it is expedient to amend the Bombay Revenue Jurisdiction Act, 1876, in manner hereinafter appearing, and to make further provision for the recovery of certain advances made in the territories administered by the Governor of Bombay in Council for purposes other than those specified in the Land Improvement Act, 1871; It is hereby enacted as follows:—

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1880"; and it shall come into force at once.

2. Sections eight, nine, ten and seventeen of the said Bombay Revenue Jurisdiction Act, 1876, are hereby repealed:

Provided that the repeal hereby effected, of the first clause of the said section seventeen, shall not operate in any Scheduled District unless and until the Bombay Land-revenue Code, 1879, has been extended to such district:

Provided also that the repeal of the second clause of the said section seventeen shall not be deemed to render invalid or illegal anything made valid or legal by the such clause.

3. To section thirty-two of the Bombay Civil Courts Act, No. XIV. of 1869, as amended by section fifteen of the said Bombay Revenue Jurisdiction Act, 1876, the following words shall be added:—

"Provided that nothing in this section shall be deemed to apply to any suit merely because—

Proviso.

"(a) a municipal corporation constituted under Bombay Act No. VI. of 1873, or any other enactment for the time being in force, is a party to such suit and an officer of Government is in his official capacity a member of such corporation, or

"(b) an officer of a Court appointed under the Code of Civil Procedure, section 456, last paragraph, or selected under Act No. XX. of 1864 (for making better provision for the care of the persons and property of minors in the Presidency of Bombay), section 9, is, in virtue of such appointment or selection, a party to such suit."

4. The Governor of Bombay in Council may, from time to time, with the previous sanction of the Governor General in Council, prescribe rules as to advances to be made in the territories administered by the said Governor in Council to holders (as defined in section 3 (1) of the Bombay Land-revenue Code, 1879) of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Act, 1871, but connected with agricultural objects.

All such rules shall be published in the local official Gazette.

5. Every advance for any such purpose which may heretofore have been made by or on behalf of the Government in the said territories, and every advance which may hereafter be made under such rules, shall, when it becomes due, be recoverable, with the interest (if any) accrued due thereon, from the person to whom such advance was made, or from any person who has become surety for the repayment thereof, as if it were an arrear of land-revenue due by the person to whom the advance was made or by his surety.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

[Published with the "Bombay Government Gazette" on the 25th November 1880.]

PART IV.

ACTS PASSED BY THE GOVERNMENT OF INDIA.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 3rd November 1880, and was promulgated for general information in the *Gazette of India* on the 6th November 1880:—

Act No. XIV. of 1880.

An Act to provide for certain matters in connection with the taking of the Census.

WHEREAS it has been determined to take a census of British India, and it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows:—

1. This Act may be called "The Indian Census Act, 1880," and shall come into force on the passing thereof.

2. This section and sections three, four and thirteen extend to the whole of British India.

The remaining sections extend only to such parts of British India as the Local Government may, from time to time, by notification in the official Gazette, direct.

3. The Local Government may appoint any person by name or in virtue of his office to take, or aid in or supervise the taking of, the census within any specified local area.

Persons so appointed shall be called "Census-officers."

The Local Government may delegate to such authority as it thinks fit the power conferred by this section.

4. A declaration in writing, signed by any officer authorized by the Local Government in this behalf, that any person has been duly appointed Census-officer for any local area shall be conclusive proof of such appointment.

All Census-officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

5. (a) Every military or naval officer in command of any body of men belonging to Her Majesty's military or naval forces or of any vessel of war,

(b) every person (except a pilot or harbour-master) having charge or control of a vessel,

(c) every person in charge of a lunatic asylum, hospital, workhouse, prison, reformatory or lock-up, or of any public, charitable, religious or educational institution,

(d) every keeper or manager of any serai, hotel, boarding-house, lodging-house, or club, and

(e) every occupant of immoveable property having at the time of taking the census not less than fifty persons employed under him on or in such property,

shall, if so required by the Magistrate of the District, or in the towns of Calcutta, Madras and Bombay, by such officer as the Local Government may appoint in this behalf, perform such of the duties of a Census-officer in relation to the persons who at the time of taking the census are under his command or charge, or inmates of his house, or present on or in such property, as such Magistrate or officer may, by an order written, printed or lithographed, direct.

All the provisions of this Act relating to Census-officers shall apply (so far as they are applicable) to all such persons while performing such duties; and any person refusing or neglecting to perform any duty which he is directed under this section to perform shall be deemed to have committed an offence under section 187 of the Indian Penal Code.

6. The Magistrate of the district may, by an order written, printed or lithographed, call upon certain persons to give assistance. all owners and occupiers of land, tenure-holders, farmers, assignees of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents, and upon all members of panchayats appointed in his district under Bengal Act No. VI of 1870 (to provide for the appointment, dismissal and maintenance of Village Chaudhairs), to give such assistance as he needs towards the taking of a census of the persons who are at the time of taking the census on the lands of such owners, occupiers, holders, farmers and assignees, within the limits of such fisheries

ro in the villages for which such pancháyats are appointed, as the case may be.

Such order shall specify the nature of the assistance required, and such owners, occupiers, holders, farmers, assignees, lessees, or their agents, and the members of such pancháyats, shall be bound to obey it.

7. Every Census-officer may ask all such questions of all persons within the limits of the local area for which he is appointed as, by instructions issued in this behalf by the Local Government and published in the official Gazette, he may be directed to ask.

8. Every person of whom any question is asked under section seven shall be legally bound to answer such question to the best of his knowledge or belief:

Provided that no person shall be bound to state the name of any female member of his household; and that no woman shall be bound to state the name of her husband or deceased husband.

9. Every person occupying any house, enclosure, vessel or other place shall allow the Census-officers such access thereto as they may require for the purposes of the census, and as, having regard to the customs of the country, may be reasonable.

10. Subject to such orders as the Local Government may issue in this behalf, any Census-officer may leave, or cause to be left, at any dwelling-house within the local area for which he is appointed, a schedule for the purpose of being filled up by the occupier of such house or of any specified part thereof with such particulars as the Local Government may direct regarding the persons present in such house or part at the time of taking the census.

When any such schedule has been so left, the occupier of the house or part to which it relates shall fill up the same to the best of his knowledge or belief, so far as regards the persons present in such house or part, as the case may be, at the time aforesaid, and shall sign his name thereto, and, when so required, shall deliver the schedule so filled up and signed to the Census-officer or to such person as he may direct.

Any occupier of a dwelling-house or part thereof who knowingly and without sufficient cause fails to comply with the provisions of this section, or makes any false return hereunder shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

11. Any Census-officer who, knowingly and without sufficient cause, disobeys the instructions published by the Local Government under section seven, puts any offensive or improper question, or makes any false return, shall be punished for every such offence, if it does not amount to an offence within the provisions of the Indian Penal Code, with fine which may extend to fifty rupees.

12. The Local Government may, by notification in the official Gazette,

(a) declare before what classes of Magistrates prosecutions under this Act, or for neglecting or refusing to do anything required by this Act to be done, may be instituted; and

(b) direct that no such prosecution shall be instituted except with its previous sanction, or with the previous sanction of some officer authorized by it in this behalf.

Unless and until a notification is published, under Clause (a) of this section, all prosecutions under this Act shall, in the Towns of Calcutta, Madras, and Bombay, be instituted before a Presidency Magistrate, and elsewhere, before the Magistrate of the District.

13. Notwithstanding anything to the contrary contained in the Indian Evidence Act, 1872, no entry in any book, register or record made by a Census-officer in the discharge of his duty as such officer shall be admissible as evidence in any civil proceeding or any proceeding under chapter forty or chapter forty-one of the Code of Criminal Procedure, or chapter eighteen of the Presidency Magistrates Act, 1877.

D. FITZPATRICK,

Secy. to the Govt. of India,
Legislative Department.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 3rd November 1880, and was promulgated for general information in the *Gazette of India* on the 6th November 1880:—

Act No. XV. of 1880.

An Act to amend the Bombay Revenue Jurisdiction Act, 1876.

WHEREAS it is expedient to amend the Bombay Revenue Jurisdiction Act, 1876, in manner hereinafter appearing, and to make further provision for the recovery of certain advances made in the territories administered by the Governor of Bombay in Council for purposes other than those specified in the Land Improvement Act, 1871; It is hereby enacted as follows:—

1. This Act may be called "The Bombay Revenue Jurisdiction Act, 1880"; and it shall come into force at once.
Short title.
Commencement.
2. Sections eight, nine, ten and seventeen of the said Bombay Revenue Jurisdiction Act, 1876, are hereby repealed:
Repeal of sections 8, 9, 10 and 17 of Act No. X. of 1876.

Provided that the repeal hereby effected, of the first clause of the said section seventeen, shall not operate in any Scheduled District unless and until the Bombay Land-revenue Code, 1879, has been extended to such district:

Provided also that the repeal of the second clause of the said section seventeen shall not be deemed to render invalid or illegal anything made valid or legal by such clause.

3. To section thirty-two of the Bombay Civil Courts Act, No. XIV. of 1869, as amended by section fifteen of the said Bombay Revenue Jurisdiction Act, 1876, the following words shall be added:—
Addition to section 32 of Act No. XIV. of 1869 as amended by section 15 of Act No. X. of 1876.

Provided that nothing in this section shall be deemed to apply to any suit merely because—
Proviso.

"(c) a municipal corporation constituted under Bombay Act No. VI. of 1873, or any other enactment for the time being in force, is a party to such suit and an officer of Government is in his official capacity a member of such corporation, or

"(b) an officer of a Court appointed under the Code of Civil Procedure, section 456, last paragraph, or selected under Act No. XX. of 1864 (for making better provision for the care of the persons and property of minors in the Presidency of Bombay), section 9, is, in virtue of such appointment or selection, a party to such suit."

4. The Governor of Bombay in Council may, from time to time, with the previous sanction of the Governor General in Council, prescribe rules as to advances to be made in the territories administered by the said Governor in Council to holders (as defined in section 3 (11) of the Bombay Land-revenue Code, 1879) of arable land, for the relief of distress, the purchase of seed or cattle, or any other purpose not specified in the Land Improvement Act, 1871, but connected with agricultural objects.
Governor in Council to make rules as to certain advances for purposes other than those specified in Act No. XXVI. of 1871.

All such rules shall be published in the local official Gazette.

5. Every advance for any such purpose which may heretofore have been made by or on behalf of the Government in the said territories, and every advance which may hereafter be made under such rules, shall, when it becomes due, be recoverable, with the interest (if any) accrued due thereon, from the person to whom such advance was made, or from any person who has become surety for the repayment thereof, as if it were an arrear of land-revenue due by the person to whom the advance was made or by his surety.
Recovery of such advances.

D. FITZPATRICK,
Secy. to the Govt. of India,
Legislative Department.