

Bombay Government Gazette.

1880.

PART IV.

ACTS

PASSED BY THE

GOVERNMENT OF INDIA AND BY THE GOVERNMENT OF BOMBAY.

Bombay: PRINTED AT THE GOVERNMENT CENTRAL PRESS. MDCCCLXXXI.

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Bombay Bovernment Gazette.

Bublished by Anthority.

THURSDAY, 15th JANUARY 1880.

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

PART IV.

ACTS PASSED BY THE COVERNMENT 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 *Gazelis 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 presamble.

Presuble. Presuble. 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, 1889 :"
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, Muhammadaus or Buddhists, or to any persons whom the Governor General in Council may, from time to time, by notification

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

2. When any body Appointment of new trustee in cases not otherwise provided 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 anywsuch 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 trastees under Appointment under section two shall be made to appear by some memorandum under the hand of the meeting. the being of the meeting at which euch appointment is made.

2. When any body of persons associated for

Such memorandum shall be in the from 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 man-

Property to vest in new trustees without cohveyance.

conveyance. said 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

horeafter be made as heretofore was by law required.

6. Any number not less than three-fifths of Provision for dissolution of societies and adjustment of their affairs. 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

Upon a dissolution no member to receive profit. 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 dimensional

tion of such body, or for the payment or distribution of such property.

9. When any question arises, either in con-Questions may be nection with the matters submitted to High hereinbefore referred to, 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).

E.F.

Dated this day of 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—

A. B. Chairman of the said Meeting.

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D. FITZPATRICK. Secy. to the Gort. of India.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS. .

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

PART IV.

ACTS PASSED BY THE COVERNMENT 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 Preamble.

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. Local extent.

It shall come into force at once; and

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 opera-* tion of this Act.

2. When any body of persons associated for

Appointment of new truetee in cases not otherwise provided for.

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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 manuer hcreinafter prescribed,

and no manner of appointing such new trustee is prescribed by any instrument by which such property was so vosted 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 mauner as may be agreed upon by such body, or by a inajority of not less than two-thirds of the members of such body actually present at the meeting at which the appointment is made.

Appointment under section 2 to be recorded under in a menorendum under the hand of the chairman of the meeting.

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

Such memorandum shall be in the from set forth in the schedule hereto annoxed, 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 appoint -. Property to vest in ew trustees without ner prescribed by any such instrument as aforenew onnveyauce,

said 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 Saving of existing modes of appointment and con-veyance.

to invalidate any appointment of new trustees, or of appointment and con-weyance. 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 Provision for dissolu-tion of societies and ad-justment of their affairs. a meeting convened for justment of their affairs. 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.

If upon the dissolution of any such body there remains, after the satisfaction of all its Upon a dissolution no member to receive prodebts and liabilities, any property whatsoever, the

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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 provi-Saving of certain prosion contained in any visions of instruments. instrument for the dissolution of such body, or for the payment or distribution of such property.

9. When any question arises, either in con-Cuestions may be nection with the matters binitted to High hereinbefore referred to, submitted 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 18 , A. B. day of Chairman. of

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

(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 ap-

pointed :-

(here insert the same).

C. D. E. F.

Dated this day of Signed by the said A.B. s Chairman of the said Meeting, at and in the presence of the said Meeting on the day and year aforesaid in the presence of---

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Chairman of the said Meeting.

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

A. **B**.

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mbay Government Gazette" on the 29th January 1880.7 [Publi

PART IV.

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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 maintain-Appointment of new trustee in eases not otherwise provided for. ing religious worship has

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

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and no manner of appointing such now 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.

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Such memorandum shall be in the form set forth in the schedule hereto annexed; or as near thereto as circumstances allow, shall be execut-, ed 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.

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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

Upon a dissolution no satisfaction of all its member to receive prodebts and liabilities, any fit.

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 provi-instrument for the dissolution of such body, or for the payment or distribution of such property.

9. When any question arises, either in con-Questions may be nection with the matters binitted to High hereinbefore referred to, Questions submitted or otherwise, as to Court.

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.

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

(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).

day of Signed by the said A.B.

C. D.

E.F.

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----

Dated this

A. B. Chairman of the said Meeting.

18

D. FITZPATRICK. Secy. to the Gort. of India.

BOMBAT: PRINTED AT THE GOVERNMENT CENTRAL PRESS.



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Gazette. Bomban (Kovernment

Published by Juthority.

THURSDAY, 5TH FEBRUARY 1880.

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

PART IV.

ACTS PASSED BY THE COVERNMENT 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. .

CHAPTER I.

PRELIMINARY.

Short title. the part of the second

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1. This Act may be called "The Canton-

ent with this Act in Madras and Bombay

cantonments,

ments Act, 1880."

This section, section two and section twentyfour apply to the whole of British India. The Local extent, 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 Bom-bay 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 adminis-tration; and, from the date on which any such

portion is so extended to Enactmente inconsistany 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.

2. Act No. XXII of 1864 (to provide for the Repeal of Act XXII of dministration of Mili-1864 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

References to Act XXII in enactments passed sub-sequently thereto shall be of 1864. read as if made to this

CHAPTER II.

Act.

CRIMINAL JURISDICTION.

3. Every person invested by the Local Government, under the Code of

Cantonment Magistrate. 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 Gov-Assistant Cantonment ernment, under the pro-visions of the said Code, Magistrate. 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

Small Cause jurisdic-tion of Cantonment Magistrate.

cantonment a Court of Small Causes under Act No. XI of 1865 (to con-

solidate 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 As-sistant Cantonment Ma-Small Caure jurisdic-tion of Assistant Cantongistrate with the powers of a Judge of a Court of ment Magistrate. 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

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

otherwise provided.

applicable to every such. Court, and to all suits inter stituted in any such Court, except as is herein

It is bereby enacted as follows :--

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8. Whenever a Court of Small Canses is estab-Military courts of re- lished in any cantonment, the jurisdiction exercised nuesta. in such cantonment by

any officer under Act No. III of 1859 (for conferring Civil Jurisdiction in certain cases upon cantonment Joint Mugistrate) 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 canton-Act V of 1861 appli-cable to Police employed in cantonments.

ment 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 Administration of Po-cowithin cantonment. lice within cantonments.

tonment 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 Extension of section 34, Act V of 1861, to can-tonments. V. of 1861 to the said any cantonment situate in the territories administonments. tered by such Government.

11. The commanding-officer of a cantonment Service of process sent y commanding-officer of cantonment.

may send any process requiring service or execution by any means not

immediately at his dis-posal 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 as if it had been issued of market and subject to the same rules.

12. The Local Government may, by notifica-tion in the official Gazette,

Power to extend Act XX of 1856 to cantonments.

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 Bázárs in the Presidency of Fort Willium 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 Power to order division provisions of the said Act No. XX of 1856 are of cantonments, &c. 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 Unsuthorized sale of limits around such cantonment prescribed by the Local Government, spirituous liquor. any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barters, 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 offer-ing 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 impri-sonment, to the punishment of whipping as prescribed for offences under section 2 of Act No. 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 Presumption in case of section fourteen is again convicted of an offence second conviction. 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

Penalty on certain per-sons having in possession within cantonments more than certain quantity of spirituous liquor, &c., with-out permit. 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.

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

17. If any person subject to the provisions of this Act is found comoffenders mitting any offence contrary to section fourteen or section sixteen, any Police-officer may imme

diately 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 there-upon 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 Confiscation of such section fourteen or section sixteen, the Cantonment liquor, &c. 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 most though 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 Detention of property in respect of which any person is charged with an Seized. 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 Disposel of property convicted, such of the things only, if any, as seized 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 Saving of articles sold the sale or supply of, any or supplied for medicinal article for medicinal purpurposes by recog medical practitioners, chemists or druggists. recognized

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to General power of taxa-time, with the previous sanction of the Governortion. 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, Power to provide for. the Local Government may from time to time, by of taxes. . 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 Application of proceeds twenty-one shall, after of taxes. 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 Power to prohibit taxa. any enactment for the in cantonments. tion in cantonments. 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 consist-Power to make cantonent with this Act to ment-rules. provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be gene-

Rules may be general ral for all cantonments special. or special. tered by the LocalGovernment 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 Rules to be confirmed by Governor-General in the same has been confirmed by the Governor-Council. 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 For what matters rules under section twenty-fre may provide. may provide for all or an,

of the following matters:*let*—regulating, in cases in which the land within the limits of the cantonment is the pro-perty 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;

End.-maintaining proper registers of immove-able property within the limits of the cantonment, and providing for the registration of transfers of such property;

Srd-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 improve-ments within the limits of the cantonment, or for carrying out any rules made under section twentyfive; 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 preven-tion and cure of disease; the management and regulation of the public roads, of conservancy 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 deposit-ed, of slaughter-houses, public markets, barial 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 any fulle mate under section rales. triable by the Canton-ment 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 17.-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 Fine how levied. 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 Imprisonment in case the offender shall be e 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 Prosecutions, &c., un-der other enactments. 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 punish-ed twice for the same offence.

31. Whenever it appears necessary for the protection of the health of the Extension of rules as to brothels and venereal troops in any cantonment,

the Governor-General in

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 rules in extended limits. are extended under secrales in extended limits. tion 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, is any cantonment, rules have

Effect of cantonment rales on ensc previously in force. enactments

been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations re-

garding 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 com-

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

offenders. mitting any offence contrary to section fourteen or section sixteen, any Police-officer may imme-

diately 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 possessiou, 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 Confiscation of such liquor, &c. Biquor, &c.

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 Detention of property in respect of which any

Seized.

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 Disposal of property shall be restored; if he is convicted, such of the

bisposai of property convicted, such of the seized. 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 Saving of articles sold the sale or supply of any or supplied for medicinal article for medicinal purpurposes by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to General power of taxation. time, with the previous sanction of the Governmer-

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 Power to provide for assessment and collection of taxes. 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.

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23. The proceeds of all taxes levied in any Application of proceeds of taxes. 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 Power to prohibit taxation in cantonments. 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 Power to make cantonment-rules. 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 gene-Rules may be general or special. ral for all cantonments in the territories administered by the LocalGovern-

ment 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 Rules to be confirmed by Governor-General in Council.

copy of every such rule when so confirmed, in English and in the vernacular language chicfly 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.

For what matters rules may provide. 27. The rules made under section twenty-five may provide for all or sw,

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;

End.—maintaining proper registers of immoveable property within the limits of the cantonment, and providing for the registration of transfers of such property;

Srd--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 twentyfive; 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 rales. 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 the Can-

* 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 1V.-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

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 liable to simple imprisonment for any term which may extend to one month.

80. Nothing in this Act; nor in any rule made Prosecutions, &c., under other enactments. 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 bealth of the brothels and venereal sease. 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 aforesnid.

Penalties for breach of are extended under secrules in extended limits. tion 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

Effect of cantonmentrules on enactments previously in force. been made under section twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations re-

garding 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 Saving of jurisdiction of Oourts-martial, &c. deemed to affect the ju-risdiction or Military authority of Courts-mar-

tial 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.

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

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.

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Bombay Government Gazette.

Oublished by Juthority.

THURSDAY, 12TH FEBRUARY 1880.

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

PART IV.

ACTS PASSED BY THE COVERNMENT 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 *Gazetta 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 domunions or jurisdiction of the one party, should 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 IV.--4 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 shalt provisions of Convention 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 'Execution of commissions in relation to any criminal issued by Portuguese Crimatter pending in any minal Courts. 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.

8. This Act may be called 'The Portnguese Treaty Act, 1880.'....

THE SCHEDULE.

Short title.

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 cotracting 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 jurisdic of the other party; and whereas by the same arit is further provided that the circumstances conditions under which, and the crimes for whsuch persons are to be delivered up, shall f the subject of a separate Convention betw the Governors-General of British India and] tuguese India, to be executed at the earliest possible after the ratification of the said Tree

In pursuance of the said article, the undersig Governors General of British India and Pognese India, acting respectively on behalf of Majesty the Queen of the United Kingdon Great Britain and Ireland, Empress of In and His Most Faithful Majesty the King of J tugal and the Algarves (hereinafter called High Contracting Parties), have agreed that said persons shall be so delivered up under circumstances, and subject to the exceptihereinafter stated, namely :-

(a) When the crime for which extraditior claimed has been committed beyond the domini of the party claiming, the requisition shall also complied with, if the laws of the party applied authorize a prosecution for such crime when co mitted beyond his dominions, and if the per claimed is a subject of the party claiming his, tradition.-

(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 amount-		Voluntary homicide, including-	349	
ing to murder, and causing death by		Parricide	355	
rash or negligent act	299 to 304	Poisoning	. 353	
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oluntarily causing hart or grievous	001,000,011	Wounding, causing contusions or		
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a a gran a stran a stra	aug 000	360, being excepted in the circum-		
		stonen deserbed in Asticles 220 022	1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 -	
	. •	stances described in Articles 370, 377, and 378.		
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rostraint	437, 439, 440	WERLEARING CARGE OL IDINCRIST	4/0 BBU 501	
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British Indian Penal Code.		Portuguese Penal Code.	
Grime.	Bertion .	z Czime.	Artick.
Counterfeiting or altering money, or		Counterfeiting or altering money, or	
uttering counterfeit or altered money,		uttering counterfeit or altered money,	
making or possessing instruments for	230 to 254	making or possessing instrument for above purposes	206 to 214
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marke	478 to 489	marks	230 and 231
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tion or conviction of any crime speci-		tion or conviction of any crime speci-	
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seas, with intent to destroy life or to			356
do grievous bodily harm.		Partuguese Maritime Code.	
		a cregacie serie anno come	-
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
Aevolt or conspiracy to revolt by two or		Act of revolt committed by more than	
more persons on board a ship on the	· · · · · · · · · · · · · · · · · · ·	third of crew	46
high seas, against the authority of the master.		•	
tumbut,			

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

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(c) No British subject by birth or naturalization shall be delivered up by the Government or suthorities of British India to the Government or suthorities of Portuguese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portugnese India to the Government or anthorities 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.

(/) 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 glaimed shall have acquired exemption from prosecution, orpunishment, 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

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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 he 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 requisiton 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 Dictrict 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 primâ facis 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 arcused to be identified.

In cases of urgency, satisfactory proof of the .pxisteuce 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.

(1) Any person accused of any of the above a 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 Policeofficer 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, inaccordance 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 shallassist 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.

(c) 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 praty.

(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. (*) 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 ALDRE D'ALMEIDA ALBUQUERQUE,

Governor General of Portuguese India.

D. FITZPATRICK,

Secy. to the Govt. of Indut, 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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An Act to amend the law relating to Cantonments.

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

follows:-

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

CHAPTER I.

PRELIMINARY.

This section, section two and section twentyfour apply to the whole of British India. The

remaining portions of this Act extend to the whole of British India except the territories re-spectively administered by the Governor of Fort St. George in Council and the Governor of Bom-bay in Council. The Covernor of Fort St. George bay 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 pertion to any place under his adminis-tration; and, from the date on which any such

cantonments.

portion is so extended to Enactments inconsist-ent with this Act in Madras and Bombay being in force in such 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.

2. Act No. XXII of 1864 (to provide for the administration of Mili-Repeal of Act XXII of tary Cantonments) is 1864.

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 References to Act XXII in cnactments passed sub-

of 1864.

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sequently thereto shall be read as if made to this Act.

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CHAPTER II.

CRIMFNAL JURISDICTION.

3. Every person invested by the Local Government, under the Code of Cantonment Magistrate. 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 Gov-

Assistant Cantonment ernment, under the pro-visions of the said Code, Magistrate. . 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

Small Cause jurisdic-tion of Cantonment Ma-Listrate.

within the limits of any cantonment a Court of Small Causes under Act No. XI of 1865 (to con-

evolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ord mary 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 As-sistant Cantonment Ma-

Small Cause jurisdic-tion of Assistant Canton-ment Magistrate ment Magistrate.

gistrate 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 in-stituted in any such

Act XI of 1865 to ap-ply to all Small Cause Courts in cantonments.

otherwise provided.

8. Whenever a Court of Small Causes is estab-Military courts of requests.

lished in any cantonment, the jurisdiction exercised in such cantonment by

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Court, except as is herein

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.

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POLICE

9. The Police-force employed in any canton-

Act V of 1861 appli-cable to Police employed in cantonments.

ment shall be deemed to be part of the general Police-force under the Local Government in

whose territories such cantonnent 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 Con-

in which there is a Canlice within cantonments. tonment 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 Extension of section S4, Act V of 1861, to can-tonmenta. any cantonment situate in the territories administonments, . tered by such Government.

11. The commanding-officer of a cantonment

may send any process re-Service of process sent by commanding-officer of cantonment. posal to the chief Police-officer in the canton-Service of process sent

ment 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 notifica-tion in the official Gazette,

Power to extend Act XX of 1856 to cantonments.

extend the provisions of Act No. XX of 1856 (to make better provision for the appointment and

the appointable and maintenance of Police (haukidars in Cities, Towns, Stations, Suburbs and Bázárs in the Presidency of Fort William in Bengal), to any cantonment to which a Can-tonment Magistrate may be appointed; and the Cantonment Magistrate of any cantonment to which the said Act is so extended may exercise all the powerswested in a Magistrate by that Act subject only to the control of the Magistrate of the Dis-trict 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 Power to order division cantonments, &c. No. XX of 1856 are of cantonments, &c. 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 Unauthorized sale of limits around such can-tonment prescribed by the Local Government, spirituous liquor.

Government, any person not amenable to the Articles of War, or any sutler or camp-follower, knowingly barters, 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 Com-inading or from some person authorized by the Officer Commanding to grant such license, the person so bartering, selling or supplying, or offer-ing or attempting to barter, sell or supply, such liquor, wine or drug, shall be liable on conviction to fine which mer acted to any divide the second 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 impri-soument, to the punishment of whipping as pre-scribed for offences under section 2 of Act No. VI of 1864 (to authorize the punishment of whip-ping in certain cases), subject to all the provisions of that Act.

to. 15. If any person convicted of an offence under Fresumption in case of section fourteen is again second conviction. 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

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

Penalty on certain perpensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, con-

out permit. veys or bas, in his or her possession, any quantity of spirituous Kquor 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 hims 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 Arrest of offenders under section 14 or 16, and seizure of spirituous liquor, &c.

of this Act is found committing any offence con-trary to section fourteen or section sixteen, any Police-officer may imme-

diately without warrant arrest such person, and also seize any spirituous liquor, wine or intoxi-cating drug, together with any vessel containing the same, and anything used for the purpose of re moving, conveying or concealing the same, which may be found in his possession, and shall there-upon 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 Confiscation of such section fourteen or section sixteen, the Cantonment liquor, &c. 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 intoxicat-ing 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 convic-tion 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 Detention of property in respect of which any person is charged with an offence under this Act beized. 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 Disposal of property shall be restored; if he is aeized. things only, if any, as are not adjudged by the Cantonment Magistrata 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 Saving of articles sold the sale or supply of any or supplied for medicinal article for medicinal pur-purposes. by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

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MUNICIPAL TAXATION.

21. The Local Government may from time to General power of taxa-time, with the previous sanction of the Governortion.

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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

Power to provide for assessment and collection may from time to time, by notification in the official

Gazette, upply 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 Governnient.

23. The proceeds of all taxes levied in any Application of proceeds t taxes. cantonment under section twenty-one shall, after defraying therefrom the of taxes.

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 rales made under section twenty-five.

24. Notwithstanding anything contained in. any enactment for the time being in force, the Power to prohibit taxation in cantonments.

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 Power to make canton. time make rules consistent with this Act to ment-rules. provide within the limits of any cantonment for the matters hereinafter mentioned.

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Rules may be general ral for all cantonments or special: The rules made under this section may be gene-

tered by the LocalGovernment 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 Rules to be confirmed Governor-General in the same has been conby Governor Council. firmed 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 For what matters rules under section twenty-five may provide. 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;

end.-maintaining proper registers of immove-able 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 expendi-ture of any funds made available by law or by the Government for the purpose of public improve-ments 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 disense; the management and regulation of the public roads, of conservancy and drainage; the regulation and inspection of public and private uscessaries, urinals, cess-pools, drains, and all places in which filth or rubbish is deposit-ed, 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;

Sth-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 A public utility and convenience;

and the 10th-the registration of deaths, 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 per-sons 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 triable by the Cantonmin ment 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 Can-tonment 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 XXIL 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

Fine how levied. 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 . Imprisonment in case 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

Prosecutions, &c., un der other ensctments. 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 punish-ed twice for the same offence.

31. Whenever it appears necessary for the pro-tection of the health of the Extension of rules as to brothels and venereal 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 discase 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 A les shall be in force.

rules made as aforesaid

are extended under sec-

tion thirty-one to any

place outside the limits

52. When such rules, with any additional

Penalties for breach of rules in extended limits.

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of such cantonment, the Covernor-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.

53. Whenever, in any cantonment, rules have been made under section

Effect of cantonment-

twenty-five, so much of Effect of cantonment-rules on enactments any enactment as may previously in force. commanding-officer to make local regulations re-

garding 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 Saving of jurisdiction of Courts-martial, &c.

authority of Courts-mar-tial 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 Mugistrate 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 canton. ment-regulations shall cease from that time to have any effect in such cantonment.

35. The Local Government may from time to Power to prescribe rules as to expenditure of funds niced ander Act XX. of 1856, Determined unay from time to time prescribe rules for regulating the expendi-ture, for the general pur-poses of this A-t

poses 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,

BOMBAY I PRINTED AT THE GOVERNMENT CENTRAL PRESS

[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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An Act to amend the law relating to Cantonments.

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

CHAPTER I.

.

PRELIMINARY,

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

21.

MUNICIPAL TAXATION.

General power of taxation.

Local extent four apply to the whole remaining portions of this Act extend to the whole of British India except the territories re-spectively 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 adminis-tration; and, from the date on which any such portion is so extended to

Enactments inconsist-any place such of the en-actments for the time Madras and Bombay 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.

2. Act No. XXII of 1864 (to provide for the Repeal of Act XXII of administration of Mili-tary Cantonments) is

1864 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 References to Act XXII sequently thereto shall be in enactments passed sub-

of 1864.

read as if made to this Act.

CHAPTER II.

CRIMINAL JURISDICTION.

3. Every person invested by the Local Govern-

ment, under the Code of Cantonment Magistrate. 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 Gov-Assistant Cantonment ernment, under the pro-visions of the said Code, Magistrate. 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 Small Cause jurisdic-tion of Oantonment Ma-gistrate. cantonment a Court of Small Causes under Act

No. XI of 1865 (to con-solidate and amend the law relating to Courts of Small Courts of Small Causes beyond the local limits of the ordi nary 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 As-

Small Cause jurisdic-tion of Assistant Cantonment Magistrate.

sistant 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

Act XI of 1865 to ap-ly to all Small Cause Courte-in cantonmente.

otherwise provided.

quests.

8. Whenever a Court of Small Causes is estab-Military courts of re- lished in any cantonment,

the jurisdiction exercised in such cantonment by

Court, and to all suits in-

stituted in any such

Court, except as is herein

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 canton-Act V of 1861 appli-cable to Police employed in cantonments.

ment 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 Administration of Poin which there is a Canlice within cantonments. tonment 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 Extension of section Act No. V. of 1861 to S4, Act V of 1861, to canany cantonment situate in the territories administonmenta. tered by such Government.

11. The commanding-officer of a cantonment

Service of process sent opicing a canconnect by commanding-officer of tion by any means not tion by any means not immediately at his dis-

posal 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 notifica-tion in the official Gazette, extend the provisions of Act No. XX of 1856 (to

Power to extend Act XX of 1856 to cantonments.

. . X

make better provision for the appointment and

the appointment and maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bázárs 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 Power to order division provisions of the said Act cantonments, &c. No. XX of 1856 are of cantonments, &c. 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 Unsuthorized sale of limits around such cantonment prescribed by the Local Government, spirituous liquor.

any person not amenable to the Articles of War. ١., or any sutler or camp-follower, knowingly barters, 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 offer-ing 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 rupecs. 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 pre-scribed for offences under section 2 of Act No. VI of 1864 (ic authorize the punishment of whip-ping in certain cases), subject to all the provisions of that Act.

15. If any person convicted of an offence under Presumption in case of section fourteen is again cond conviction. 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

Penalty on certain perwithin cantonments more than certain quantity of spirituous liquor, &c., without permit.

camp-follower or military pensioner, or the wife or the widow of any soldier, camp-follower or military pensioner, removes, conveys or tas, 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.

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

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 imme

diately 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 there-upon 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 Confiscation of such section fourteen or section sixteen, the Cantonment liquor, &c. 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 intoxicat-ing 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 convic-tion 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 Detention of property 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 Disposal of property shall be restored; if he is

Disposal of property convicted, such of the seized. are not adjudged by the Cantonment Magistrate seized. 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 Saving of articles sold the sale or supply of any or supplied for medicinal article for medicinal pur-purposes. poses by recognized medical practitioners, chemists or druggists.

CHAPTER VI.

MUNICIPAL TAXATION.

21. The Local Government may from time to time, with the previous General power of taxasanction of the Governortion. 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

Power to provide for assessment and collection of taxes.

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 Application of proceeds cantonment under section twenty-one shall, after

of taxes. 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 Power to prohibit taxa-tion in cantonments. The 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 Power to make canton. time make rules consist. ent with this Act to mont-rules. provide within the limits of any cantonment for the matters hereinafter mentioned.

The rules made under this section may be gene-Rules may be gener or special.

in the territories administered by the LocalGovern-

ment 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 Bules to be confirmed by Governor-General in Council. the same has been con-

firmed by the Governor-General in Council A copy of every such rule when so confirmed, in

ral for all cantonments

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 For what matters rules under section twenty-five may provide. 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;

end-maintaining proper registers of immove-able property within the limits of the cantonment, and providing for the registration of transfers of such property;

Srd-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 twentyfive; and the appointment of the necessary servants and establishments;

5th-the definition and prohibition of public nuisances;

6th-the maintenance generally of the cantor,4 ment in a proper sanitary condition; the preveation 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

Sth-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.

23. Breaches of any rule made under section Trial of breaches of twenty-five shall be triable by the Canton-ment Magistrate when rules. 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 evercise 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 Fine how levied.

under section twenty-five, the amount may in case of non-payment be levied by distress and salo 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

Imprisonment in case 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

Prosecutions, &c., un-der other enactments. Act, un-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 punish-ed twice for the same offence.

31. Whenever it appears necessary for the pro-tection of the health of the Extension of rules as to brothels and venereal 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 veneral discase and make any additional rules consistent with this Act for providing for the same tamatters, and may define the limits around such the 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 sec-tion thirty-one to any place outside the limits Penalties for breach of rules in extended limits.

1V.-5 d

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.

83. Whenever, in any cantonment, rules have been made under section

Effect of cantonment, rules on enactmenta previously in force.

twenty-five, so much of any enactment as may be held to empower the commanding-officer to make local regulations re-

garding 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 Saving of jurisdiction of Courts-martial, &c. authority of Courts-martial or of commanding-officers of cantonments or 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 canton-ment-regulations shall cease from that time to have any effect in such cantonment.

\$5. The Local Government may from time to Power to prescribe rules as to expenditure of funds raised under Act XX. of 1856, poses of this Act, of any funds raised under the act No XX of 1856 Such Ard are b

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.

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 30th January 1890, and was promulgated for general information in the *Gasette 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 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 Conven $n_{i}n_{i}$ and of the said twentieth article;

It is hereby enacted as follows :----

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

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 Execution of commissions in relation to any criminal issued by Portuguese Crimatter pending in any minal Courts. 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.

Short title.

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 Angust 1879, between Her Majesty the Queen of the United Kingdom of Great Britsin and Ireland, Empress of India, and His Most Faithful Majesty the King of Portugal and the Algarves, it is provided that the high cotracting 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 Iroland, 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.

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

APSTOCIAL ALL CALLER & CALLER & CALLER	British Indian Penal Code.		Portuguese Penal Code.		
Crime.	Section.	Crime.	Article,		
•		ł			
urder, culpable homicide not amount-		Voluntary homicide, including-	349		
ing to murder, and causing death by		Parricide	355		
rash or negligent act	299 to 304 A	Poisoning	353		
		Infanticide	356		
		And involuntary homicide caused by			
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ttempt to commit murder or culpable		Attempt at homicide	350 ; 6 to 11		
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oluntarily causing hurt or grievous		Wounding, causing contusions or			
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and the second	and 338	Ordinary hurts under Articles 359 and	•		
		360, being excepted in the circum-			
		stances described in Articles 370, 377,			
	, ,	and 378.			
ape	375 and 376	Rape	394, 395 to 397		
idnapping, abduction, concealing		Kidnapping and hiding of minors	342 to 344		
kiduapped person, slave dealing, or		11 0			
selling minors for immoral purposes	360 to 373				
amodest assault on a woman	354	Immodest assault on a woman	391		
using miscarriage and abortion	312 to 316	Abortion	358		
sposure or abandonment of a child	317	Exposure or abandonment of a child	345 to 348		
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xtortions, robberies, daooities, at-		Robbery	432 to 444		
tempts to commit robbery and	· * · · · · · ·	· · · · · · · · · · · · · · · · · · ·			
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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 suthorities of Portugnese India; and, in like manner, no Portuguese subject by birth or naturalization shall be delivered up by the Government or authorities of Portugnese 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.

(c) 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 interfore 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.

(7) 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 requisiton 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 Dictrict 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 primâ 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.

(1) 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 Policeofficer 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.

(c) 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 praty.

(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 scaport, 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.

(!) 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.

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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.

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

> CAETANO AL^{DRE} D'ALMEIDA ALBUQUERQUE,

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Governor General of Portuguese India.

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

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BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS

PART IV. ACTS PASSED BY THE COVERNMENT OF INDIA.

The blowing Acts 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 :---

[**Fublished**

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 Algaries.

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 dominious of 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 per-sons 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 anthority to give effect to all the provisions of the said Conven-tion and of the said twentieth article ;

It is hereby enacted as follows :-

1. The provisions of the said Convention shal¹ Provisions of Convention to be followed in British India in every case to which they apply.

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

Government Gazette" on the 26th February 1880.]

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

2. The testimony of any witness may be obtained Execution of commissions in relation to any criminal issued by Portuguese Crimatter pending in any minal Courts. Court or tribunal im 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.

Short title.

THE SCHEDULE.

3. This Act may be called 'The Portuguese

Treaty Act, 1880.'

Whereas by the nineteenth article of a treaty dated the twenty-sixth day of December 1873, 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 cotracting 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 Fritain and Ireland, Empress of India, and His Most Faithful Majesty the King of Por-tugal and the Algarves (hereinafter call-d tha 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.

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(b) The crimes for which the extradition shall be granted are the following :---. . British Indian Penal Code. Portuguese Penal Code 14 1 ÷ Section. . Artácie. Crime. 2... Voluntary homicide, including-349 Murder, culpable homicide not amount 355 353 ing to murder, and causing death by #*** ••• • · · 299 to 3044 Poisoning Infanticide rash or negligent act ••• 356 *** And involuntary homicide caused by 368 negligence negligence Attempt at homicide Attempt to commit murder or culpable 350; 6 to 11 307, 308, 511 Wounding, causing contusions 01 319 to 333, 335 and 338 359 to 367, 369 hurt ••• ... *** ... hurts Ordinary hurts under Articles 359 and 360, being excepted in the circum-stances described in Articles 370, 377, and 378. 394, 395 to 397 ' 342 to 344 . Rape 375 and 376 Rape Kidnapping and hiding of minors ÷ . . Rape Kidnapping, abduction, concealing kidnapped person, alave dealing, or solling minors for immoral purposes... Immodest assault on a woman... concealing 360 to 373 354 312 to 316 Immodest assault on a woman ... 391 Causing miscarriage and abortion ... Exposure or abandonment of a child ... Abortion ... Exposure or abandonment of a child ... 358 345 to 348 421 ; 424 to 431 432 to 444 317 Thefts Extortions, robberies, dacoities, at tempts to commit robbery and belonging to a gang of thieves Criminal misappropriations and crimi-nal breaches of trust ... Receiving stolen property Thefts Robbery 378 to 382 *** 383 to 402 313; 422 to 425; Theft *** *** • 403 to 409 453 463 450 to 452; 456 410 to 414 415 to 420 **Beceiving stolen property** Cheating Lurking, house-trespass, house-break-Cheating, false pretences House-breaking ... *** ... 380, Clause 1. ing Fraudulent bankruptcy and fraudulent 443 to 446 Fraudulent bankruptcy and fraudulent 206, 208, 421 to 424 447 to 449 ; 455 disposition of property . disposition of property Dishonest opening of closed receptacle Dishonest opening or breaking of seal by public servants and others containing property 310 to 312 461 and 462 Being a thug Belonging to a band of dacoits or rob bers 310, 311 400, 401 Association of malefactors ... 263 Aggravated cases of wrongful confine-844 to 849 ment Mischief by fire or explosive substance. Aggravated cases of wrongful confine 435, 436 and 438 331 to 333 Mischief to a vessel, or after preparation to cause death, hurt, or wrongful 466 to 474 475 and 481 restraint 437, 439, 440 restraint Counterfeiting or altering money, or Counterfeiting or altering money, or uttering counterfeit or altered money, making or possessing instrument for uttering counterfeit or altered money, making or possessing instruments for above purposes Counterfuiting or fraudulently using of Government stamps issued for pur-206 to 214 230 to 254 above purpose Counterfeit or fraudulent using of Go-vernment stamps or stamped paper... 228 to 229 poses of revenue 255 to 263 Forgery and using of forged documents, and making of scals for frandulent Forgery and using offorged documents, and making of scals for fraudulent 215 to 217; 219 to 223; 230 and 231 463 to 468;470 to purposus *** purposes •• 477 Use of false trade-mark or property-mark, and frauds connected with such Use of false trade-mark or property-mark, and frauds connected with such marks marks 478 to 489 230 and 231 *** Giving or fabricating fulse evidence to cause a person to be convicted of an offence, and subornation of the same. Giving or fabricating false evidence to cause a person to be convicted of an offence, and subornation of the 194 and 195 233 to 240 Illegal gratification taken by a public servant, or to influence a public servant ... 314 to 323; 452 161 to 165 £11 vant ... •• Causing the evidence of the commission of any offence to disappear ... Causing the evidence of commission of an offence mentioned in this Conven-201 False certificate or declaration made by public servants or used by any per-son as evidence 464 False certificate or declaration made by public servant, or used by any person as evidence 216 to 218; 221 and 197 to 200 Escape from lawful custody on accus Escape from lawful custody on accusa tion or conviction of any crime specition or conviction of any crime speci-fied in this Convention fied in this Convention 190 to 195 224 -

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Britiah Indian Penal Code.		Portuguese Penal, Code,	
Crime,	Section.	Crisse.	Article.
Crimes against other Laws.		-	
Firacy by law of nations. Assaults on board a ship on the high seas, with intent to destroy life or to do grievous bodily harm.	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Piracy Voluntary homicide, as above Portuguese Maritime Code.	162 349, 35 3, 3 55, 356
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 Scttlements of Damaon 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 ho 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 requisiton to the Government of Portuguese India, or to the Governors of Damaan 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 Dictrict 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 duivering up of the accused, unless reference to higher authority shall be deemed absolutely necessary.

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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 primâ 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.

(1) 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 Policeofficer 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 recovories 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.

(c) 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 praty.

(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 Stato where the offence occarrod, 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 bundred and eighty.

CAETANO AL^{DER.} D'ALMEIDA ALBUQUERQUE,

Governor General of Portuguese Indix.

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

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THURSDAY, 11TH MARCH 1880.

IF 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 Trudes and Dealings.

WHEREAS it is expedient to amend the law at

Present in force for the Presentie, licensing of trades, deal-ings, and industries in certain parts of British India; It is hereby ena. d as follows :

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

The Northern India License Act, 1878.

2. The following portions of the Northern India License Act, 1878, Repeal of portions of Northern India License Act, 1878. are hereby repealed, tl at 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 in-cluding the words and figures " class III " to he end.

Addition to section 3 section three the follo vof the same Act.

IV.—Ö

"In this Act the word 'trade,' 'dealing' or 'calling' shall not be "In this Act the word "calling" shall not be 'Trade,''dealing,' and deemed to include the calling." following, that is to * calling. say-

" (a) agriculture;

"(b) the performance by a cultivator or re-ceiver 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 Substitution of new sec-tion for section 4 of same section four the following Act.

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 Amendment of sections 7 and d of same Act. 7 and d of same Act. Amendment of sections 6, 7 and 5 of some Act.

said territories" shall be substituted.

3. In the same Act, to

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ing shall be added, that

6. In section seven of the same Act, for the 6. In section seven of the same Act, for the Amendment of section 7 of same Act. "thirty-first day of

March" shall be substituted.

7. In sections nine and ten of the same Act, for the figures "1878" Amendment of sections the figures "1880" shall 9 and 10 of same Act. 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 Repeal of portions of Madras License Act, 1878. increase or profits or could are ings 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:-

"Trade," "dealing" or "industry" defined.

"In this Act the word 'trade,' 'dealing' or 'industry' shall not be 'Trade,' 'dealing' or 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 Janu-ary," the words "thirty-first day of March" shall

Amendment of section 8 of same Act.

be substituted.

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

12. In section eleven of the same Act, for the word "March" in both Amendment of section. places in which it occurs, 11 of same Act. the word "June" shall be substituted.

The Bombay License Act, 1878.

13. In section one of the Bombay License Act, Amondment of sections 1878, the words "but 1 and 2 of Bombey License nothing herein contained Act, 1878. 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,' 'Trada' 'dealing' 'in 'calling' or 'occupation' 'Trade', 'dealing,' 'in-dustry,' 'calling,' 'occu-pation' defined.

'(a) agriculture ;

shall not be deemed to include the following, that is to say :---

"(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.

, "(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;

In the same Act "1880" substituted for "1878." for the figures "1878," the figures "1880," shall be

15. In section seven of the same Act for the words " first day of January"the words "thirty-first day of March" shall be Amendment of sections 7 and 11 of same Act. 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, Amendment of schedule for the words and figures of same Act "Companies registered A or same Act. panies Act, 1866," the words "Joint Stock Com-panies" shall be substituted.

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

General.

18. Notwithstanding anything hereinbefore Recovery of money due contained, any money due at the time of the when Act passes. der 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, Trade, &c., carried on dealings, industries or in various parts of British callings in two or more of India. 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.

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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 COVERNMENT 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 promultated for general informa-tion 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 depar-ture of certain ships from Preamble. British India ;

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 Commencement. June 1880.
- 2. In this Act, unless there be something repugnant in the subject Interpretation-clause. or context,-
- " ship", includes every description of vessel used in navigation, not propelled by cars: " ship":
- "master" means any person (except a pilot or "master": harbour-master) having for the time being the
- charge or control of a ship :
- "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.

3. Nothing in this Saving clause. 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, Interpretation-clause.

"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

" Unseaworthy."

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 '' unsafe,"

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

Every person sending an-seaworthy ship to sea liable to penalty.

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.

Master taking unsea-worthy ship to sea liable to penalty.

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 evi-dence in the same manner as any other witness.

No prosecution under Prosecution to be by, or with consent of, Local Govthis section shall be instituted except by, ernment. or

with the consent of, the Local Government.

Implied Condition of Seaworthiness in Contract of Service.

6. In every contract of service, express or im-

Obligation of owner to ew with respect to seacrew with worthiness.

plied, between the owner of a British ship and the

crew with respect to sea-worthiness. 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 sub-

ject 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

Provisional detention by Local Government.

believe, on complaint or otherwise, that a British

it may from time to time specially extend this section, is unsafe, may provisionally order the detontion of such ship for the purpose of being surveyed.

A written statement of the grounds of such de-

tention shall be forthwith Service of grounds on served on the master of unster. such ship.

8. When the Local Government provisionally Power to appoint sur. orders the detention of a veyor. 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 Action on receipt of his or, if in its opinion the report. ship is unsafe, may order ber to be finally detained.

An order of final detention under this section Order of final deten, may be either absolute or tion.

until the performance of such conditions with re-

spect 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 deter. Service of report on tion is made, a copy of master and appeal to Coart the report shall be served of Survey. 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.

Where a ship has been provisionally de-Option to owner or master of appointing assessor to accompany surveyor.

tained 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 ower 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 nantical, engineering or other special skill and experience; and

in such case, if the surveyor and assessor agree Procedure where sur- that the ship should be veyor and assessor agree; detained or released, the 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 Governwhere they differ.

requisition had not been made, and the owner or master shall have such appeal touching the re-port of the surveyor as is hereinbefore provided.

10. Notwithstanding anything contained in section eight the Local Power to refer to Court Government may at any of Survey. 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 .Detaining-officers. 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) Their powers generally. 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 dischast ing, unloading or proceeding on any vorage;

(b) he may, by summons under his band, require the attendance of all such persons as he thinks at 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 con-siders important; and

(d) he may administer oaths, or may, in lieu of administering an oath, require every person examinned 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 Their power to order to the powers herein-provisional detailion and before conferred, have euroy. the same power as the 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 Detaining officer to re- any order made by him port to Local Government. for the detention or reany order made by him lease of a ship.

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

A Court of Survey for a port shall con-13. Constitution of Court of Bist of a Judge sitting Survey. with two asse

14. The Judge shall be a District Judge, Judge of a Court of Small The Judge.

gistrate, Magistrate of the first class or other fit person appointed in this behalf by the Local Government either generally or for any specified C850.

15. The assessors shall be persons of nautical, engineering or other spe-cial skill and experience. The assessors.

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 pub-lished 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 ench list, shall be appointed by the Judge.

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

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

18. The Judge and each assessor shall, for the Powers of Jadge and purposes of this chapter, have the same powers as

are by section eleven conferred on a detaining-officer.

11.--8

19. The Judge may appoint any competent Judge may appoint surand report thereon to the Court.

20. The owner and master of the ship and any Owner or master may owner or master may stend at survey.

any person appointed by the Local Government, may attend at any inspection or survey made in exercise or pursnance of the powers conferred by section eighteen or section nineteen.

21. The Judge shall have the same power Power of Jadge to detain or ralesse ship. 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 Report to Local Government by Court. 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 Power of Local Government to make rules with respect to Court of Survey. 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 Power to appoint referee to hear appeal. that an appeal inder 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 neces-sary for the particular ease, and may be selected by agreement between the Port officer and the appellant, or, in default of any such agroement, 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 Option to appellant to require referes to be ap-pointed. pointed. to the reference, shall refer such appeal to a referee or referees selected as aforesaid.

26. The referee or referees to whom an appeal Referee to have powers of is referred under section Court of Survey. twenty-five shall Lave

the same powers as a Judge of the Court of Survey.

Costs of Detention and Damage's incidental thereto.

27. If it appears that there was not reasonable and probable cause, 'Lipsility of Government by reason of the condifor outs and damages when tion of the ship or the

sup wrongly detailed. ect 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 shipowner for costs when ship rightly 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 ansafe,

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 detention and survey.

What included in costs of and incidental to any . proceeding before a Court

able 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

Power to require from complainant security for costs, &c.

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

Proviso as to complaint by one-fourth of crew.

one-fourth, being not less than three, of the scamen

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

Costs. Ac., payable by thevernment recoverable from countlainant.

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

Stowage grain, &c.' of cargo of grain, corn, rice, paddy, grain, &o. 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 Penalty for improper stowage of such, cargo. Bendly for improper 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 per-

manently and conspicu-cusly marked with lines Marking of deck 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 Marking of load lines. the Sea Customs Act, 1878, shall, before his ship is enterd 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 maximam 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

Statement to Customeofficer in application for entry outwards as to posi-tion of load-line.

ship outwards shall insert, in the form of application made to the Customscollector, 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 in-dicating 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 Copy of this statement to in the agreement with be entared in the log-book the crew before it is signa-and agreement with the ed by any member of the crew; and no shipping-

master shall proceed with the engagement of the crow till this entry is made.

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

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37. When a ship has been marked as by

section thirty-four re-Ship to be kept marked. quired, 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.

33. The master of every British ship which Marking of load lines in 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 yel-low 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, Arnual statement as to position of load-line. 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 iny 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 Ships to be kept marked by section thirty-eight, she shall be kept so mar-

ked 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 chap-Penalty for neglecting to mark, for submerging load-line.

ter 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 ai fully altered, or except for the purpose of escaping capture by an enemy,

shall be punished for each such offence with

fue which may extend to one thousand rupces.

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42. If any of the marks required by this Peosity on master for 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-Saving of ships marked in the United Kingdom. in the United Kingdom and marked with such lines in accordance with the provisions of the laws for the time being

Supplemental Provisions.

there in force.

44. The Local Government may at any time, Belease of ship at any time by Local Government, order her to be released either upon or without any conditions.

43. When under this chapter a ship is autho-45. When under this chapter a support of the suppor tion of ship. 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 alty for proceeding to ter detention. sea after detention. 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 ropees.

47. When a ship so proceeding to sea takes to ses, when on board there-of in the execution of Penalty for carrying to sea officer in execution of his duty. his daty, any person suthorized 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 he 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 Magis-trate 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.

43. When a ship has been detained under this 45. When a surp has been detained under this chapter, she shall not be released because British re-leased because British re-stry closed. British or British Indian register being subsegistry closed. quently closed.

'49.' For the purposes of the survey of a ship Powers of person author rized to survey ship. board the ship and inspect the same may roon 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

Certain persons to be deemed public servants. be deemed to be a public servant within the mean-

ing of the Indian Penal Code.

51. Where any order, notice, statement or document is required for

Service of order where there is no master or resi-dent owner, do. vision 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 O der, &c., how to be by delivering a copy sen ed. 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 comriand or charge of the ship.

53. The Local Government may, from time

Delegation of powers to Port Commissioners, &c.

to time, by notification in the official Gazette, delegate either absolutely or subject to such condi-

tions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for manag-ing 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 Govern-ment 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 m o y be, the amount of any costs or dama-ges so recovered to or from the funds held by them in trust as such body.

CHAPTER III.

DISTRESSED SEAMEN.

Merchant Seamen).

54. This chapter shall be read with, and taken Chapter to be taken as no part of, Act No. I of part of Act I of 1659. 1859 (for the amendment of the law relating to

But nothing in this chapter contained applies Saving of provisions of Merchant Shipping Acts, 1854 and 1855.

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 Gov-"local authority."

ernment 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 Power to suspend or Government which apdiamisa. pointed him.

55. The local authority may, subject to the of distressed Relief seamen at Indian ports.

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 shipwreck. ed, 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

Distressed seamen to be sent home on board British ship wanting ' seamen to make up its arcw. 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 loca' In default of such ship, as aforesaid, provide such seamen or appron-tices 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

Name and other partiship on board of which any seaman or apprentice men to be indorsed ou agreement of British ship.

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

Master of British ship compelled to convey and give subsistence to such

aforesaid shall receive and afford a passage and subsistence to all seamon 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 Penalty for refusing so board his ship, or to give

a passage or subsistence to, or to provide for, any such seaman or ap-prentice 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 Conditions under which master may claim payment. Drentice in excess of the

naster may claim payment. provided in Sicess 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 omployed on board his ship during the tin 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 17.--9

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 ade and verified in the same meaner as declarations made under section 212 of the Merchant Shipping Act, 1854.

62. (a). If any seaman or apprentice, being a Native Indian subject Wages and expenses in-curred in respect of dis-tressd sessmen to be charg-ed on ship to which they belong n certain cases. of Her Majesty and belonging to any British ed on ship to which they belong n certain cases. 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 dischargod 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 Mode of recovering such wages and expenses. 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

Local Government may authorize persons to recover same. to time, by notification in the official Gazette, authorize, either gene-rally 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 en-.titled to sue and recover Such persons to be deem-ed persons filling a public office.

1872, section 57, clause 7.

Board of Trade may re-over such amount from master or owner in certain

Such persons to be deem-ed persons filling a public office. within the meaning of the Indian Evidence Act, 1872 exertion 57 alored 165. When any such wages and expenses are

due to or in respect of a seaman or apprentice mentioned in section 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 else-What shall be evidence of distress and expenses inwhere, the production of a certificate signed by curred. 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,

Power of Governor-General in Council to make rules.

from time to time, make rules to determine under what circumstances and . subject to what condi-

tions 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 compe-Local Government to aptent persons for the purpoint examiners.

pose of examining the qualifications of persons desirons of practising

and to make rules as to qualification, &c., of ship surveyors.

the profession of a ship surveyor at any port in

qualification, &c., of ship surveyors. the territories adminis-tered by such Govern-ment, 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 Publication of rules. thereupon have the force

there is a person exercis-No person to practise as ship surveyor unless qualified. ing the profession of a

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 Lloyd's prevent any person em-ployed by Lloyd's Regis-Surveyors and Veritas. of ter 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 con-travention of the provi-Penalty for practising as ship surveyor without certificate. sions of section sixty-nine shall be punished with fine not exceeding one thousand ropees, 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 " Wreck" defined. 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, Repeal of chapter V of 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 ap-prentices, and to amend the Indian Merchan Shipping Act, 1875, and the Indian Ports A., 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 Appointment of receivthe 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 connect-

ed 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 wrock.

74. Any person finding and taking possession of any wreck within any Rules to be observed by persons finding wrock. local limits for which a receiver of wreck has

been so appointed, shall as soon as practicable-

of law. - 69. No person shall, in any port in which

ship surveyor and holding

(a) if he be the owner thereof, give the receiver of wreck notice in

if he be the owner : u ne be the owner ; writing of the finding thereof and of the marks by which such wreck is distinguished. distinguished;

if he be not the owner.

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

Government or person finding wreck entitled to salvage,

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 bount of alwage, shall be determined by a Disputes con amount of salvage.

disputing parties.

Amount of salvage. Magistrate, upon applica-tion to him for that purpose by either of the

receiver.

76. The receiver of wreck shall, on taking Notice to be given by publish notification, in ceiver. such manner and at such

place as the Local Government may from time to time prescribe in this behalf, containing a de-scription of the same and the time at which and the place where the same was found.

77. If after the pub-Wreck may in certain lication of such notification the wreck is unclaim. ed,

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 Proceeds how applied.

salvage and charges as 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 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 Penalty for failure to give finding of, or to deliver, notice of, og to deliver, any wreck to the re-wreck to the receiver of ceiver of wreck as re-wreck.

wreck. quired 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 Saving clause. Saving clause. 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 Appointment of inspec-tors of lights and log-signals. to inspect in any port, ships to which the regulations for preventing col-

lisions 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 detain-ing-officers by section eleven.

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

83. Every notice so given shall be communi-

Ship not to be cleared by Customs-collector till in-spector certifics it is proper-ly provided with lights, &c.

cated 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,

MISCELLANBORS.

84. Every offence punishable under chapter II, Offences triable where offences to and. Chapter III or chapter V, may be tried in any dis-

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 Assessors in causes of for the assistance of alwage, a. Basessors in contained 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;

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and such assessors shall attend and assist accord-

and such assessor shall receive such fees for Every such assessor shall receive such fees for his attendence as the Court by rale prescribes. Such fees shall be paid by such of the parties as

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.

MOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

D. FITZPATRICK,

Secretary to the Government of India, Legislative Department.

(Published with the " Dombay Government Gazette" on the 25th March 1830.]

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 1830, 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 experient to amend the law at

Preamble

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." Short title.

The Northern India License Act, 1878.

E-mail of portions of the Northern Northern Indis License Act, 1878, is to say-

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the partion of section one from and including the words " but nothing herein contained " to the epl;

section two:

and the portion of the schedule from and in-training the words and figures " class III " to the etd.

3. In the same Act, to Addition to section 3 Eccilon three the follow-of the same Act ing shall be added, that is to say-

"In this Act the word 'trade,' 'dealing' or 'Trade,' 'dealing,' and calling,' 'dealing,' and deemed to include the following,' that is to · caling. 6ay ---

" (a) agriculture;

" (b) the performance by a cultivator or receiver of rent in kind of any process ordinarily exceloped by a cultivator or receiver of rent in kind to render the produce raised or received by Liss 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."

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Substitution of new sec-tion for section 4 of same section four the following Acz.

4. In the same Act, to shall be added, that is to 83.y---

"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 council and big in the behalf, shall decide such question, and his or its decision thereof shall be final."

5. In sections six, seven and eight of the same

Amendment of sections 6, 7 and 8 of same Act. Said territories" shall be "substituted.

6. In section seven of the same Act, for the Amendment of section words "first day of January" the words 7 of same Act.

" thirty-first day - of March" shall be substituted.

7. In sections nine and ten of the same Act, for the Egures "1878" Amendment of sections 9 and 10 of same Act. 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.

 B. In section five of the Madras License A.t.
 Repeal of portions of Madras License Act, 1978, the words "and the whose annual net earning? or prefix exceed two hundred ranges" and the upping of the upping the upping. bundred rupees," and the portion of the schedule of the same Act from and including the words and figures "class XIL" to the end, are hereby repealed.

. Substitution of new 9. In the same Act, for section for section 3 of section three the following same Act.

'industry' defined.

"(a) agriculture :

9. In the same Act, for rd :---

"In this Act the worl "trade," double; or "Industry" that bat be "doubre" defined to include the following that is turay :--

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"(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

Amendment of section 8 of same Act.

words "first day of Janu-ary," the words "thirtyfirst day of March" shall be substituted.

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

Amendment of section 11 of same Act.

The Bombay License Act, 1878.

be substituted.

13. In section one of the Bombay License Act, Amondment of sections 1878, the words "but 1 and 2 of Bombay License nothing herein contained Act, 1878. 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 :---

'Trade', 'dealing,' 'in-try,' 'calling,' 'occudu-try, 'callin pation' defined.

"And the word 'trade,' 'dealing,' 'industry,' 'Trade', 'dealing,' 'in-'try,' 'calling,' 'offu-shall not be deemed to include the following, that is to say :-

" (a) agriculture;

"(b) the performance by a cultivator or receiver of sent 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,

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

for the figures "1878," the figures "1880" shall be substituted.

15. In section seven of the same Act for the words " first day of Jann-

ary"thewords"thirty-first day of March" shall be Amendment of sections 7 and 11 of same Act. 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 figur s "Companies registered Amendment of schedule A of same Act. A of same Act. under the Indian Com-panies Act, 1866," the words "Joint Stock Companies" shall be substituted.

17. In schedule Bannexed to the same Act, the words and figures "class XII, Rs. 7, class XIII Re. Amendment of schedule B of same Act. 5, class XIV, Rs. 3. class

XV, Rs. 2" are hereby repealed.

General.

13. Notwithstanding anything hereinbefors Recovery of money due contained, any money her Act passes. when Act passes. 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, Trade, &c., carried on dealings, industries or invarious parts of kitish callings in two or more of India. the local areas to which the several Acts hereby amended and the Bergal License Act for the time being in force respectively extend, and is thereby liable to pay free 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 Acta 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,

Socy. to the Gort, 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 1890, and was promulgated for general informa-tion in the Guzette of India on the 13th March . 1880 :---

Act No. VII of 1880.

THE INDIAN MERCHANT SHIPPING ACT, 1880.

PREAMBLE.

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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 Preamble. British India ;

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 ShippingAct, 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 regu-lation 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, Short title. 1880" :

> and it shall come into force on the first day of June 1880.

2. In this Act, unless there be something repugnant in the subject Interpretation-clause. or context.-

Commencement.

included in such port.

- " 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 " master": for the time being the

charge or control of a ship :

"port" in any provision of this Act includes also any part of a river or " port", 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

SECTION.

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SECTION.

CHAPTER II.

UNSEAWORTHY AND UNSAFE SHIPS.

3. Nothing in this Saving clause. 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.

(r) to any pleasure yacht.

4. In this chapter, "British Indian ship" means a ship registered under Act No. XIX of 1838, Interpretation-clause.

"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 s British Indian ship :

"manner prescribed" means such manner as the Local Government, with the prescribed": "manner prescribed": with the previous sanc-tion. of the Governor General in Conncil, 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 " Unseaworthy." 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 "tusafe" within the meaning of this chapter when by reason

" unsafe," 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 Every person sending un-seaworchy ship to sea inable to penaity.

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.

Master taking unsea-worthy ship to sea liable to penalty.

Every master of a British Indian ship who knowingly takes such ship to sea in Buch 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 evi-deuce in the same manner as any other witness.

Prosecution to be by, or No prosecution under with consent of, Local Gov- this section shall be in-No prosecution under stituted 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 im-Obligation of owner to ew with respect to searew with

plied, between the owner of a British ship and the master or any seaman thereof, and in every

instrument of apprenticeship whereby any per-son is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obli-gation 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 sub-

Provise. Provise. Biability by reason of such ship being sent to sea in an unscaworthy 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 Provisional detention by scal Government. otherwise, that a .British Local Government. 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 Service of grounds on served on the master of master such ship.

8. When the Local Government provisionally Power to appoint sur- orders the detention of a veyor. 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 Action on receipt of his or, if in its opinion the report. ship is unsafe, may order her to be finally detained.

An order of final detention under this section Order of final deten-on. may be either absolute or until the performance of such conditions with retion. spect 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 deten-Service of report on tion is made, a copy of master and appeal to Court the report shall be served of Survey. 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 de-Option to owner or mas-ter of appointing assessor to accompany surveyor.

tained 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 experime; and

in such case, if the surveyor and assessor agree Procedure where eur-veyor and assessor agree; detained or released, the 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 Govern-

where they differ, ment may act as if the requisition had not been made, and the owner or master shall have such appeal touching the re-port of the surveyor as is hereinbefore provided.

10. Notwithstanding anything contained in

Power to refer to Court Section eight the Local Government may at any of Survey.

of Survey. 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 Detaining-officers. 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 Their powers generally, "

to as a detaining-officer). shall have, for the purpose of his dution 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 hoard thereof, and may require the unloading or removal of any cargo, ballast or tackle, not unneces. sarily 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 Their power to order to the powers herein-provisional detention and before conferred, have survey. survey. 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 re-Detaining-officer to re-port to Local Government. lease of a ship.

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

13. A Court of Survey for a port shall con-Constitution of Court of sist of a Judge sitting Survey. with two assessors.

14. The Judge shall be a District Judge, Judge of a Court of Small The Judge. gistrate, 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 essessors shall be persons of nautical, engineering or other spe-The asessors. cial 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 Judge to summon as- au appeal or a reference from the Local Government, immodiately summon the assessors, in the manner prescribed, to meet forthwith.

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

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

19. The Judge may appoint any competent Judge may appoint sur-and report thereon to the VOYOF. Court.

20. The owner and master of the ship and any Owner or master may owner or master, and also attend at survey.

any person appointed by

the Local Government, may attend at any inspection or survey made in exercise or parsuance of the powers conferred by section eighteen or section nineteen.

21. The Judge shall have the same power as the Local Government Power of Judge to detain has to order the ship to r release ship. detained ; but, unless one of the assessors concurs in an order for the detontion of the ship, the ship shall be released.

22. The Judge shall report the proceedings of the Court in each case to Report to Local Governthe Local Government in ment by Court. went by Court. 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 pretion of the General in vious sanction of Power of Local Govern-ment to make rules with respect to Court of Survey. Governor General in Council, from time to time make rules to carry

iuto 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 ascertaiument, 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 Power to appoint referee that an appeal under this chapter involves a question to hear appeal, 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 neces

sary 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 appealso requires Option to appellant to require referee to be ap-pointed.

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 refereo or referees to whom an appeal Referee to have powers of twenty-four or powers

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 therets.

27. If it appears that there was not reason-

able and probable cause, Liability of Government for costs and damages when ship wrongly detained. 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.

23. If a ship is finally detained under this chapter or if it appears that a ship provisionally Liability of shipowner for costs when ship rightly detained. 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 What included in costs of detention and survey.

of detention and survey. able 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.

S0. When a complaint is made to the Local Power to require from complainant security for costs, &c.

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

Provise as to complaint by one-fourth of crew.

belonging to the ship, and is not in the opinion of such Government or officer frivelous 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

Costs, &c., payable by Government recoverable from complainant, that the Government is

liable under this chapter to pay to the owner of the ship any costs or com-pensation, 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. 8 - 11 J

32. No cargo of which more than one-third of cargo of

grain, corn, rice, paddy, Stowage grain, đe.

grain, ac. 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 Penalty for improper stowage of such cargo. 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 conspicu-cusly marked with lines Marking of dock-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 -hall 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 Marking of load lines.

the Sea Customs Act, 1878, shall, before his ship is enterd 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 practicalde, 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 maxinum load-line in salt water to which it is intended to lond such ship for that voyage.

35. The person applying for entry of any such

Statement to Customs. officer in application for entry outwards as to posi-tion of load-line.

ship ontwards shall insert, in the form of application made to the Customscollector, a statement in writing of the distances

in first 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 Costoms-collector may refuse to enter the ship outwards.

36 A copy of this statement shall be entered Copy of this statement to in the agreement with the entered in the log-back the crew before it is sign-and agreement with the cd 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 re-

Ship to be kept marked. quired, 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 yel. low 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, antil notice is given of an alteration.

89. He shall also once in every twelve months, immediately before the Annual statement as to position of load-line. 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 Ships to be kept marked. by section thirty-cight. she shall be kept so mar-

ked until notice is given of an alteration.

Penalty for neglecting to mark, for submerging loadhae.

41. Any master of a ship who neglects to cause his ship to be marked as by this charter 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 porson uncer bis control to conceal, remove, alter, deface re-oblitente, 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 energy,

shall be punished for each such offence with tine which may extend to one theusand ripees

42. If my of the marks required by this chapter is in any respects Penalty on master for having misleading marks. 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-Saving of ships marked in the United Kingdom. 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 time by Local Government, chapter is not unsafe, order her to be released either upon or without any conditions.

15. When under this chapter a ship is autho-

in the naval or military service of Her Maje Majesty's Indian Government ships, or any Port-officer, Harbour-master, Conservator of a port of ficer of Customs, may detain the ship.

46. If any ship after such detention, or after Penalty for proceeding to sea after detention.

such detention proceeds to see before she is released by competent autho-rity, the master of the ship shall be punished with fine which may extend to one thousand rupees.

17. When a ship so proceeding to sea takes to sea, when on board there-Penalty for carrying to of in the execution of sea other in 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 ropees.

When any owner or master is convicted of an offence under this section, the convicting Magiatrate 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.

Detained ship not to be released because British re-getry closed. 48. When a ship has been detained under this released by reason of her British or British Indian register being subsequently closed.

49. For the purposes of the survey of a ship

Powers of person author rized to survey ship. Powers of person authorized 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 man servant within the meaning of the Indian Penal Code.

51. Where any order, notice, statement or Service of order where there is no mastar or resident owner, and dent owner, a document is required for 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 Order, &c., how to be document may be served erved. by delivering a copy thereof personally to the erson 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 com-mand or charge of the ship.

53. The Local Government may, from time Delegation of powers in the official Gazetie, bet Commissioners, delegate either about the delegate either absolutely or subject to such condiю kc.

tions 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 dama-ges so recovered to or from the funds held by them in trust as such body.

CHAPTER III.

DISTRESSED SEAMEN.

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

But nothing in this chapter contained applies

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

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 Gov-" local authority."

ernment may, from time to time, subject to the control of the Governor General in Council, appoint by name or in virtue o' his office to exercise the powers conferred, and to perform the duties imposed on the local autho-

rity under this chapter. Every person so appointed may be suspended

or dismissed by the Local Government which ap-Power to suspend or pointed him.

55. The local authority may, subject to the rules hereinafter menof distressed Rellef seamen at Indian porta.

dismiss.

tioned, 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 shipwreck ed, 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

Distressed seamen to be sent house on board British shep wanting seamen to make up its crew,

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 scamen 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 scamen or apprentices not being subjects of Her Majesty, to such place as the local anthority, subject to the control of the Governor General in Council, may in each case determine.

57. In default of any such ship, the local to default of such ship, as althority may, subject s default of such ship, as aforesaid, provide such seamen or apprenup bard of any slip.

tices with a passage in any ship (whether British or foreign) bound as aforesaid.

58. The local authority shall inderse on the Name and other parti-culars with regard to sea-men to be indorsed on agreement of British ship.

agreement of any British ship on board of which any seaman or apprentice is sent ander section fifty-six 0P section

fifty-seven, the name of every person so sent or 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

give subsistence to such seamen.

aforesaid shall receive Master of British ship and afford a passage and compelled to convey and spheristence to all seamen 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 effectnelly protected against sea and weather.

60. If the master of any such ship fails or Penalty for refusing so board his ship, or to give to do. a passage or subsistence

to, or to provide for, any such seaman or ap-prentice 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 Conditions under which master may claim payment.

number (if any) wanted to make up the complement of his crew to sny place in accordance with the requisition of a local authority under this chapter, such master shall be entitied 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 anthority 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 beard ; 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 that officer as the Loral Construction Government may other officer as the Local appoint. In other cases such declaration shall be nusde 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 Wages and expenses in: a Native Indian subject red in respect of dis-of Her Mujesty and be-

Wages and expenses in-curred in respect of dis-tressd seamen to be charg-ed on ship to which they belong in certain cases.

longing to any British ship, is discharged or left belong in certain cases. 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 wages and expenses. 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 Local Government mey authorize persons to recover any fight the official Gazette, As to e.

authorize, either gene Pally or specially, such sons as it thinks fit to sue for any such wages

> titled to sue and recover accordingly, and shall be

and exponses and recover the same.

And every person so authorized shall be en-

Such persons to be drem-ed persons filling a public other. deemed to be a person 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

Board of Trade may re-cover such amount from master or owner in certain

due to or in respect of a seamant or apprentice mentioned in section sixty-two, clause (c), they

may, instead of being recovered by a person authorized under section aixty-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.

What shall be evidence of distress and expenses m-curred.

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, Power of Governor-Gene-Council to make rules

from time to time, make rules to determine under what circumstances and subject to what condi-

tions 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

CHAPTER IV.

SHIP SUBVEYORS.

63. The Local Government may; from time Local Government to sp-tent persons for the purnoint examiners. point examiners pose of examining the qualifications of persons desirous of practising and to make rules as to gualification, &c., of ship surveyors. and to make rules as to qualification, &c., of ship surveyors. the territories adminis-tered by such Governa-ment, 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 incom-petency 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 Publication of pulse. thereupon have the force of law.

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69. No person shall, in any port in which No person to practise an ship surveyor unless gualified. a certificate granted under

section sixty-eight, exercise such profession in such port unless he holds a certificate granted under shat section.

Provided that nothing herein contained shall

Surveyors of Lloyd's prevent any person em-ployed by Lloyd's Regisand Veritas. ter 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 con-travention of the provi-Penalty for practising as ship surveyor without certificate. sions of section sixtynine 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 WEECK.

71. In this Chapter "wreck" includes the following when found in " Wreck" defined. 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 flusting on the surface;

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

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

72. Chapter V of the Repeal of chapter V of Indian Ports Act, 1875. 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 seumen and ap-prentices, 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 affret section 40 of the Indian Ports Act, 1875, or entitle any person to salvage in respect of any property recovered by creeping or sweeping is contravention of that section.

73. The Local Government may, from time to time, by notification in the official Gazette., with Appointment of receiv-41 M

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 bereinafter 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 Rules to be observed by persons finding wreek. 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 if he be the owner ; 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 if he be not the owner. receiver of wreck.

75. Whenever any wreck is found by the

Government or person finding wreck entitled to salvage.

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 Disputes con amount of salvage. Magistrate, upon apple . tion to him for that purpose by either of ... disputing parties.

76. The receiver of wreck shall, on taking Notice to be given by minist. receiver, 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 pub-Wreck may in certain lication of such notifica-cases be sold. tion 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 cell 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

Proceeds how applied, 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.

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79. Any person omitting to give notice of the Penalty for failure to give finding of, or to deliver, bettoe of, or to deliver, any wreck to the re-wreck to the re-wrech of cerver of wreck as re-wreck. quired by section seventyfour 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 Gov- . ernment, 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

Saving chase ing 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 Appointment of inspector in any port, tors of lights and fog-mgrash.

tions for preventing col-lisions 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

Nouse of deficiency to be given to master or owner by such inspectors.

pointing out the defi-ciency, and also what is, in his opinion, requisite is order to remedy the same."

83. Every notice so given shall be conmuni-

Ship not to be cleared by Customs-collector till in-spector certifies it is proper-ly provided with lights, &c.

cated 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 grans 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.

MISCELLANBOUS.

84. Every offence punishable under chapter II, Offences triable where chapter III or chapter V, offences triable where may be tried in any dis. trict 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 Assessors in causes of 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 attendence 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.

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The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th March, 1850, and was promulgated for general information in the Gazzite of India of the 13th March 1880.

Act No. VIII of 1880.

An Act to correct a clerical error in the Indian Limitation Act, 1377.

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 "elail be, and be deemed to have always been, substituted.

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D. FITZPATRICK,

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Secretary to the Government of India, Legislative Department.

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BOMBAT: PRINISD AT THE GOVERNMENT CENTRAL PRIMA

27 0 "Bombay Government Gazette" on the 1st April 1830.] [*P* wil

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 Ex-cellency the Governor-General on the 11th March 1380, and was promulgated for general informa-tion in the Gazette of India on the 13th March 1890 -----

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 depar-ture of certain ships from Preamble. British India :

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 incorred 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 regu-lation and control of merchant shipping; It is hereby enacted as follows :-

CHAPTER I.

PRELIMINARY.

This Act may be called "The Indian Merchant Shipping Act, Short title. 1880" :

and it shall come into force on the first day of . Commencement. June 1880.

2. In this Act, unless there be something repugnant in the subject Interpretation-clause. or context,-

" ship", includes every description of vessel used in navigation, not " ship": propelled by oars:

" master" means any person (except a pilot or "master" harbour-master) having " master": for the time being the

charge or control of a ship : "port" in any provision of this Act includes

also any part of a river 6' ~~ 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.

this

CHAPTER IL

UNSEAWORTHY AND UNSAFE SHIPS,

3. Nothing in Saving clause. 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, Act No. X of 1841, or Interpretation-clause. "British Indian ship":

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" includes " British ship": a British Indían ship : , "manner prescribed" means such manner as

the Local Government, " manner prescribed":

"manner prescribed": with the previous sanc-tion 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 " Unseaworthy,"

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 " unsafe."

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

e British Indian ship to Every person sending un-seaworthy ship to sea liable to penaity.

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 satend to one thousand rupees, or with both.

Master taking unsea-worthy ship to sea liable to penalty,

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 evi-dence in the same manner as any other witness.

No prosecution under Prosecution to be by, or ith consent of, Local Govthis section shall be inwith conse ernment. ernment. stituted except by, with the consent of, the Local Government. or

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 Obligation of owner to new with respect to seaworthiness.

master or any seaman thereof, and in every

instrument of apprenticeship whereby any pé son is bound to serve as an apprentice on board any such ship, there shall be implied, notwithstanding any agreement to the contrary, an obli-gation on the owner that such owner and the master, and every agent charged with the load-ing 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 Proviso.

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

Provisional detention by Local Government. 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 Service of grounds on served on the master of master. such ship.

8. When the Local Government provisionally Power to appoint sur. orders the detention of a veyor. 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 Action on receipt of his or, if in its opinion the report. ship is unsafe, may order her to be finally detained.

An order of final detention under this section Order of final doten may be either absolute or until the performance of such conditions with re-

spect 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 deten-

Service of report on tion is made, a copy of master and appeal to Court the report shall be served of Survey. of Survey. 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 Option to owner or master of appointing assessor to accompany surveyor.

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 Procedure where sur- that the ship should be veyor and assessor agree; 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 Govern-

where they differ. ment may act as if the requisition had not been made, and the owner or master shall have such appeal tonching the report of the surveyor as is hereinbefore provided.

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

Detaining-officers,

11. For the better execution of this chapter, the Local Government Detaining-officers,

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) Their powers generally, 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 re-moval of any cargo, ballast or tackle, not unneces-sarily detaining or delaying her from discharg-ing, unloading or proceeding on any yoyare: ing, 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 fi 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 Their power to order to the powers herein-provisional detention and before conferred, have survey. survey. 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 Detaining-officer to re-port to 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 con-Constitution of Court of Bist of a Judge sitting Sarvey. with two assessors.

14. The Judge shall be a District Judge, Judge of a Court of Small The Judge.

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 spe-The ase 059078. cial 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 pub-lished 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, our receiving 'notice of Judge to summon as an appeal or a reference from the Local Government, immediately summon the assessors, in the manner prescribed, to meet forthwith.

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

18. The Judge and each assessor shall, for the purposes of this chapter, have the same powers as Powers of Judge and are by section clayen con-

ferred on a detaining-officer.

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

20. The owner and master of the ship and any Owner or master may owner or master, and also owner or master, and also

any person appointed by

the Local Government, may attend at any inspec-tion 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 Power of Judge to detain has to order the ship to or release ship. 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 Report to Local Govern-ment by Court. the Local Government in

ment by Court. 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 pre-

vious sanction of the Governor General in Power of Local Govern-ment to make rules with respect to Court of Survey. Council, from time to respect to Coart of Survey. 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 Power to appoint referee that an appeal that an appeal that are appeal to be optimize the second sec 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.

-- 7 25. The Local Government, if the appellant in any such appeal so requires Option to appellant to squire referee to be apointed. And gives security to its satisfaction to pay the costs of and incidental require pointed. to the reference, shall refer such appeal to a referee or referees selected as aforesaid,

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26. The referee or referees to whom an appeal Referee to have powers of ourt of Survey. is referred under section twenty-four or section twenty-five shall have Court of Survey.

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, Liability of Government by reason of the condi-for costs and damages when ship wrongly detained. tion 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 Liability of ahipowner for costs when ship rightly detained. 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 What included in costs detention and amount detention and amount to any proceeding before a Court able 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 Power to require from complainant security for costs, &c.

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

Provise as to complaint 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 veratious, 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

Costs, &c., payable by Government recoverable from complainant.

of any complaint, and the circumstances are such that the Government is liable under this chapter

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to pay to the owner of the ship any costs or com-pensation, 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

Stowage of cargo of grain, corn. rice. nodd-

Stowage of cargo of grain, corn, rice, paddy, grain, ac. 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 Penalty for improper is charged with the boundary of such cargo.

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 conspicu-ously marked with lines Marking of deck-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 Marking of load-lines.

within the meaning of the See Customs Act, 1878, shall, before his ship is enterd 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 amidehip, 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

Statement to Customsofficer in application for entry outwards as to posi-tion of load-line.

ship outwards shall insert, in the form of application made to the Customscollector, 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,

26. A copy of this statement shall be entered Copy of this statement to in the agreement with he entered in the log-book the crew before it is sign-and agreement with the ed by any member of the crew. crew; and no shipping-

master shall proceed with the engagement of the crew till this entry is mada.

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

Ship to be kept marked. section thirty-four re-quired, 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 yel-low 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 Annual statement as to sition of load-line. the ship proceeds to sea, send or deliver to the position of load-line. 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 state-ment 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 Ships to be kept marked. by section thirty-eight, she shall be kept so marked until notice is given of an alteration.

Penalty for neglecting to mark, for submerging load-line.

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 iu 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 Fenalty on master for having mideading marks. 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-Saving of ships marked in the United Kingdom.

in the United Kingdom and marked with such lines in accordance with there in force.

Supplemental Provisions.

11. The Local Government may at any time, Release of ship at any detained under this time by Local Government. chapter is not unsafe, or ler her to be released either upon or without any conditions.

45. When under this chapter a ship is autho-Who may enforce deten rized 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.

16. If any ship after such detention, or after Penalty for proceeding to 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 Pendty for carrying to sea, when on board there-Pendty for carrying to of 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 Magis-trate 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 ame shall be recovered from him in manner provided for the recovery of fines.

43. When a ship has been detained under this Detained ship not to be released because British re-kistry closed. register being subse-. • quently closed.

· 49. For the purposes of the survey of a ship Powers of person author first to survey ship person authorized to make the same may go on hoard 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 doemed public servants, within the meanservant within the meaning of the Indian Penal Code.

51. Where any order, notice, statement or document is required for Service of order where there is no master or resident owner, &c. dent owner, &c. vision 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 de-tained, 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 Order, &c., how to be served. by delivering a copy person to be served, or by leaving the same at person to be served, at or the case of a his last blace 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 Delegation of powers in the official Gazette, to Port Commissioners, delegate either absolutely

, or subject to such conditions or restrictions as it thinks fit, to any body of Commissioners or trustees appointed for manag-ing 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 sec-tion 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 dama-ges 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 Chapter to be taken as part of Act I of 1859. Chapter to be taken as part of Act I of 1859. Of the law relating to Merchant Seamen).

27 1

to seamen or apprentices Saving of provisions of Merchant Shipping Acts, 1854 and 1855.

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 Gov-"local authority." ernment 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 ap-Power to suspend or diamiaa. pointed him.

55. The local authority may, subject to the of distressed Relief seamen at Indian ports,

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 him employed in the merchant corrige or from 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 thom with a passage as hereinafter provided.

56. Subject as aforesaid, the local authority

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

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 scamen 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 scamen or apprentices not being subjects of Her Majesty, to such place as the local authority, subject to the control of the Governor General in Conneil, may in each case determine.

57. In default of any such ship, the local

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

authority may, subject as aforesaid, provide as aforesaid, such seamen or apprentices 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

Name and other parti-culars with regard to sea-men to be indorsed on agreement of British ship.

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

Master of British ship compelled to convey and give subsistence to such seamen.

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 refases to receive on Penalty for refusing so board his ship, or to give to do. to do. a passage or subsistence to, or to provide for, any such seaman or ap-prentice 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

Conditions under which master may claim payment.

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 ander 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 semman or apprentice received subsistence we 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 -

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 be-longing to any British ship, is discharged or left Waces and expenses in-curred in respect of dis-tressed seamen to be charg-ed on ship to which they belong in certain cases. belong in certain cases. 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 Mode of recovering such wages and expenses. of such ship or from the

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 Local Government may authorize persons to recover same. Tally 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

Such persons to be deem-ed persons filling a public office.

accordingly, and shall be rd persons filing a public otics. filing a public 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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Board of Trade may re-cover such amount from master or owner in certain

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 recovered by a person autorized 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, What shall be evidence where, the production of curred.

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, rules.

from time to time, make Power of Governor Gene-ral in Council to make rules to determine under what circumstances and subject to - what condi-

tions 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 Local Government to ap-to time, appoint compe-tent persons for the purpoint examiners.

point examinant. qualifications of persons desirons of practising

the profession of a ship and to make rules as to qualification, &c., of ship surveyor at any port in the territories adminissurveyors.

ment, 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 certificatos.

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

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69. No person shall, in any port in which ship surveyor qualified.

there is a person exercis-No person to practise as ip surveyor unless this surveyor and holding 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 Lloyd's planet in person em-

Surveyors of and Veritas, ployed 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.

Penalty for practising as ship surveyor without certificate. 70. Any person exercising the profession, sions 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 "Wreck" defined. 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 abandored without hope or intention of recovery.

72. Chapter V of the Repeal of chapter V of Indian Ports Act, 1875, Indian Ports Act, 1875. and section 5 of Act No. XIII of 1878 (An Act to provide for the recovery in British I uliu of wages due to, and expenses incurred in respect of, certain stamen 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 timé to Appointment of received 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 Rules to be observed by local limits for which a persons finding wreck. receiver of wreck has been so appointed, shall as soon as practicable----

(a) if he be the owner thereof, give the re-ceiver of wreck notice in 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 if he be not the owner. receiver of wreck.

73. Whenever any wreck is found by the

Government or person finding wreck entitled to salvage.

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 bount of salvage. Disputes con amount of salvage, Magistrate, upon application to him for that purpose by either of the disputing parties.

76. The receiver of wreck shall, on taking receiver. 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 pub-Wreck may in certain lication of such notification the wreck is unclaimed, 2

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 Proceeds how applied,

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.

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79. Any person omitting to give notice of the Panalty for failure to give notice of, or to deliver, wreck to the receiver of wreck as re-quired by section seventy-four shall be punished with fine which may extend to one thousand rupees, and in the case of omis-sion 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 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

Saving clause. Saving clause. 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

81. The Local Government may, from time to time, appoint persons Appointment of inspec-tors of lights and for signals. to inspect in any port, ships to which the regula-tions for proventing col-lisions 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. 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

Notice of deficiency to be given to master or owner by such inspectors.

pointing out the defi-ciency, and also what is, in his opinion, requisite in order to remedy the same.

83. Every notice so given shall be communi-

Ship not to be cleared by customs collector till in-spector certifies it is proper. Iy provided with lights, &c. from which such ship

may seek to clear; and no Customs-collector to whom such communication is made shall grant 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, Offences triable where chapter III or chapter V, Tender found. may be tried in any disoffender found. trict 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 Assessors in causes of salvage, &c. 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 attendence 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 liovernor-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.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.



Bazette. Bombay 11111 P 11 T

Bublished by Juthority.

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 COVERNMENT 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. .

WHEEEAS it is expedient to empower the Gov-ernor of Bombay in Coun-Preamble.

cil to fix and, from time to time, to alter the local limits of the ordinary jurisdiction of the Subordinate Judges appointed under the Bomhay 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 sec-tion 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

Power to fx local limits of jurisdiction of Subor dinate Judges. the official Gazette, fix, and, by a like notifica-tion, from time to time

alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

3. All orders issued by the Governor of Bom-Limits already fixed to be deemed to have been fixed according to law. fixed according to law. 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.

IV.-10

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.



THURSDAY, 6TH MAY 1880.

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

PART IV.

AGTS 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 :--

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Bombay Act No. I. of 1880.

An Act to amend the law relating to the settlement of Villages held by Khots.

W JEELAS it is expedient to make special provision for the settlement and revenue administration of villages in the Ratnágiri divtrict which are held by khots; It is evacted as follows:—

PART I.-PEBLIMINARY.

1. This Act may be cited as "The Short title. Khoti Settlement Act, 1880."

lt 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 Kolaba District.

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2. Sections thirty-seven and thirtyeight of the Bombay and 38 of Bombay Act I. of 1865. Survey and Settlement Act, 1865, are

ment 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,

(1) "village" means a village, or a "Village" portion or share of a

village; to the extent

(2)"khot" in-" Khot." cludes : ·

(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 inter-" Khotki." ests vested in a khot

as such ;

(4) " jama" means land-revenue payable by a khot to · " Jama."

Government;

(5) " privileged occupant" means : " Privileged occupant."

(a) a dhárekari, or

(b) a quasi-dhárekari, or

(c) an occupancy-tenant;

(6) "dhárekari" means a land-holder who holds on the " Dhárekari." " dhára " tenure ;

(7) " quasi-dhárekari" means a landholder of any of the " Quasi-dharekari." denominations named in the first column of the Schedule hereto annexed ;

(8) " occupancy - tenant " means , a holder of khoti land " Occupancy-tenant," who has a right of occupancy in such land;

(9) "dhára land " means land held by a dhárekari, or by " Dhára land."

a quasi-dhárekari; (10) "khoti land" means land in re-

spect of which a khot " Khoti land." has, as such, any right

or interest and which is not dhara land; (11) " part " and " section " mean

respectively a part and section of this " Part," " Section," Act;

(12) any word or expression which is

Expressions defined in the Bombay Land Revenue Code.

Land Revenue Code, 1879, and is not hereinbefore defined, shall

defined in the Bombay

be deemed to have the meaning given to it by that Code

PART II.-GENERAL PROVISIONS RELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Chots.

Continuance of khots' villages to be subject to payment of jama.

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 What holders are to actually occupied or be deemed occupancy- cultivated the same

continuously from any tenants. 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 Right of occupancy when land has been wrongfully transferred.

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 :

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 mortgager or lessor, and that if such mortgagor or lessor has a right of occupancy in \$ 200 land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessoe until the same is duly discharged or determined.

7. Privileged occupants shall continue to hold their lands

conditionally on the

Continuance of privi-leged occupants' ten-

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.

other than occupancy 8. Tenants tenants shall continue Ordinary tenants.

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 What rights are transbeheritable and transferable ferable.

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

Resignation, lapse, or forfeiture of privileged occupants' lands.

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 enoumbrances, other than liens or charges 'created or existing in favor of Government.

But it shall not be competent to a pri-"vileged 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. ł

Grant of Privileged Occupants' Rights by Khots.

11. It shall be competent to the khot

at any time to confer

Privileged occupants' rights may be conferred by khots.

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 Record of grant.

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 Commutation-rates for rent payable in section 86 of the kind. 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 moneyvalue 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 Rent of land which raise a crop on any an occupancy-tenant neglects to cultivate. 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.

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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 Khots to keep time to time be reaccounts; quired by the Collector under the orders of Government; and

(b) produce such accounts, whenever required, to the Coland to produce them when relector or to any offiquired; cer subordinate to the Collector not lower in rank than a mahálkari, and

(c) give a written receipt for every payment of rent or land revenue made to and to give written receipts. him whether by a privileged occupant or tenant, or by a co-sharer in his khotki.

For disobedience of any order duly made

Penalty.

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 tiluka 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.

Whonever a survey settlement of 16. the land revenue of

Preparation of Settle-ment Register of khoti any village to which this Act extends is villages. made, or revised under the provisions of Chapter VIII of the Bombay Land Revenue Code, 1879, the Settlement Register prepared under sec-tion 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 Privileged occupants' specify the nature rents to be fixed. 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 When the khotki is undi- records shall also vided, the co-sharers' respec-tive rights to be recorded. 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 cosharers, 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 When the khotki is the khotki hold thei?~ divided, each share to respective shares in be treated separately. severalty, the said records shall specify :-

(a) the extent and limits of each such separato 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 Disputes to be deter the said register or

Disputes to be determined by the survey officer. the said register or other record, that there exists any dis-

pute 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. Is any such matter the decision of the said survey officer,

Survey officer's decision when not final to be set aside only by a decree of court.

to 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 Bar of suits against Survey officer, or survey officer or Gov- against Government, ernment. 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

Provisions of this Part when to apply. 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,

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Khots' Jama.

24. The jama payable to Government Jama how to be calculated. 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 Amount to be fixed from time to time for certain periods. period for the same period for which the survey assessments are fixed.

Managing Khols.

25. The annual kabulayats hitherto Abolition of khots' kabulayats. 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 Appointment "Managing Khot." of 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

Managing kbot how to be nominated. Sequent 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

Collector's nomination not to be disputed. 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 But suits in respect to the right of management not barred *inter se* to declare amongst the khots which of them is 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, Managing khot's the mámlatdár shall furnish every manag-

ing 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

there are no co-sharers. 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 proceeding section.

31. When a managing khot has been Exclusive power of managing khot. 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 Separated sharers to be severally responsible for their respective thereof has been effected by the civil court, abares. 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 Nature and amount privileged occupants of rent payable by pri-shall be as follows, vileged occupants. (namely) :---

(a) by a dhárekari: the survey assessment of his land;

(b) by a quasi-dharekari: 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 occu-

Privileged occupants' rents how and when to be paid. pants 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, Abolition of all cesses, te. 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 Khot's liability for time be fixed by Gov-Local Fund cess. ernment under sec-

tion 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 Dharekaris and quasiand 87 of the Bomdharekaris to what extent liable for the bay Land Revenue Code, 1879, for' re-0000

covery of the said cess at the said rate from dharekaris 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 Ötber inferior holders

Fund cess, anything not liable for the cess. 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 Existing survey set-tlements confirmed. 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

New settlements may be substituted for existing settlements.

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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 Bombay Lend Revepara. 2, 112, 150 Bombay Land Reve-nue Code, 1879, how far inapplicable to clause (b), and 153 of the Bombay Land Revenue Code, 1879, khoti villages.

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) :---

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 Conn-Bombay Government Gazette, from time to cil. time frame, and from time to time vary, or rescind rules not inconsistent with the provisions of this Act-

> (a) for the inspection and appraisement 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 dhara land; 1.1

(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.

Government 'may constitute uncultivated land a reserved forest.

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

Reserved forest constituted under the last preceding section to be subject to the provi-sions of the Indian Forest Act, 1878.

under the last preceding section shall be subject to all the provisions of the Indian Forest Act, 1878, and of any other law relat-

ing 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.

Denomination of	EXCESS AMOUNT OF RENT PAYABLE FOR EVERY RUPRE AND PROPORTIONATELY FOR EVERY FRACTION OF A RUPEE OF THE SURVEY ASSESSMENT IN RESPECT OF						
Quasi-dharekaris,	Rice landa.	Warkas landa,			Bagayat or Kabi landa,		
And the second					4		•
Daspatkari Dupatkari	2 annas 1 maund of rice in the husk.	2 annas 5} pailis . of half vari).	grain	(half	 nachani	and	2 annas. 8 annas.
Didpatkari or Didi- wala.	3 pailis of rice in the husk.	2 pailis of half vari).	grain	(half	nachani	and	3 annas.
Paunedupatkari	6 pailis of rice in the husk.	4 pailis of half vari).	grain	(half	nachani	and	6 annas.

SCIIEDULE (see Section 3, Cl. 7, and Section 33.)

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 1980.

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

Preamble. the Municipal Corporation of the City of Bombay a sum not exceeding thirty-six lakhs of rupees for the purpose of constructing new waterworks, 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 IL 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 n	nay be cited as "The	e Bom-
		bay Munici	pality's
	Short Title.	Consolidated	Loan
		Act, 1880."	

It shall come into force on such date as may be notified by the Commencement. Governor in Council

ed.

in the Bombay Government Gazette. 2. Bombay Act II. of 1872 is repeal-

3. In this Act :

Interpretation Section.

Repeal of Bombay

Act II. of 1872.

17.-13

(1.) "The Corporation" means the Municipal Corpora-" The Corporation." tion 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 " Municipal Fund."

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 waterworks, 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 ba-lance 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. 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 Payments when to be made, made first of January and the first of July.

5. The whole of the consolidated loan Period of re-payment. 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 repay-Mode of re-payment. ment 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 intil 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 Payments where to te made. 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 Notice of payment to be published by the Municipal Commissioner in the Bombay Government Gazette.

7. If the Municipal Commissioner fail In case of non-payment, report to be made to the Chief Secretary to Government. 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 Secre-Arrear may be re- tary, or other officer acting in that capacovered by detention of city, when any of the moneys due to the Corporation. 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

Or, by attachment of the municipal fund, &c. 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, it 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

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Attachment not to defeat prior charges legally made. 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 satis-faction of a liability incurred under this Act.

10. Nothing in this Act shall affect the Other rights and re- rights or remedies edies of the Govern- which the Governmedies of the Govern-ment of India not to be ment of India has or affected. 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 Account of balances due to Government of India to be published by the Municipal Commis-scorer yearly. sioner yearly.

count showing the

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 Sec-Corporation not to tion 7 of Act XI. borrow money except from Government of India or with its sanction.

of 1879, the Corporation shall not hereafter borrow money except from the Government of India.

If any new loan shall hereafter be granted Any new loan by the to the Corporation by Government of India the Government of to be subject to the provisions of this Act. 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.

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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 Prear.ble the Bombay Irrigation Act No. VII. of 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.

BOMBAT: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

[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 excedient 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 thirtyeight of the Bombay Repeal of Sections 37 and 38 of Bombay Act I of 1865. Survey and Settlement Act, 1865, are

I. ef 1865. ment Act, 1865, are repealed so far as they apply to any village t) which this Act extends, or may herea ter be extended: Provided that the sail 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, mless there be something repugnant in the subject or context,

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(1) "village" means a village, or a portion or share of a village." 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 pessession of a khotki,
- (b) all co-sharers in a khotki;
- (3) "khotki" means the aggregate of "Khotki." 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 "Dhárekari." who holds on the "dhára" tenure;

(7) "quasi-dhárekari" means a landholder of any of the "Quasi-dhárekari" denominations named in the first column of the Schedule hereto annexed;

(8) " occupancy - tenant " means . a, holder of khoti land " Occupancy-tenant." who has a right of occupancy in such land;

(9) " dhára land " means land held by a dhárekari, or by " Dhára land." a quasi-dhárekari;

(10) "khoti land" means land in respect of which a khot " Khoti land."

has, as such, any right or interest and which is not dhara land;

(11) " part " and " section " mean respectively a part " Part." " Section." and section of this Act;

(12) any word or expression which is defined in the Bombay Expressions defined in the Bombay Land

Revenue Code.

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 BELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Khots.

4. Khots shall continue to hold their " ontinuance of khots" villages to be subject to payment of jama. .

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.

What holders are to be deemed occupancytenants."

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 loccupation, 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 lesses 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 Right of occupancy than by inheritance. when land has been has been so transwrongfully transferred. ferred, the

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 :

actual

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 Continuance of priviconditionally on the leged occupants' tenleged occupants' ten-nes. payment of the rent from time to time lawfully due by them to the kbot or other person entitled to receive payment of the same.

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8. Tenants other than occupancy tenants shall continue Ordinary tenants. to bold 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, Sc., of Rights.

9. The rights of khots, dharekaris and quasi-dhárekaris shall Whatrightsare trans- be heritable and transferable. ferable,

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 commencemient 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 Resignation, lapse, or forfeiture of privileged occupants' lands.

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

Privileged occupants' rights may be conferred by khote.

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

Record of grant. 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 erercise the powers conferred by the said sections.

Recovery of Rents.

13. Whenever application is made to the Collector under Commutation-rates section . 86 of the Bombay Land Revefor rent payable in kind. nue Code, 1879, for assistance to recover rent from a privileged occupant, tenart or co-sharer and the rent claimed is payable in kind, the Collector may, if he thinks fir, direct the recovery of the money-value of such rent, and in such case the moneyvalue 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 Rent of land which occupancy-tenant land in his holding ou. account of the reut neglects to cultivate. 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 Khots to kerp time to time be reaccounts ; quired by the Collector under the orders of Government ; and

(b) produce such accounts, whenever and to produce required, to the Colthem when re-quired; lector or to any officer subordinate to the Collector not lower in rank them a mahálkari, and .

(c) give a written receipt for every and to give land revenue made to written receipts. 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 Penalty. 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 .-- SCRVEY AND SETTLEMENT.

Settlement Records.

16. Whenever a survey settlement of Preparation of Settlement Register of khoti

villages.

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 Privileged occupants' specify the nature rents to be fixed. 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 When the khotki is undi- records shall also vided, the co-sharers' respec- specify : tive rights to be recorded.

(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 cosharers, 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 When the khotki is the khotki hold their divided, each share to respective shares in be treated separately. 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 Disputes to be deterthe said register or mined by the survey other record, that officer. 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,

Survey officer's decision when not final to be set aside only by a. decree of court.

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

22. No suit shall lie against the said Bar of suits against erament. 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 Provisions of this Part when to apply. 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 payaole to Government Jama how to be calculated. 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 seid jama shall be Amount to be fixed for certain periods. From time to time fixed for the same period for which the survey assessments are fixed.

Managing Khots.

25. The annual kabuláyats hitherto Abolition of khots' 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 <u>Appointment</u> of more co-sharers joint-'Managing Khot." by 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 Managing khot how 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 Bevenue Code, 1879.

23. A managing khot nominated by Collector's nomination not to be disputed. the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lio against the Collector, or against Government, or any Government officer in respect of such nomination.

But it shall be lawful for any of the But suits in respect to the right of management not burred amongst the khots themselves. 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-

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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 Managing khot's furnish every managcertificate. ing khot with a cer-

tificate 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

Managing khot when there are no co-sharers.

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

Exclusive power of managing khot,

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 Separated sharers to be severally responsible for their respective thereof has been effected by the civil court, 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 khotkia.

Privileged Occupants' Rents.

33. The rent payable to the khot by Nature and amount privileged occupants of rent payable by prishall be as follows, vileged nooupants. (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 occu-pants shall be pay-

Privileged occupants' rents how and when to be paid.

able 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, Abolition of all cesses, nángarveth, wartála, Ac. 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 v Khot's liability for time be fixed by Gov-Local Fund cess. ernment under section 6 of the Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jams.

The khot shall be entitled to assistance

Dhárekaris and quasidhárekaris to what extent liable for the what ceaa.

under sections 86 and 87 of the Bombay Land Revenue Code, 1879, for re-

covery of the said cess at the said rate from dharekaris 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 Other inferior holders Fund cess, anything not liable for the cess.

contained in section 8 of the Bombay Local Funds Act, 1869, to the contrary notwithstanding.

PART V.-MISCELLANBOUS.

Existing survey settlements of the 37. land revenue of any Existing survey set

village to which this tlements confirmed. 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

New settlements may be substituted for existing settlements.

far

any such guarantee, or if it shall appear to the Governor in Council that a major-

ity 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, Bombay Land Beve-te Code, 1879, how r inapplicable to toti villages. All be deemed to constant for the section of the section Bombay Land Reve-nue Code, 1879, how khoti villages.

all 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 notification in the Rules to be made by 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 appraisement 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

Government may constitute uncultivated land a reserved forest. 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

Reserved forest constituted under the last preceding section to be subject to the provisions of the Indian Forest Act, 1878.

ing to forests for the time being in force, provided

under the last preced-

ing section shall be

subject to all the pro-

visions of the Indian

Forest Act, 1878, and

(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	EXCESS AMOUNT OF RENT PAYABLE FOR EVERY RUFEE AND PROPORTIONATELY FOR EVERY FRACTION OF A RUFEE OF THE SURVEY ASSESSMENT IN RESPECT OF			
Quasi-dhàrekaria,	Rice lands. Warkas lands.		Bagayat or Kabi landa.	
 Daspatkari	2 annas	2 annas	2 annas.	
Dupatkari	1 maund of rice in the husk.	51 pailis of grain (half nachani and half vari).	8 annas.	
Didpatkari or Didi- wala.	3 pailis of rice in the husk.	2 pailis of grain (half nachani and half vars).	3 annas.	
Paunedupatkari	6 pailis of rice in the husk.	4 pailis of grain (half nachani and half vari).	6 annas.	
	IIUSE.	1141 <i>turt</i>).		

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

Preamble. the Municipal Corporation of the City of Bombay a sum not exceeding thirty-six lakhs of rupees for the purpose of constructing new waterworks, 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 ma	ybe cited as "The Bom-
	bay . Municipality's
Short Title.	Consolidated Loan
	Act, 1880."

It shall come into force on such date as Commencement. Governor in Council

in the Bombay Government Gazette.

eal of Bombay	2.	Bombay	Act
of 1872.	II. of	1872 is re	epeal-
	ed.		

Interpretation Section. - 3. In this Act :

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Rep Act H (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." "Distance of the section of the

of Boinbay Act IIL of 1872 or by any other law for the time being inforce 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 waterworks, 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 surfacedrainage 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 Commis-Interest only to be sioner on behalf of paid at first. 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 Payments when to be made.

the first of January and the first of July. -

5. The whole of the consolidated loan shall be repaid with Period of re-payment. interest at the aforesaid rate within thirty years next after the 1st January 1881:

And for the better securing of the repayment of the consoli-Mode of re-payment.

dated 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 Payments where to Municipal Commissioner under either of the last two secbe made. tions 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 backers and receive money in Bombay in behalf of the Government;

- and notice of every such payment having been made shall be Notice of payment to be published.

forthwith published by the Municipal Commissioner in the Bombay Government Gazette.

7. If the Municipal Commissioner fail to make any of the In case of non-paysaid payments at the ment, report to be made to the Chief Secretary prescribed time, the to Government. 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 Secre-

tary, or other officer. Arrear may be recovered by detention of acting in that capamoneys due to the Corcity, when any of the said payments is in poration. 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 Or by attachment provided in the last of the municipal fund, preceding section, the te. 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 :

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Provided that no such attachment shall

defeat or prejudice any debt for which Attachment not to defeat prior charges legally made. 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 satis-faction of a liability incurred under this Act.

10. Nothing in this Act shall affect the Other rights and re- rights or remedies edies of the Govern- which the Governmedies of the Govern-ment of India not to be ment of India has or affected. 'shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

Account of balances due to Government of India to be published by the Municipal Commissioner yearly.

11. The Municipal Commissioner shall in the month of January in each year publish in the Bombay Government Gazette an account showing the

balances due by the Corporation on the 31st December preceding on account of the con-solidated loan, and of every other loan, if any, still repayable to the Government of India.

12. Unless under the provisions of Sec-

borrow money except from Government of India or with its sanction.

Corporation not to tion 7 of Act XI. of 1879, the Corporation shall not hereafter borrow money except from the Government of India.

If any new loan shall hereafter be granted Any new loan by the Government of India to be subject to the provisions of this Act. to the Corporation by the Government of India, the sameshall 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 consoli-dated 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 Eccellency 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

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certain			
the Bon	ibay	Irri	28-
the Bon tion Act	No.	VII.	of
1879.			

It is hereby enacted as follows :---Sections 49 to 56, both inclusive, of the Repeal of Sections 49 to 56 of Bombay Irrigation Act, 1879. Act No. VII. of 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.

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

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Act No. IX. of 1880.

An Act to amend the Bombay Civil Courts Act, 1869.

WHEREAS it is expedient to empower the Gov-Presmble. Presmble. Cil to fix and, from time cu to nx 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 sec. 2. In ver-tion after section 22 of after section 22, the toi-the Bombay Civil Courts lowing section shall be inserted :--

. "22A. The Governor of Bombay in Council

22A. The Governor of Bombay in Connext may, by notification in Power to fix local limits of jurisdiction of Subor-dinate Judges. and, by a like notifica-tion, from time to time alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

3. All orders issued by the Governor of Bom-Limits already fixed to be deemed to have been fixed according to law.

jurisdiction of a Subordinate Judge, shall be deemed to have been issued in accordance with โยพ

> D. FITZPATRICK. Secy. to the Govt. of India, Legislative Dept.

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BOMBAT: PRINTED AT THE GOVERNMENT CENTRAL PREAS.

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[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.-PBELIMINABY.

- 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 thirtyeight of the Bombay sud 38 of Bombay Act 1. of 1865. 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 someinterpretation. Interpretation. the subject or context,

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(1) "village" means a village, or a "Village." 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." occupant " means :

- (a) a dhárekari, or
- · (b) a quasi-dhárekari, or
- (c) an occupancy-tenant;
- (6) "dhárekari" means a land-holder
 "Dhárekari." who holds on the "dhára" tenure

(7) "quasi-dhárekari" means a landholder of any of the denominations named in the first column of the Schedule hereto annexed;

(8) " occupancy - tenant " means a holder of khoti land " Occupancy-tenant." who has a right of occupancy in such land;

(9) " dhára land " means land held by a dhárekari, or by " Dhára land." a quasi-dharekari;

(10) "khoti land" means land in respect of which a khot "Khoti land." has, as such, any right or interest and which is not dhara land;

(11) " part " and " section " mean respectively a part and section of this " Part," " Section."

> Act; •

(12) any word or expression which is defined in the Bombay

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Expressions defined in the Bombay Land Revenue Code.

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 BELATING TO KHOTS AND THEIR INFERIOR HOLDERS.

Khots.

4. Khots shall continue to hold their villages conditionally

Continuance of khots' on the payment of villages to be subject to 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.

What holders are to be deemed cocupancytenants.

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 transferableotherwise Right of occupancy than by inheritance, when land has been wrongfully transferred. has been so transferred, the

have a right of occupancy therein :

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

Provided that if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivat-ing 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 Continuance of privi-leged occupants' tenpayment of the rent from time to time

lawfully due by them to the khot or other person entitled to receive payment of the same.

other than occupancy Tenants tenants shall continue Ordinary tenants. 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, Sc., of Rights.

What rights are transferable.

9. The rights of khots, dharekaris and quasi-dhárekaris shall beheritable 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 Resignation, lapse, or

forfeiture of privileged occupants' lands.

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

Privileged occupants" at any time to confer Privileged occupants, rights may be conferred by kbots, 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 Record of grant.

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 Commutation-rates section, 86 of the for rent payable in kind. 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 moneyvalue 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 Rent of land which raise a crop on any an occupancy-tenant land in his holding on neglects to cultivate account of the rest 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 Khots to keep time to time be reaccounts ; quired by the Collector under the orders of Government; and *

(b) producesuch accounts, whenever and to produce required, to the Colthem when re- lector or to any offiquired; cer subordinate to the Collector not lower in rank than a mahálkari, and

(c) give a written receipt for every payment of rent or and to give written receipts. privileged occupant or tenant, or by a co-sharer in his khotki.

For disobedience of any order duly made

Penalty. Penalty. Penalty. 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 táluka 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 .

Preparation of Settlement Register of khoti villages. 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 nore 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 Privileged occupants, - the said section shall rents to be fixed. - 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 When the khotki is undirecords shall also vided, the co-sharers' respective specify: tive rights to be recorded.

(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 cosharers, 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 is divided, each share to be treated separately.

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 Disputes to be determined by the survey the said register or

officer. 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

Survey officer's decision when not final to be set aside only by a decree of court. 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 Bar of suits against survey officer, or survey officer or Gov- against Government, ernment. 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 settle-ment 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 Provisions of this to which this Act

Part when to apply. 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 Jama how to be cal-by the khot shall be the aggregate of the culated. 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 Amount to be fixed fixed for the same for certain periods. period for which the survey assessments are fixed.

Managing Khols.

25. The annual kabuláyats hitherto executed by khots Abolition of khots' shall no longer be rekabuláyata. quired 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 joint-Appointment of "Managing Khot."

ly, 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 Managing khot how to be nominated. cords 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.

23. A managing khot nominated by the Collector under Collector's nominathe last preceding section shall continue tion not to be disputed. in that capacity throughout the year for which he is so appointed, and no suit shall lio against the Collector, or against Government, or any Government officer in respect of such nomination.

But it shall be lawful for any of the . But suits in respect co-sharers at any time to the right of manage-ment not barred amongst the khots to sue for a decree inter se to declare which of them is themselves. 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, Managing khot's the mámlatdár shall furnish every manag-

ing 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 Managing khot when there are no co-sharers.

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.

21. When a managing khot has been duly appointed under managing khot.

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 Separated shares to the severally responsible for their respective ed by the civil court, shares, and the several court of the several court.

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 Nature and amount privileged occupants of rent payable by pri-shall be as follows, subged occupants. (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.

Qesses, Sc.

35. It shall not be lawful for any khot Abolition of allcesses, de. to levy phaski, eeth, núngarveth, 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 Govtion 6 of the Bombay Local Funds Act. 1869, shall be leviable by Government from the kLot on every rupee of his jama. The khot shall be entitled to assistance

Dharekaris and quasidhárekaris to what extent liable for the what

under sections 86 and 87 of the Bombay Land Revenue Code, 1879, for re-

be liable to Local

covery of the said. cess at the said rate from dharekaris and quasi-dhárekaris on every rupee of the survey assessment of the lands in their respective holdings.

Inferior holders of khoti lands shall not

Other inferior bolders

Fund cess, anything not liable for the cess. contained in section 8 of the Bombay Local Funds Act, 1869, to the contrary notwithstanding.

PART V.-MISCELLANEOUS.

Existing survey settlements of the 37. Existing survey settlements confirmed.

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

New settlements may be substituted for existing aettlements.

any such guarantee, or if it shall appear to the Governor in Council that a major-

ity 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 Bombay Land Reve. para. 2, 112, 150 e Code, 1879, how Bomhay Land Reve-nue Code, 1879, how far inapplicable to khoti villages. 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-cil-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 appraisement 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 dhara 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;

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(f) generally for the guidance of all persons in matters connected with the enforcement of this Act.

land a reserved forest.

41. And whereas it is necessary in the general interests of constitute uncultivated 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.

Reserved forest con-

42. Every reserved forest constituted under the last preceding section shall be

stituted under the last subject to all the propreceding section to be subject to the provi-sions of the Indian Forest Act, 1878. visions of the Indian Forest Act, 1878, and of any other law relat-

ing 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	EXCESS AMOUNT OF RENT PAYABLE FOR EVERY RUPRE AND PROPORTIONATELY FOR EVERY FRACTION OF A RUPPE OF THE SURVEY ASSESSMENT IN RESPECT OF				
Quasi-dhárckaris,	Rice lands.	Warkas I	Bagayat or Kabi landa		
		nni gragon gragon o segularizati na prato a	al han di se din din na sa sin din naji mana na ngen din na '		
Daspatkari	2 annas	2 andas		2 annas.	
Dupatkari	1 maund of rice in the husk.	51 pailis of grain (h half vari).	alf nachani and	8 annas.	
Didpatkari or Didi- wala.		2 pailis of grain (h half vari).	alf nachani and	3 annas.	
'annedupatkari	6 pailis of rice in the husk.	4 pailis of grain (1 half vari).	alf nachani and	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.

WHEBEAS the Government of India has

Presmble.

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 waterworks, and a further sum not exceeding six lakhs of rupees for the purpose of im-proving 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 Bom-bay 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 antount 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 :---

e cited as " The Bom-		
bay Municipality's Consolidated Loan		
Act, 1880."		
force on such date as		

Commencement υν της Governor in Council in the hombay Government Gazette.

Bepeal of Bombay Act II, of 1872,	2. Bombay Ac II. of 1872 is repea ed.
Act 11. of 1872.	

Interpretation Section. 1v.-13 h

3. In this Act :

(1.) "The Corporation" means the Muhicipal Corpora-" The Corporation." tion 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

" Municipal Fund." 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. . **4**

(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 waterworks, or such portion thereof as may be taken up by the Corporation;
- The sum of six lakhs of rupees to (b) 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;
- The sum of rupees twelve lakhs and **(c)** : 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 st first. 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 Period of re-payment. shall be repaid with interest at the aforesaid rate within thirty years next after the lst January 1881 :

And for the better securing of the repay-Mode of re-payment. ment of the consoli-

dated 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 Payments where to be made. 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 tankers and receive money in Bor.bay in behalf of the Government;

and notice of every such payment having Notice of payment to be published. by the Municipal Commissioner in the Bombay Government Gazette.

7. If the Municipal Commissioner fail In case of non-payment, report to be made said payments at the to the Chief Secretary prescribed time, the to Government. 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 Secre-

Arrear may be re- tary, or other officer covered by detention of acting in that capamoneys due to the Cor- city, when any of the poration. 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 Attachment not to 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 satis-faction of a liability incurred under this Act.

10. Nothing in this Act shall affect the Other rights and re- rights or remedies when of the Govern- which the Governmedies of the Govern-ment of India not to be ment of India has or affected. shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

Account of balances due to Government of India to be published by the Municipal sioner yearly. al Commis

11. The Municipal Commissioner shall in the month of January in each year publish in the Bombay Government Gazette an account showing the

balances due by the Corporation on the 31st . December preceding on account of the con-solidated loan, and of every other loan, if any, still repayable to the Government of India.

12. Unless under the provisions of Sec-Corporation not to prow money except of 1879, the Corporaborrow money except from Government of India or with its sanction.

tion shall not hereafter borrow money except from the Go-. vernment of India.

If any new loan shall hereafter be granted

Any new loan by the Government of India to be subject to the provisions of this Act. to the Corporation by India, the Government of India, the same shall be subject as regarded 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 consoli-dated 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.

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* 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

Preamble.

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is dee	med expedient to repeal	
	certain sections of	
	the Bombay Irriga-	
	tion Act No. VII. of	ł
· .	1879,	

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It is hereby enacted as follows :---Sections 49 to 56, both inclusive, of the Repeal of Sections 49 to 56 of Bombay Irri-gation Act, 1879. Bombay Irrigation Act No. VII. of 1879 are hereby repealed. 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. .

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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 Gov-Preamble. ernor of Bombay in Coun-cil 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 sec. 2. In the same acc. tion after section 22 of after section 22, the fol-lowing section shall be act.

"22A. The Governor of Bombay in Council Power to fix local limits of jurisdiction of Subor-dinate Judges. alter, the local limits of the ordinary jurisdiction of the Subordinate Judges."

3. All orders issued by the Governor of Bom-bay in Council previous to the passing of this be deemed to have been fixed according to law. the local limits of the initiation of a Subadiante Judge shall be

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.



Gazette. Bombay

Buthority. gublished bŋ

THURSDAY, 15TH JULY 1880.

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

ACTS PASSED BY THE COVERNMENT OF, INDIA.

PART IV.

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. XIL of 1880.

An Act for the appointment of persons to the office of Kází.

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 Officirs and to the offices of Kází-ul-Kuzáat and of Kází and to abolish the jormer offices) it was (among other things) declared that it was inexpedient that the appointment of the Kází-ul-Ku-záat, or of City, Town er Pargana Kázís 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 re-pealed; and whereas by the usage of the Mu-hammadan community in some parts of British India the presence of Kázís 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 em-

powered to appoint persons to the office of Kází ; It is hereby enacted as follows :---

	Short (litle	í.	•
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1. This Act may be called "The Kázis Act, 1880";

and it shall come into Commencement. force at once.

It extends, in the first instance, only to the territories administered Local extent.

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 Gov-Power to Government appoint Kaya for any to appoint Kázis for any local area. 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 Kází 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 normal of variding alsowhere on its for the purpose of residing elsewhere, or is declared an insolvent, or desires to be discharged

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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 Kází appointed under this Act may appoint one or more per-sons as his náib or náibs Naib Kazis. 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 Kazi 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 hercunder, shall be deemed-.

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Nothing in Act to con-fer judicial or other powers on Kázi; or 🌘 . . 44

(b) to render the presence of a Kázi or Náib to render the presence of a Kází necessary , or

of any rite or ceremony; or 1.27

to prevent any one act-ing as KázL • • • • •

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or administrative powere on any Kázi or Náib Kázi appointed hereunder; or

* (a) to confer any judicial

Kází necessary at the celebration of any marriage or the performance

(c) to prevent any person discharging any of the functions of a Kází.

D. FITZPATRICK,

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

POMBAY : PRINTAD AT THE GOVERNMENT CENTRAL PRANS . .

42 a

[Published with the "Bombay Government Gazette" on the 22nd July 1880.]

PART IV.

ACTS PASSED BY THE COVERNMENT OF INDIA.

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The following Act of the Governor General of India in Council received the assent of His Ex-cellency the Governor General on the 9th July 1850, and was promulgated for general informa-tion in the Gazette of India on the 10th July 1550:---

Act No. XII. of 1880.

An Act for the appointment of persons to the office of Kází.

WHEREAS by the preamble to Act No. XI. of 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 Offi-cers and to the offices of Kází-ul-Kuzúat and of Kází and to abolish the former offices) it was (among other things) declared that it was inex-pedient that the appointment of the Kází-ul-Ku-zúat, or of City, Town or Pargana Kázís 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 re-pealed; and whereas by the usage of the Mu-hammadan community in some parts of British India the presence of Kázís appointed by the Government is required at the celebration of Government is required at the celebration of marriages and the performance of certain other. rites and ceremonics, and it is therefore expedient that the Government should again be empowered to appoint persons to the office of Kází; It is hereby enacted as follows :---

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

and it shall come into Commencement. force at once.

It extends, in the first instance, only to the territories administered Local extent. 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 administra-

tion. 2. Whenever it appears to the Local Gov-Power to Government to appoint Kázís for any local area. in any local area desire that one or more Kázís should be appointed for

such local area, the Local Government may, if 1v.-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 Kázís for such local area.

If any question arises whether any person has been rightly appointed Kází 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 suspend of remove any hazi 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, opleaves 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 hearment in the from the office, or who refuses or becomes in the opinion of the Local Government unfit, or person-ally incapable, to discharge the duties of the office.

3. Any Kázi appointed under this Act may eppoint ono ce mars per-sons as his náib or náibs Naib KAzis.

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 naib so appointed.

When any Kází is suspended or removed under section two, his naib or naibs (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 cors fer judicial or other pow-ers on Kazi; or

(a) to confer any judicial or administrative powers on any Kází or Náib Kází appointed hereunder; or

(b) to render the presence of a Kází or Náib Kázi necessary at the to render the presence of a Kazi necessary ; or celebration of any marrlage or the performance of any rite or ceremony ; or

to prevent any one act-ing as Kázi.

(c) to prevent any person discharging any of the functions of a Kási.

D. FITZPATRICK,

Secy. to the Govt. of India, Legislative Department

DOM GAY ; PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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

PART IV.

ACTS PASSED BY THE COVERNMENT 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 Kází.

WHEREAS by the preamble to Act No. XI. of WHEREAS by the preamble to Act. No. Al. of 1864 (An Act to repeal the law relating to the opices of Hindá and Muhammadan Law Offi-vers and to the offices of Kází-ul-Kuzáat and of Kází and to abolish the former offices) it was (among other things) declared that it was inex-(among other things) declared that it was inex-pedient that the appointment of the Kází-ul-Ku-viet, and Oity, Tome ar Paroaua Kázís 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 re-pealed; and whereas by the usage of the Mu-hammadan community in some parts of British India the presence of Kázís appointed by the Government is required at the celebration of marriages and the performance of certain other rites and ceremonies, and it is therefore expe-dient that the Government should again be em-powered to appoint persons to the office of Kázís; powered to appoint persons to the office of Kází; It is hereby enacted as follows :--

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Short title.		call
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1. This Act may be led "The Kázis' Act, 1880 ": and it shall come into

Commencement.

force at once,

Local extent.

It extends, in the first instance, only to the territories administered by the Governor of F 'ort

St. George in Council. But any other Local Gov-erament 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 Gov-Power to appoint Kizis derable number of the For any local area. Muhammadawa

in any local area desire that one or more Kázis should be appointed for such local area, the Local Government may, if 1V.-11 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 Kázís for such local area.

If any question arises whether any person has been rightly appointed Kází 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 person-uly incapable, to discharge the duties of the office.

3. Any Kázi appointed under this Act may appoint one or more per-Náib Kázis

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 naib so appointed.

When any Kazi 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 con-fer judicial or administra-tion powers; or

(a) to confer any judicial or administrative powers on any Kázi or Náib Kázi appointed hereunder; or

to render the presence of Kazi necessary ; or

(b) to render the presence of a Kází 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 Kází. to prevent any one act-ing as Kázi.

D. FITZPATRICK,

Secy. to the Govt. of India,

Legislative Department.

BOMBAY ; PRINTED AT THE GOVERNMENT CENTRAL PRESS.

42 b

[Published with the "Bombay Government Gazetts" on the 18th November 1880.]

PART IV.

ACTS PASSED BY THE COVERNMENT OF INDIA.

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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 Preamble.

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 Short title shall come into force on Commencement. the passing thereof.

2. This section and sections three, four and thirteen extend to the whole of British India. Local extent.

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 Appointment of Census-officers,

take, or aid in or supervise the taking of, the census within any specified local area.

Persons so appointed shall be called "Censusofficers."

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

Proof of appointment of Local Government in this Census-officer.

behalf, that any person has been duly appointed Census-officer for any local area shall be concluwive proof of such appointment.

All Census-officers shall be deemed to be deemed public servants.

IV.-15 a

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Census officers 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

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Duties of Census-officers how to be discharged in certain cases.

belonging to Her Ma-jesty'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 educa-tional institution,

(d) every keeper or manager of any seráí, 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 ap-plicable) 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 Paral Code Indian Penal Code.

6. The Magistrate of the district may, by an Power of Magistrate of the district may, by at Power of Magistrate of order written, printed or district to call upon cer-tain persons to give assist-ance. 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 pancháyats appointed in his district under Bengal Act No. VI of 1870 (to provide for the appointment, diswissal and maintenance of Village Chaukiddre), 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

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[Published with the "Bombay Government Gazette" on the 18th November 1880.]

PART IV.

ACTS PASSED BY THE COVERNMENT 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 Preamble. it is expedient to provide for certain matters in connection with the taking of such census; It is hereby enacted as follows :-

Short title. Commencement

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. Local extent.

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 Garatte direct official Gazette, direct.

3. The Local Government may appoint any Appointment of Census-officers, take, or aid in or supervise the taking of, the census within any specified local area.

Persons so appointed shall be called "Censusofficers."

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

Proof of appointment of Local Government in this Census-officer.

behalf, that any person has been duly appointed Census-officer for any local area shall be conclu-

wve proof of such appointment. All Census-officers shall be deemed to be

Census officers to be public servants within the deemed public servants.

meaning of the Indian Penal Code, IV.-15 a

5. (a) Every military or naval officer in command of any body of men

Duties of Census-officers how to be discharged in certain cases.

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 seráí, 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 ap-plicable) 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 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 Power of Magistrate of district to call upon cer-tain persons to give assist-all owners and occupiers ance. ance. of land, tenure-holders, farmers, assignces of land-revenue and lessees of fisheries under the Burma Fisheries Act, 1875, in his district, or their agents; and upon all members of panchiyats appointed in his district under Bengal Act No. VI. of 1870 (to provide for the appointment, diswissal and maintenance of 'Village Chaukidites), 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.

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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 obligation to answer 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 occupier of house, &c., shall allow the Census-

to allow access. 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 Gov-

Occupier of Louse to fill up schedule.

crnment may issue in this behalf, any Censusofficer 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 making false return. 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 Penalty for misconduct of Census-officers. 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.

Jurisdiction in prosecu, tions. 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

Records of census not admissible in evidence in certain proceedings.

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.

WHEBEAS it is expedient to amend the Bombay Revenue Jurisdiction Preamble. 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 Short title. Commencement.

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Revenue Jurisdiction Act, 1880"; and it shall come into force at once.

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2.

Sections eight, nine, ten and seventeen of Repeal of sections 8, 9, 10 and 17 of Act No. X. Jurisdiction Act, 1876, of 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 Addition to section 32 Courts Act, No. XIV. of of Act No. XIV. of 1869 1869, as amended by section fifteen of the said Bombay Revenue Jurisas amonded by section 15 of Act No. X. of 1876. diction Act, 1876, the following words shall be added :---

"Provided that nothing in this section shall be deemed to apply to any Proviso. suit merely because-

"(a) a municipal corporation constituted under Bombay Act No. VI. of 1873, or any other enact-ment 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 para-graph, or selected under Act No. XX. of 1804 (for making better provision for the care of the persons and property of minors in the Presiden-cy 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

Governor in Council to make rules as to certain advances for purposes ot her than those specified in Act than those specified i No. XXVI. of 1871.

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 admi-

nistered 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.

All such rules shall be published in the local official Gazette.

5. Every advance for any such purpose which may heretofore have been Recovery of such ad-

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.

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

PART IV.

ACTS PASSED BY THE COVERNMENT OF INDIA.

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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 connec-, tion with the taking of the Census.

WHEREAS it has been determined to take a cen-Preamble. sus 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 Short title. shall come into force on Commencement. the passing thereof.

2. This section and sections three, four and thirteen extend to the Local extent. 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 Appointment of Census-bierrs. offic

take, or aid in or supervise the taking of, the census within any specified local area.

Persons so appointed shall be called "Censusofficers."

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

Proof of appointment of Census-officer. 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 bo Census-officers to be deemed public servants.

public servants within the meaning of the Indian Penal Code.

5. (a) Every military or naval officer in com-

Duties of Census-officers how to be discharged in certain cases.

mand 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 serif, 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 Cansus-officers shall apply (so far as they are ap-plicable) 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 Power of Magistrato of district to call upon cer-tain persons to give assist-all owners and occupiers ance. ance. of ind, tenure-holders, farmers, assignces of land-revenue and lesses of fisheries under the Burna Fisheries Act, 1875, in his district, or their agents, and upon all mombers of paacháyats appointed in his district under Bengal Act No. VI of 1870 (to provide for the appointment, dismissal and maintenance o Village Chaukidirs), to give such assistance as h needs towards the taking of a census of the person rele are at the time of taking the census of the who are at the time of taking the census on th. lands of such owners, occupiers, holders, farmers ard assignces, within the limits of such fisherice

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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 with-Census-officers empowin the limits of the local ered to ask questions. ered to ask questiona 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 Obligation to answer shall be legally bound to questions. 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

Occupier of house, &c., shall allow the Censusto allow access. 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

Occupier of house to this behalf, any Censusfill up schedule. 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 consus.

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.

Penalty far failing to fill up schedule, &c., or making false return.

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 ropees.

11. Any Census-officer who, knowingly and without sufficient cause,

Penalty for misconduct disobeys the instructions of Census-officera. 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 Govern-Jurisdiction in prosecument may, by notification tions 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.

18. Notwithstanding anything to the contrary contained in the Indian Records of census not admissible in evidence in certain proceedings. Evidence Act, 1872, nu entry in any book, regis-ter 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 Pro-cedure, or chapter eighteen of the Presidency Magistrates Act, 1877.

D. FITZPATRICK.

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

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Act No. XV. of 1880.

An Act to amend the Bombay Revenue Jurisdiction Act, 1876.

WHEREAS it is expedient to amend the Eombay Revenue Jurisdiction Preomble. 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				Bombay
Short title. Commencement.		Revenue Jurisdiction Act, 1880"; and it shall come into force at once.					

2. Sections eight, nine, ten and seventeen of Repeal of sections 8, 9, the said Bombay Revenue D and 17 of Act No. X. Jurisdiction Act, 1876, 10 and 1 of 1876. are hereby repealed :

Provided that the repeal hereby effected, of the hirst clause of the said section seventeen, shall not operate in any Scheduled District unless and until the Bomboy 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 Addition to section 32 of Act No. XIV. of 1869 as amended by section 15 of Act No. X, of 1876. 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 Proviso. suit merely because-

"(t) a municipal corporation constituted under Bombay Act No. VI. of 1873, or any other enau-ment 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 ⁽⁶⁾ an other of a Court appointed under the Code of Civil Procedure, section 450, last para-graph, or selected under Act No. XX. of 1864 (for making better provision for the care of the persons and property of minors in the Presiden-cy of Bombay), section 9, is, in virtue of such appointment or selection, a party to such suit."

4. The Governor of Bombay in Conneil may, Governor in Council to make rules as to certain advances for purposes other than those specified in Act No. XXVI. of 1871.

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 admi-nistered 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.

All such rules shall be published in the local official Gazette.

5. Every advance for any such purpose which may heretofore have been Recovery of such ad-made by or on behalf of

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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 Gost. of India, Legislative Department.

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