

THE
ACTS AND PROCLAMATIONS
OF
TRAVANCORE

VOLUME I

1010—1086 M. E.
(1834—1910)



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ABBREVIATIONS EXPLAINED.

A. P.	Sree Mulam Assembly Proceedings.
A. R.	Administration Report of Travancore.
Art.	Article.
Chap.	Chapter.
C. P.	Sree Chitra State Council Proceedings.
C. P. C.	Civil Procedure Code.
Cr. P. C.	Criminal Procedure Code.
L. C. P.	Legislative Council Proceedings.
L. R. M.	Land Revenue Manual of Travancore.
Or.	Order.
P.	Page.
Pp.	Pages.
Pr.	Paragraph.
R.	Rule.
Sch.	Schedule.
S. C. R.	Select Committee Report.
Sec.	Section.
S. F. R.	Settlement Final Report.
S. O. & R.	Statement of Objects and Reasons.
S. M.	State Manual (1st edition).
T. G. G.	Travancore Government Gazette.

PREFACE.

The existing edition of the Acts and Proclamations of Travancore (Volumes I to VI) was published during the years 1102, to 1105. Since then, several Acts have been repealed and re-enacted, several others amended and a large number of Statutes newly enacted. These laws promulgated up to the end of the year 1120 are embodied in the Supplementary Volumes VII to XIV. The amending Statutes enacted after 1105 are so numerous that one has to refer almost all the Volumes of the Acts and Proclamations for ascertaining the law in force. The absence of an up-to-date edition of the Statute Book is therefore keenly felt and the present publication is intended to meet that want.

In this edition of the Laws of Travancore, as in the previous publications, the Enactments are arranged in their chronological order. For facility of reference an alphabetical list of the contents is also prefixed to the respective Volumes and a similar consolidated list of all the Enactments appended to the last Volume.

The history of legislation on each subject is briefly sketched in the foot-notes with a view to trace the development of the law on the subject. Besides, the foot-notes contain all the relevant legislative references. In the case of Amending Acts, such references are collected together and given under the main Enactments. Where a Section is repealed or amended, the original provisions are also quoted in order that the law as it stood prior to

the amendment may be easily referred. As regards Statutes which are adaptations from the Laws of the Indian Union or the Provinces thereof, the corresponding Sections are noted in the table of contents annexed to the respective Acts and the difference, if any, is indicated in the foot-notes.

The Statutory Rules and Notifications are being published as a separate series.

A detailed and comprehensive General Index to the Statutes and Statutory Rules and Notifications is also being published as a separate Volume. It contains over 35,000 entries, each entry being chosen with judicious care so as to express simply and concisely the subject-matter and the nature of the Section or Rule indexed.

Trivandrum,
1-4-1948.

T. P. KRISHNAN NAIR.
P. N. SITARAMA IYER.
Compilers.

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ACTS AND PROCLAMATIONS

OF

TRAVANCORE

ACT I OF 1010.

An Act for extending the powers vested in the Munsiffs
and for defining their jurisdiction.

*Passed by His Highness the Rajah of Travancore on
the 9th March 1835 corresponding with the
28th Kumbhom 1010.*

1—6. [*Repealed by Act I of 1057.*]

7. [*Repealed by Act VIII of 1100.*]

8—17. (Clause 4). [*Repealed by Act I of 1057.*]

17. (Clause 5). In decrees on suits, the Munsiff shall allow in the decree the interest that may be due from the period the suit may have been instituted to the day on which the decree shall be passed; but he is prohibited from decreeing on account of interest a sum exceeding the principal, if the claim be for paddy or grain, and only one-half exceeding the principal, if for money.

Period for which and extent to which interest is to be allowed.

[*So much of Section 17, Clause 5, as relates to interest for money, repealed by Act VIII of 1100.*]

18—21. (Clauses 1 and 2). [*Repealed by Act I of 1057.*]

21. (Clause 3). [*Repealed by Act I of 1059.*]

22—34. [*Repealed by Act I of 1057.*]

POWERS AND JURISDICTION OF MUNSIFFS.

Effect of legislation.			
Year.	No.	Short title.	How affected by subsequent legislation.
1010	1	Powers and jurisdiction of Munsiffs.	Repealed in part by Act I of 1057; Act I of 1059 and Act VIII of 1100. [Act II of 1065 repealed the whole of Act I of 1010 except S. 7 and S. 17 (5). This is a surplusage as the remaining provisions were already repealed by Acts I of 1057 and I of 1059.]

"It was only in 1835 when a general scheme of judicial administration was conceived and carried out, founded on the arrangements then obtaining in the Madras Presidency, that the term 'Regulation' came first into use. Seven Regulations were passed in that year under sign manual all relating to judicial matters viz. powers and jurisdiction of Munsiffs, the assembling of District Panchayats, execution of decrees, jurisdiction of Zilla Judges, constitution of the Appeal Court, the investing of Tahsildars with police powers and creation of circuit Judges and the laying down of the procedure to be observed in the trial and commitment of criminal cases. The development of codified law begins from this period....."—*S. M. Vol. III, p. 547.*

The enactments called "Regulations" were styled "Acts" and the word "Act" was substituted for the word "Regulation" wherever the latter word was used to denote an enactment styled "Regulation," by Proclamation dated 5th Meenam 1114. It was also commanded that enactments that may be passed in future shall be styled "Acts".

The Civil Courts Act I of 1057 repealed the whole of Act I of 1010 excepting S. 7, S. 17 (5) and S. 21 (3). Section 21 (3) which prohibited admission of documents duly executed on stamped cadjan and provided for levy of penalty on such documents was repealed by the Stamp Act I of 1059. Act II of 1065 (Civil Procedure Code) repealed the whole of Act I of 1010 except S. 7 and S. 17 (5). This repeal appears to be a surplusage as all the provisions of Act I of 1010 except S. 7 and S. 17 (5) had already been repealed by the enactments above referred to.

Law relating to interest.

The subsisting provisions of Act I of 1010 and S. 21 of Act IV of 1010 restrict the rates of interest that may be decreed by Courts as also the total amounts that may be decreed and recovered. The trading classes agitated for the repeal of these provisions at the Seventh Session of the Sri Mulam Popular Assembly. The Government thereupon invited the opinion of the High Court in the matter. The Government Proceedings to which the minutes of the Judges are subjoined are published in *T. G. G. dated 20-2-1912.*

ACT I OF 1010.

In pursuance to the Government Proceedings a Bill on the lines of the British Indian Interest Act XXXII of 1839 was introduced in the Legislative Council at its meeting on 17th October 1912, the object being "to remove the statutory restrictions placed on the freedom of contract in the matter of interest as such restrictions hamper the development of trade". The Bill was withdrawn as the non-official members were unanimously of the view that the law should be left as it was. *T. G. G. dated 22-10-1912.*

The question relating to the rates and recovery of interest was again considered at the time of the enactment of the Civil Procedure Code, Act VIII of 1100. The statement of objects and reasons appended to the Civil Procedure Code Bill says:—

"The present statutory law consists of remnants of two Acts passed in 1010 M. E., relating to procedure of Civil Courts. According to the law in vogue, no other than simple interest may be recovered, and no more than 12 per cent. in cases of money can be allowed. By a strict interpretation of the wording of the Section the High Court have recently held that the amount of interest adjudged cannot exceed half the principal as at date of decree, and not as at date of suit. These provisions regarding payment of interest were passed nearly a century ago, and have been subject of adverse criticism at the hands

of laymen, merchants and lawyers alike. The existing law makes a difference between loans of money and paddy, as, in the latter case, as much as 20 per cent. may be allowed, and the interest may go up to an amount equal to the principal. Whatever may have been the reason which existed to justify this difference of treatment, there is none now to support the continuance of such treatment. Various devices are resorted to by lenders and borrowers to defeat the existing law.

"An attempt, however, to wholly abrogate this law and allow complete freedom of contract failed, when steps were taken at no distant past to give effect to the same in the Legislative Council. It is felt that, while complete freedom of contract need not be granted, the restraint now in force must be substantially relaxed."

*S. O. & R. Sec 31—T. G. G.,
dated 20-6-1922.*

In the result, Act VIII of 1100 repealed Section 7 of Act I of 1010, and so much of Section 17, Clause (5), of the same Act and so much of Section 21 of Act IV of 1010, as relate to interest for money.

Owing to the continued abnormal fall in the money value of agricultural products and the consequent economic condition of the agriculturists, a Bill intended to give them temporary relief by devising special measures therefor, was introduced in the Assembly on the 16th of April 1936 (4th

POWERS AND JURISDICTION OF MUNSIFFS.

Medom 1111). The statement of Objects and Reasons appended to the Bill (The Agriculturists' Relief Bill) says:— "Clauses 34 to 36 deal with interest on debts for a period of 3 years from the commencement of this measure. In regard to debts existing on the date of commencement of this enactment, no interest exceeding 6 per cent. will be allowed during a period of 3 years, while the interest if it be 6 per cent. or below will remain as it is. Interest accrued due prior to the date of the commencement of this enactment is not proposed to be interfered with. In regard to debts arising after the commencement of this enactment, the maximum interest that will be allowed for a period of 3 years from the commencement of this enactment is 6 per cent. in the case of secured debts and 9 per cent. in the case of unsecured debts, while in the case of decreedebts it will always be 6 per cent. In regard to interest accruing due on paddy loans it will not be allowed at any rate exceeding 9 per cent. for a period of 3 years from the date of commencement of this enactment."

T. G. G. dated 31-3-1936.

The principle of the Bill was accepted and the Bill was passed as Act III of 1112 (The Agriculturists' Relief Act III of 1112).

More effective and proper measures of relief against accrual of interest was conferred by Sections 11 and 12 of Act II of 1116 (The Debt Relief Act)

in respect of certain classes of debts to which the Act was made applicable. The distinction between agriculturists and non-agriculturists was removed by the Act as such distinction sometimes resulted in the denial of relief in deserving cases and subject to certain exceptions the Act is made applicable to all debts incurred before the 23rd day of Dhanu 1112, the date of enactment of the Travancore Agriculturists' Relief Act.

The repealed provisions of Act I of 1010 ran as follow:—

"The establishment of Munsiffs Courts in all the Districts of Travancore having afforded the inhabitants great facility in the prosecution of petty Adalut suits, it is expected that increased benefits will result if the present powers delegated to the Munsiffs be extended the following Rules have therefore been enacted:—

"1. The Munsiffs shall hereafter be under the control of their respective Zilla Courts.

"2 (1) All Rules hitherto in force for the guidance of the Munsiffs are hereby rescinded from this date and they shall henceforth be guided by the enactments of this Regulation.

(2) The appointment of Munsiff shall be conferred on persons selected from those reported to be eligible for that Office, above the age of 25 years, acquainted with the Regulations and experienced with the business of the Huzoor, Appeal, and Zilla Courts and they shall receive their Neet of appointment from the

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Huzoor. The writers and other subordinate servants under the Munsiffs shall be appointed by the Appeal Court, reporting the same to the Huzoor.

(3) The Munsiffs appointed shall, previous to entering upon the duties of their Office, subscribe a written declaration before the Appeal Court according to Form No. 1 in the Appendix to this Regulation, and make oath to the same, but in cases when the Court may think it improper to administer the oath, on account of the caste or rank of the persons about to be appointed, they shall only be required to subscribe a solemn declaration, which being attested by the Court, shall be kept among the public records.

(4) Whenever a Munsiff is appointed, he shall be furnished with a certificate under the seal and signature of the Appeal Court, stating the particular day, month and year he was appointed Munsiff in the district of — and that all Adawlut cases cognizable by the Munsiff courts according to this Regulation, shall be preferred before him. This certificate the Munsiff shall cause to be published as soon as he reaches the District, and he shall afterwards suspend it on a board in a conspicuous part of his Cutcherry.

" 3 (1) The Munsiff is empowered to receive, hear and determine all suits preferred to him by parties residing within his jurisdiction, but he is prohibited from receiving, and

determining suits, in which Europeans or Americans may be parties, these being only cognizable by the Zilla Courts.

(2) The Munsiffs are empowered to receive, investigate and determine suits of the following descriptions:— Suits relating to privileges enjoyed by the inhabitants in Lands and Gardens under the tenures denominated *Adima*, *Anubhogam*, *Kuduma Vritty*, *Tirumughom*, *Tirivedalum*, etc.; also suits relating to Lands and Gardens under the tenures, termed, *Edotty*, *Panayum*, *Nettum*, *Vella*, etc., provided the annual profits or produce of the Lands and Gardens or the net profits of one year arising from the privileges alluded to, do not exceed ten rupees; and of the latter if the value is specified in the title deeds do not exceed 100 rupees, likewise suits relating to Houses, Wells, Tanks, losses or damages sustained on any account, and every description of moveable property, also suits regarding transaction of lending or borrowing, provided the amount of every and each suit, shall not exceed 100 rupees.

" 4 (1) All suits shall be preferred within a period of 12 years from the date when the cause of action originated, otherwise they shall be considered inadmissible unless the Plaintiff can prove, that he had called upon the Defendant for a settlement of his claim, or demanded the payment of the sum or sums due to him by the Defendant within the above mentioned period, or that the Defendant had admitted

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the justice of the demand, or that he (the Plaintiff) had directly preferred his claim within the said period to a competent authority, or in such cases as the Plaintiff can assign satisfactory reasons why the prosecution of the suit was delayed or prove that from minority he was unable to bring forward his claim.

(2) Munsiffs are not authorised to receive suits which may be preferred by parties for the recovery of damages on account of defamation of character, or personal injuries of any nature whatsoever, which are only cognizable by Zilla Courts.

(3) Suits of the description mentioned in the foregoing clause or any other, being preferred to the Zilla Court, if the Court shall think proper at the desire of both the Plaintiff and Defendant, that the suit should be investigated by the people of the caste to which the parties belong, or by the head people of the village wherein they reside, the court is authorised to forward such suit to the Munsiff, and order him to have it decided by Punchayat.

(4) The Munsiffs after receiving such suits from the Zilla Court are empowered to dispose of them conformably to the rules prescribed in the 2nd Regulation of this year.

(5) Munsiffs are prohibited from hearing and determining suits in which they themselves, or their relatives or dependents or persons employed in their Cutcherry may be a party, and

they are further prohibited from allowing any party in a suit to plead before them in '*forma pauperis*' such suits being only cognizable by the Zilla Courts; but the Zilla Court is empowered to refer all suits mentioned in this clause except those preferred in '*forma pauperis*' to another Munsiff for trial and decision.

" 5. The Zilla Court after receiving suits preferred by parties having no means to pay the established fees, is authorised to forward the same, exempted from fees, if the amount of each suit does not exceed the sum mentioned in the 2nd clause of 3rd Section of this Regulation to the Munsiff for trial and decision, who is authorised to receive such suits, and enter them according to the order of their number in his calendar and investigate and determine them agreeably to the enactments of this Regulation.

" 6. If it should not be convenient for a Plaintiff or Defendant to plead in person, before the Munsiff the party will be allowed to employ a relative or agent, or a dependent to plead for him as Vakil who must be furnished with a Vackalutnamah describing his relationship to his employer, the matter in which he is empowered to act as Vakil, and the admitted liability of the party to the decree that may be passed when the suit has been pleaded through the agency of his Vakil, signed by the party and attested by two witnesses. Munsiff shall not permit any person to act as Vakil unless such person

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shall produce before him a Vackalutnamah containing the aforesaid particulars. All Vackalutnamahs must be executed in the presence of some Sirkar Officer at hand, such as the Tassildar, Munsiff, Tannah Naigue or Parvatiar, who shall write himself on it the date of its execution before him, and attest the same with his signature.

"7. Munsiffs are hereby prohibited from allowing in their decrees a greater rate of interest in any suit brought before them than 12 rupees per cent per annum, but if the interest mentioned in the document be less, Munsiffs shall decree accordingly.

"8. Munsiffs shall be entitled to levy from the Plaintiff in all suits preferred before them a fee of five rupees per cent on the amount or value in dispute.

"9. The rule hitherto in force that all complaints regarding Adaulut cases should be preferred on stamped cudjans is hereby cancelled, and in lieu thereof it is enacted that henceforth all such complaints together with the proceedings shall be written on unstamped cudjans but the *Decrees* of the Courts are to be written on country or China paper.

"10. (1) The Munsiff shall endorse upon the back of every plaint presented to him, the names of the parties, an abstract of the contents of the suit, the date, month and year of its being filed, the amount of the fees levied, and attest the same with his signature.

(2) The Plaint shall state the names of the parties, their age as well as their residence, the date, month and the year when the cause of action first arose, the grounds of the complaints, the amount in value of the property claimed, and all material circumstances tending to elucidate the case; but if the complaint contains any irrelevant matter Munsiffs shall reject it.

(3) Complaints preferred to the Munsiffs shall be entered in a File Book to be kept by them according to the form No. 2 in the Appendix to this Regulation, successively numbered and corresponding numbers written upon the back of such plaints, *above* the names of the parties, and with a view of ascertaining whether the Munsiffs adhere to the established rules, the Zillah Court shall send for the File Books every six months and after inspecting them shall return them to the Munsiffs.

"11 (1) When a complaint shall have been received and registered, the Munsiff shall cause a written summons to be served on the Defendant under his seal and signature, mentioning the number of the suit, name of the Plaintiff and the substance of the complaint, and requiring the Defendant to attend either in person or by Vakil to answer the same, within a certain period to be specified in the summons but such period shall not exceed five days.

(2) The Munsiff shall cause the summons to be served

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on the Defendant by a summoning Peon and shall write on the back of it the date when it was issued, the name of the Peon charged with it and the batta payable to him, under which he shall affix his signature. The Munsiff after ascertaining exactly the time required for the summoning Peon to proceed to the place, where the Defendant may reside, and return, and allowing also a day or two during which he may be detained shall order the Plaintiff to pay the batta accordingly due to the Peon at two Chackaroms per diem.

(3) The Peon through whom the summons may be served, shall require from the Defendant a written acknowledgment to that effect to be endorsed on the back of the summons under the Defendant's signature, and shall further cause two of the Defendant's neighbours to witness the due execution of the Service, and attest the same with their signatures, after which he shall return the summons to the Munsiff.

(4) If a defendant who may have been served with a summons, shall not appear in person or by Vakil within the time therein specified or if the Defendant having appeared shall refuse to answer the complaint, or if the Munsiff shall be satisfied by sufficient evidence, that the summons was duly served upon the Defendant, the Munsiff shall proceed to examine the Plaintiff's evidences in support of his claim, and decide the suit *ex-parte*.

"12. (1) If a defendant, to whom a summons may have been issued shall abscond or conceal himself, or cannot after a strict inquiry among his neighbours, be found, or after having been found, shall refuse to sign the summons, the Peon charged with the execution of the process shall certify the same on the back of it under his signature, and shall require two persons being neighbours of the Defendant to attest it with their signatures.

(2) When a summons shall have been returned to a Munsiff with the above endorsement, the Munsiff shall cause a notice referring to the summons which was issued to be affixed to the outer door of the Defendant's dwelling house, or in any conspicuous place near it, and stating that if the Defendant do not attend either in person or by Vakil within the period of ten days from the date of the notice, the suit will be decreed *ex-parte*.

(3) If the Defendant shall not appear either in person or by Vakil within the time specified in the notice, the Munsiff shall at the expiration of the limited time, proceed to try and determine the case *ex-parte* as prescribed in the 4th clause of the 11th Section.

"13. The Munsiffs are prohibited from requiring security from the Defendant in any suit, but if the Munsiff shall be satisfied by sufficient proof that the Defendant intends to abscond or withdraw himself from the jurisdiction of the Court or to conceal his property

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in order to avoid an eventual judgment against him, the Munsiff is empowered to attach the Defendant's property to the amount of the claim against him.

"14. (1) When the Defendant shall appear either in person or by Vakil within the period specified in the summons or Notice, the Munsiff shall cause the complaint brought against him to be read out to him, and order the Defendant to give in his answer within a limited time, but it shall not exceed four days. If the Defendant shall desire to take a copy of the Plaint, he shall be allowed to do so.

(2) The Defendant shall clearly and unequivocally answer the Plaint preferred against him, and if any irrelevant matter be inserted in his answer, it shall not be admitted.

(3) After the Defendant either in person or by Vakil, shall have attended and delivered his answer, the Munsiff shall demand both from the Plaintiff and Defendant a list under their signatures containing the names of the witnesses they may be respectively desirous of calling, describing the Districts, Proverties, Moories, and Houses wherein the witnesses may reside, and shall annex the same to the proceedings. The Munsiffs shall try all suits pending before them, in the order in which they may have been filed or numbered, but if the Plaintiff or Defendant shall petition the court for an

immediate hearing and determination of any particular suit, and the Munsiff shall see cause for complying with this prayer, the Munsiff shall communicate the same with his reason to the Zillah Court who is authorised to direct him to commence an immediate trial of the suit without attending to the regular order of the file, provided it (the Zillah Court) shall see sufficient grounds for adopting such a measure. In trying suits, the Munsiff shall be guided by the following rules. The Munsiff shall prepare a list under his signature of such a number of suits, according to their order on the file, as he may be able to try and decide in the course of one month and shall write at the foot of the list that the suits therein mentioned shall be heard and determined within the month, requiring the attendance of the parties accordingly, and shall cause a Proclamation under his signature to be hung up in a conspicuous part of his Cutcherry, and then proceed to hear, try and determine any of the suits therein inserted, the parties whereof may be first in attendance.

"15. (1) Immediately after the Plaintiff and Defendant shall have given in lists of their respective witnesses, the Munsiff is authorised to summon them according to the enactments in the 2nd clause of the 2nd Section of this Regulation. The Summons shall specify the number of the suit on the file, the name of the party at whose instance it may be issued, and the names of the

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witnesses, and shall require them to appear at the Cutcherry of the Munsiff on a specific day, the summons shall be signed and sealed by the Munsiff.

(2) In the commencement of the trial of any suit, if the Munsiff shall think it necessary to ascertain from the parties any matter connected with the case, he shall be at liberty to interrogate them and record their answers. After the witnesses of both the Plaintiff and Defendant shall have been examined, if the Munsiff should think it necessary to make further inquiry among disinterested neighbours regarding the matter for elucidating evidence, he is empowered to summon from one to four of such persons for the purpose of obtaining their evidence. The Plaintiff or Defendant shall not be liable to pay batta for the summoning of these witnesses: the Munsiff shall summon them by his own Peons free of charge.

(3) Munsiffs are themselves to investigate the suits cognisable by them in a public Cutcherry, between the hours of 9 clock A.M. and 6 P.M. daily excepting Sunday, and are not to allow their writers, servants or dependants or other persons to interfere therein, further than being employed in writing down the depositions given by the parties and the questions put to them.

"16. (1) In cases in which the answers shall have been filed, and lists of witnesses given by both the Plaintiff and

the Defendant, or if either of them shall fail to appear in person or by Vakil at the time when the suit is first called over for trial, the Munsiff shall suspend the trial and affix in some conspicuous place on the wall of his Cutcherry a notice that they or their Vakils should attend within five days. If the Plaintiff shall not appear before the Munsiff in person or by Vakil within the limited time, the Munsiff shall dismiss his claim; if the Defendant shall not so appear by the prescribed time, the Munsiff shall proceed to try the cause *ex parte*. After the expiration of the period specified in the notice, the Munsiff shall cause the notice to be removed and shall endorse on the back of it under his signature, the circumstances of the non-attendance of the party, the date, month, and the year and shall annex it to the proceedings.

(2) Provided however that if the suit be dismissed without an investigation of the merits, and either of the parties shall appeal from the decision of the Munsiff to the Zillah Court, it shall be the duty of the Judge thereof to determine the case on its merits, or remand it back to the Munsiff by whom it was dismissed or to any other Munsiff for a further investigation.

"17 (1) The Munsiffs are to try the suits pending before them, by hearing the pleadings by the parties, by examining their documents, and by taking the depositions of their witnesses in presence of the parties, or

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of their Vakils; if both parties propose and agree in writing to let the cause be decided by the oath taken by one of the parties, the Munsiff shall give his decision according to such oath, from which no appeal can be allowed.

(2) Immediately after either party shall agree to let the cause be settled by the oath of the other, the Munsiff shall write out a declaration of the oath, containing the particulars of the suit, the place where the party shall swear, the date, month and year when the oath shall be taken, and shall require the party to swear to the same agreeably to the Dhurma Shastrum or according to the form of oath most binding on the caste of the person deposing. If the place be a Pagoda or any other Temple, the Munsiff shall cause the elders thereof and the opposite party to affix their signatures to the declaration signifying that the oath was administered and shall cause the document to be annexed to the proceedings in the case.

(3) If the Plaintiff shall, in the course of the trial of any suit pending before the Munsiff, give in a Rajeenamah under his signature attested by two witnesses, stating that the Defendant has satisfied him, and crave the Court to dismiss the case, the Munsiff shall accordingly dismiss it.

(4) After any suit has been preferred if the parties shall come to an amicable settlement of the matter, and shall inform

the Munsiff in writing attested by witnesses, that the Defendant has agreed and the Plaintiff is satisfied with the proposal, to discharge either the whole, or part of the amount of the claim by instalments at fixed periods, and shall crave the Court to pass a decision to that effect, the Munsiff shall decree accordingly, but the decree shall not be enforced before the period fixed for the last instalment, has expired.

(5) (*Not repealed*).

"18. (1) If any witness subject to the jurisdiction of the Munsiff, after having been served with a summons, shall not attend accordingly the Munsiff is authorised to cause him to be seized and brought by his Peon to the Court, but the Munsiff is prohibited from summoning Females whose rank or caste may be such as to make it unusual to require their appearance before a Court; when the evidence of such Female is necessary, the Munsiff shall be guided by the following rules.

(2) When the evidence of a Female as described in the foregoing clause is necessary, the Munsiff shall write on a paper such interrogatories he may have to put to her, and shall send it to her residence by one of his subordinate officers, who shall put the questions to her before two witnesses and write down her answers, and after causing her and the witnesses to sign it, shall himself attest the same with his signature; which

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paper of deposition, the Munsiff shall annex to the proceedings.

(3) If a witness on being summoned, shall not give satisfactory reasons for his non-attendance within the period specified, the Munsiff is empowered to impose upon him a fine not exceeding one Rupee; on his refusing to pay the same, the Munsiff is authorised to direct the Tannah Naigue of the District to keep such person in confinement for three days.

(4) If a witness on whom a summons may have been duly served, shall not attend within the period specified, or shall not be found by the peon who has been sent to seize him, and if the Munsiff, shall be convinced that the witness has purposely concealed himself, the Munsiff is authorised to attach the property belonging to such person, which may be found within his own jurisdiction. If after a reasonable time subsequent to such attachment, the person summoned shall still omit or refuse to attend, and it shall satisfactorily appear by the oath of the party requiring his evidence, that the testimony of such person is material to the cause, the Munsiff shall report the circumstances of the cause to the Zillah Court, who in order to compel the appearance of the witness shall issue a summons specifying a limited period for his attendance and cause it to be served on the witness by the court servants or have it affixed on the outer wall of his house.

(5) If notwithstanding this further process the attendance

of the witness is not obtained, and the Zilla Court is satisfied of wilful resistance of summons, the Court is permitted to impose on the person a fine not exceeding in any case the value or amount of the property in dispute, such fines shall be realised by the sale of the property of the offending party held under attachment agreeably to the foregoing clause.

"19 (1) In cases, in which a witness duly summoned may attend before the Munsiff but shall refuse to give his evidence or to subscribe his deposition or behave by words or actions disrespectfully to the Court, or in cases in which a Plaintiff or Defendant shall behave irregularly, the Munsiff shall be empowered to impose such fine on them as he may think proper not exceeding five Rupees and report the circumstances of the case to the Zillah Court who shall either remit or modify or confirm the fine imposed by the Munsiff.

(2) If any Munsiff shall require the evidence of a person not subject to his jurisdiction, he shall issue a summons requiring his attendance, which shall be served on such person through the medium of the Munsiff within whose jurisdiction he may reside; but if the attendance of such witness should be inconvenient, the Munsiff is hereby required to transmit to the Munsiff within whose jurisdiction he may reside, such written interrogatories, as he may think necessary, or such as may be suggested by the parties in the suit or their Vakils. On receipt of

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such written interrogatories the Munsiff shall proceed to obtain the evidence of the witness, and put such other questions as may be necessary, after which, he shall return the deposition to the other Munsiff.

(3) Munsiffs are to take the depositions of witnesses attending before them with all due expedition, so that they may not be exposed to any vexatious delay or unnecessary detention from their respective homes or employments.

"20 (1) The Munsiffs shall administer to witnesses such oath as may be considered most binding on their consciences according to their religious persuasion, but if the witnesses be of rank or caste which would render it improper to compel them to take an oath, the Munsiff may dispense with their being sworn, and in lieu thereof cause them to subscribe a solemn declaration to the same effect.

(2) In the examination of witnesses, the Munsiffs are enjoined to prevent the parties and their Vakeels from putting to them questions suggesting a particular answer, or irrelevant to the matter in dispute.

(3) The deposition of every witness shall commence by specifying the name of the District, Poverty or Moory wherein he resides, his name, his age, his immediate ancestor's name, his caste and profession, (or if the deponent be a married woman, her husband's name) the year, month and date when the or she was examined, and

before what court, and this shall be subscribed with his or her signature or mark at the end of the deposition, and with the signature of the Shastry by whom the oath was administered, all of which the Munsiff shall attest with his signature.

"21 (1) In a suit brought before the Munsiff, if one party accuse another of using fictitious Documents or of forgery in his documents, the Munsiff shall try to ascertain the fact as far as he can, by examining the date, month and year, and state of the cadjans, and other circumstances; and if doubts occur to the Munsiff of the validity of these documents, he is authorised to investigate the matter; and if in the course of the enquiry any person shall be found guilty of the charge, such party shall be delivered over to the Police authority for the trial of the offence.

(2) When a document or bond is filed in a suit before the Munsiff it shall be endorsed, dated, and signed by him, and shall be marked with some letter or number to identify it, and such letter or number shall be distinctly referred to in those parts of the examination of the witnesses, or of the proceedings or in the decree which may allude to such documents.

(3) The Munsiffs are prohibited from admitting or filing as an exhibit or from receiving in evidence, any obligation, instrument, bond, deed or document which is or may be required to be written on stamped cadjan, unless it shall have been duly executed on stamped

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cadjan, or unless a penalty of 3 per cent of the sum specified in such exhibit, which may be written on cadjans not stamped, shall have been paid by the party to the Sircar, or cases in which the exhibit does not specify any sum, on the value of the property therein mentioned, estimated agreeably to the existing customs of the country.

"22 (1) When the parties have been heard and the exhibits received and considered, and the witnesses on both sides examined, the Munsiff shall give judgment according to Justice and right. If in any suit the Defendant shall admit in his answer the Justice of the claim, the Munsiff shall proceed to pass Judgment without further investigation.

(2) In deciding any suit pending before the Munsiff if the whole amount claimed is not proved to be due to the Plaintiff or part of it shall have been paid by the Defendant, the Munsiff shall give judgment that the Defendant, should pay the amount which has been proved as due to the Plaintiff together with interest and the court costs awarded to him, the amount of costs for such portion of the claim which may not be proved shall be relinquished by the Plaintiff, and the Munsiff shall pass his decree accordingly.

(3) The decree shall begin with the date, month, and year, the name of the Munsiff by whom it was passed, and the names of the parties, and in the margin the number of the suit;

it shall also contain an abstract statement of the material facts stated in the pleadings of both the parties, the names of the witnesses examined, a concise statement of their evidence, description of the exhibits read, the grounds and reasons upon which decision may be passed. It shall state specifically the amount or value of the matter adjudged, and the amount of costs or damages payable by the parties. If any claim shall appear to the Munsiff to be litigious and vexatious, he shall adjudge the costs against the Plaintiff and insert the same in the decree. If the suit be for the release of any property, the decree shall specify such property, and if the Defendant shall have advanced any money upon the same the amount of it shall also be specified in the decree.

"23 (1) The Munsiff shall, if possible, write the decree himself and within five days after passing it cause two copies of it to be prepared free from erasures or interlineations, and after attesting them with his seal and signature, shall tender the said copies both to the Plaintiff and the Defendant or to their Vakeels respectively, and he shall endorse on the back of the said copies the date on which they may be tendered to the parties attested with his signature, and shall write to the same effect on the original copy and annex it to the proceedings. If either or both parties shall not be present when they are called over to receive the copies, the Munsiff shall cause them to be called

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over three successive days, and if the parties or their Vakeels shall still fail to attend, the Munsiff shall certify the same on the back of the copies under his signature and shall deposit them for the purpose of delivery to the parties when they may afterwards claim them. When the parties may at any subsequent time attend and claim the said copies, the Munsiff shall write on the back of them the date of the delivery and the names of the parties under his signature.

(2) If a Munsiff be found guilty of wilfully misstating or falsifying, or of causing to be mis-stated or falsified the date and purport of the endorsement above directed to be written on the copies of the decree, or of keeping back such copies of decree from either of the parties with a view of opposing or debarring his right of appeal, and if the circumstance shall be proved before the Zillah Court, it shall report the same to the Huzoor through the channel of the Appeal Court, and the Huzoor shall order such Munsiff to be either dismissed from office, fined, or be liable to such other punishment as the Huzoor may according to its discretion inflict upon him.

"24 (1) After the copies of the decree shall have been tendered to the parties, if either of them be dissatisfied with the decision of the Munsiff he shall be at liberty to appeal from it to the Zillah Court with the copy of the Munsiff's decree in his possession, and within the space of thirty days from the

date of its being signed and sealed, and the Zillah Court is empowered to require from the party previous to the filing of the suit, security adequate to the amount which he shall be liable to pay to the defendant in the event of his being cast, including the established fee prescribed in the 1st clause of the 8th Section. But if a case shall have been non-suited by the Munsiff, and the party shall appeal against it, in such cases the Zillah Court shall not require any security from the Appellant.

(2) The Zillah Court shall not receive any urzee for Appeal which does not show clear and satisfactory reasons against the decision of the Munsiff, and in rejecting such urzee the Zillah Courts shall endorse on the back of it their reasons for so doing with signatures affixed, but if the party continue to be dis-satisfied with it, he may make complaint to the Appeal Court, and if that court see good ground for receiving the suit, it shall direct the Zillah Court to re-investigate the same.

(3) The Zillah Courts shall not receive nor investigate any suit brought before them for Appeal which may be made after the expiration of the limited period stated in the 1st clause of this Section. But if the Appellant shall assign strong and satisfactory reasons why delay has been occasioned which has prevented his compliance with the Regulation, the Zillah Judges are authorised to receive and try any suit that may be delayed for 90 days from the

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date of its former decision ; but after the expiration of that period, no appeal shall be admitted by the Zillah Court.

(4) When an appeal may be received from the decision of a Munsiff, the Zillah Court is empowered to direct him to suspend the execution of the Decree until the case shall have been tried by the Zillah Court.

"25 (1) Immediately after an appeal is filed, the Zillah Court shall call upon the Munsiff for the original proceedings and examine the same, and after summoning the defendant and receiving his answer, if the court shall find it necessary to examine evidence, they are empowered to do so. If there be no necessity for further investigation, the court may dispose of the same as it may think just.

(2) If the decision of the Munsiff shall agree with the decision of the Zillah Court in the same suit on appeal, it shall be *final* ; but if they shall disagree with each other, the parties are at liberty to make a special appeal in the Appeal Court.

"26 (1) If any Munsiff shall unjustly receive money or bribes or shall exceed the limits of his authority, or act partially, or in any manner oppress the parties, and the same shall be represented to the Zillah Court, they shall ascertain the truth of such complaint by inquiring minutely into the case, and on the same being proved, their proceedings and opinions on the case shall be submitted, to the Appeal Court, and the Appeal

Court after having examined the proceedings shall, if they find cause, suspend the Munsiff from office and report the circumstances of the case with their opinion to the Huzoor and abide by the orders of the Huzoor. But if the Zillah Court observe remissness in duty on the part of any Munsiff, or if he be found guilty of any high offence, the Zillah Court shall impose upon him a fine not exceeding 5 Rupees.

(2) If the corruption charged against a Munsiff shall not be proved to the satisfaction of the Zillah Judges, they are authorised either to levy a fine from the party making groundless complaint not exceeding 25 Rupees, or to commit the party or parties to prison for three months.

"27 (1) All Adawlut cases pending before the Munsiffs at the time of promulgation of this Regulation shall be successively entered according to their dates in the File Book to be kept by the Munsiffs, and shall be tried and determined agreeably to the rules prescribed in the Regulation. The fees and fines levied by the Munsiff shall be transmitted immediately they are collected to the Treasury of the District Tahsildar and receipt obtained for the same : but if any Munsiff shall fail to do so, and embezzle any portion of it, the Zillah Court is empowered to impose upon him a fine equal to three times the amount and report the same to the Huzoor through the Appeal Court, when he shall be dismissed from the office or

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otherwise punished under orders from the Huzoor.

"28. Munsiffs shall conform to the following rules. First those suits which may have been decided in one month, shall be filed according to the Form No. 3 in the Appendix to this Regulation. Secondly those remaining undecided, shall be filed agreeably to the form No. 4. Thirdly the statement of the fines etc., levied within one month is to be drawn up according to a form which shall be sent to them by the Zillah Court. All these accounts for one month having been duly prepared, shall be forwarded to the Zillah Court before the 5th of the following month.

"29. If a Munsiff has an accumulation of suits undecided on his file, the Zillah Judges, if they have leisure, shall cause some of them to be brought to the Zillah Court, and investigate and decide the same; and if any suit within the amount or value mentioned in the 2nd clause of the 3rd Section of this Regulation, shall be preferred to the Zillah Court, they shall forward the same to the Munsiff for trial and decision.

"30. Whenever a Munsiff shall have occasion to consult the customs of any caste in order to ascertain points regarding inheritance or other matter, he shall commit to paper such questions as may relate to the same, and shall send the writing to the Zillah Court, and on receipt of it, the Sastry attached

to the said court shall furnish the information if it be respecting the Hindu Law or customs; or if the party relating to whose case the questions may have originated be a Christian, the Christian Judge shall furnish the information; but as there are no Musselmen Law Officers employed in the Zillah Court, the Munsiff is authorised to send such questions or paper relating to Mahometan Law to the Appeal Court for opinion.

"31. When any doubts occur to the Munsiffs on any points not mentioned in the Regulation, it is their duty to report the same to the Zillah Court, who after considering the matter of such doubts, shall send their answers to the Munsiff, and if the Zillah Court feel any difficulty to decide upon the matter, they shall submit the case to the Appeal Court and abide by their decision.

"32 (1) In investigating any suit relating to landed property, if it shall appear that there are more claimants thereto than one, the Plaintiff shall be required to give in a supplemental complaint against such person or persons as joint defendants. If in the course of the trial of any suit pending before the Munsiff, the Plaintiff shall happen to die, his heir may give in a supplemental petition to be admitted as Plaintiff or in case of the death of the Defendant, the Plaintiff shall request the Munsiff in writing to call upon the heir or heirs of the property of the deceased to answer the complaint,

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"33. The Munsiffs are prohibited from receiving and determining complaints in which the Sircar may be concerned; but should complaints be preferred against the Sircar servants on civil matters unconnected with the Sircar claims, the Munsiffs are authorised to investigate and decide the same.

"34. Immediately after the Appeal Court shall have received this Regulation with His Highness's signature affixed to it, it will be their duty to cause

copies to be prepared, and after comparing them with the original to affix their seal and signature to each written copy, or distribute printed copies from the Huzoor to Zillah and Munsiff's Courts, and to the Tahsildars for their guidance, ordering them to expose this Regulation and any others that may hereafter be enacted, in a conspicuous part of their courts or cutcherries, in order that any person may be at liberty to take a copy of the same."

ACT IV OF 1010.

An Act for extending the jurisdiction of Zillah Judges.

Passed by His Highness the Raja of Travancore on the 9th March 1835 corresponding with the 28th Kumbhom 1010.

1—12. [Repealed by Act I of 1057.]

13. [Repealed by Act II of 1065.]

14—20. [Repealed by Act I of 1057.]

21. In decrees on civil suits, the interest must be charged on the principal from the date of the decree to the day of its execution, provided the interest in money does not exceed half the amount of the principal, and if in grain, the interest demanded must not exceed the value of the principal.

Period for which and extent to which interest is to be allowed.

[So much of Section 21, as relates to interest for money, repealed by Act VIII of 1100].

22. [Repealed by Act II of 1065.]

23. [Repealed by Act I of 1057.]

Effect of Legislation.

Year.	No.	Short Title.	How affected by subsequent legislation.
1010	IV	Jurisdiction of Zillah Judges	Repealed in part by Acts I of 1057 ; II of 1065 and VIII of 1100.

Act IV of 1010. See Notes under Act I of 1010.

The repealed provisions of the Act read as follow :—

“The authority at present vested in the Zillah Judges having been found insufficient, this Regulation extending their powers of Jurisdiction has been enacted by His Highness the

Maha Rajah of Travancore on the 9th March 1835 corresponding with the 28th Kumbhom 1010.

“1. The number of Zillah Courts are reduced from seven to five, and the five Courts established in the places here-under specified, the Judges exercising their authority within

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their prescribed jurisdiction and limits.

Zillah Palpanavaram
do. Trivandrum
do. Krishnapuram
do. Alleppey
do. Parur.

"2. The number of Zillah Judges in each Court are to be maintained according to their present establishment; namely, two Judges and Shastry in each Court. One Judge to be either a Brahmin or Soodra, and the other a Christian. The Judges will be appointed under a Neet from the Huzur.

"3. After the promulgation of the Regulation the Judges now appointed and those who may hereafter be appointed are required to be sworn from the Appeal Court, agreeably to the following form, or shall subscribe a solemn declaration to the same effect.

I, the undersigned Judge of the Zillah Court.....solemnly swear that in the administration of justice, I will act with impartiality, that I will perform the duties of my Office with integrity according to the best of my knowledge, abilities and judgment, conformably to the Regulation that have been or may be passed by His Highness the Rajah. I will not enact, nor receive, nor knowingly allow any other person to enact, or receive directly or indirectly any fee, reward, or emolument whatsoever in the execution of, or on account of any matter relating to the duties of my Office, and I will not derive directly or indirectly any emoluments or advantages from

my station, excepting such allowances as the orders of His Highness the Rajah may authorise me to receive.

Sworn before the Court of ...
.....the day of.....

Signature of the Judge	Signature of
Signature of the Shastry	the Judge sworn.

"4. The Zillah Courts are to be furnished with office seals one inch and quarter in diameter from the Huzzoor.

"5. (1) In suits preferred before the Zillah Court, if the parties find it inconvenient to attend and plead in person, Vakeels may be appointed under limitations stated in Regulation I Section 6th of the present year.

(2) Vakeels competent to plead in Sirkar cases will be selected and appointed through the Huzzoor and such Vakeels are prohibited from pleading in the suits of private individuals.

"6. The Zillah Courts are authorised to investigate suits to any amount within their jurisdiction in conformity to Regulation I Sec. 3rd clause 2nd and Sec. 4th clause 2nd and 5th of the present year.

"7. (1) At the investigation of suits preferred before the Zillah Courts, the two Judges and the Shastry should be present when practicable, in the event of one of the three being absent, the other two must be present to form a Court, but all three should consult together previous to passing a decree, and in no

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instance shall one Judge exercise authority or hold a Court.

(2) In passing decision, when the Judges may differ in opinion the Shastry is to be consulted, whose opinion, if agreeing with either of the Judges, shall be confirmatory as to the decree, but the Judge dissenting is to assign his reasons on the proceedings of the trial.

"8. When both Judges are in attendance, the first shall have control over the Court, and in his absence that power shall devolve on the Second; the Shastry shall have no authority in Court.

"9. The Zillah Courts are empowered to impose a fine not exceeding one month's salary upon the inferior servants of the Court, who may be found guilty of inattention to their duties or improper conduct, should a question arise between the Judges on the propriety of the fine thus imposed, they are to abide by Section 7th Clause 2nd of this Regulation. With regard to dismissal and appointment of inferior servants attached to their establishments (with the exception of peons) reports must be made to, and sanction obtained from the Appeal Court.

"10. The fees to be levied upon suits preferred before the Zillah Courts are regulated as follows:

From 1 to Rs. 1,000 at 5 per cent.

From 1001 to Rs. 10,000 at 4 per cent.

From 10001 to Rs. 25,000 at 3 per cent.

From 25001 and upwards at 2 per cent.

"11. In the limitation of time for taking cognizance of suits preferred before the Zillah Courts, the rules specified in Regulation I Section 4th clause 1st are made applicable, but there is no limited period for claims regarding landed property.

"12. Should the Judges, their relatives or dependents be concerned in the Suits brought before the Zillah Court, such suit shall not be investigated by that Zillah Court, but be sent to the Appeal Court, who shall either investigate into the case or issue orders to some other Zillah Court to do so.

"13. The rate of interest chargeable on any cash account decided by the Zillah Court to be regulated agreeably to Regulation I Section 7th.

"14. (1) In receiving and filing plaints, the Zillah Courts are to conform to Regulation I Section 10th clause 1st, 2nd and 3rd also the serving of Summons to Defendants agreeably to Section 11th clause 1st, 2nd, 3rd and 4th and in Notices to Section 12th clause 1st, 2nd and 3rd of the same Regulation but in the issuing of summons, the Court shall limit the time to not less than a week, or according to the distance of the Zillah within which the party may reside. In the Notice the period shall be limited to 15 days.

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(2) The rules prescribed in Regulation I Section 13th and 14th clause 1st, 2nd and 3rd and Section 15th clause 1st, 2nd and 3rd and Section 16th clause 1st and Section 17th clause 1st, 2nd, 3rd, 4th and 5th and Section 18th clause 1st and 2nd are made applicable to the Zillah Courts, but in the process of attachment of property as set down in Section 13th of Regulation I orders should be issued through the Munsiff as provided for in Section 15th clause 2nd and 3rd of this Regulation on petitions presented to the Zillah Court, to investigate a suit out of the order on the file as exemplified in Section 14th clause 3rd of Regulation I the Zillah Courts are empowered to admit or reject the same. In issuing the Notice described in Section 16th clause 1st of Regulation I the Zillah Judges may extend the period of notice to 10 days.

"15 (1) If an evidence fail to appear before the Zillah Court within the time specified in the summons, and do not adduce sufficient reasons for his non-attendance, but appear either before or after attachment has been made by the Munsiff, agreeably to the following clauses, the Court are then authorised to impose a fine upon him not exceeding 5 Rupees and on his refusing to pay the same, orders shall be issued to the Munsiff to realise the fine by selling his property to an equal amount, or to confine him for a period not exceeding 15 days.

(2) If an evidence being summoned by the Zillah Court fail to attend, and the Court are satisfied that he has wilfully concealed himself, the Munsiff shall be ordered to attach all his property within the jurisdiction of their Zillah, and forward an inventory of the same to the Zillah Court.

(3) The Munsiff immediately after the receipt of the above order from the Zillah Court, shall in conformity to Regulation III Section 5th clause 4th proceed to attach the property and submit the account thereof to the Court. The Zillah Court shall immediately after receipt of the same, issue a second summons, to the above said evidence, with their signatures and seal aforesaid according to the following form, and in the event of his not being then found, the summons shall be attached to the wall of his house before two competent witnesses in the neighbourhood and a writing to the effect of their having witnessed the same shall be required from them and forwarded to the Court.

Form of second summons.

From the Zillah Court of.....
to.....residing in the village of
.....within the District of... -

Whereas a complaint, No.....
of the year.....was preferred
before this Court by.....against
.....wherein you were required
as an evidence, and as you did
not attend within the specified
time of the summons issued for
that purpose, under date the

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.....and failed to adduce sufficient reason for your non-attendance, you are required by this second summons to attend within 15 days from this date and give your evidence, or allege proper reasons for withholding the same. In failure of which you will incur the penalty laid down in Regulation I Section 18th clause 5 of the present ear.

(4) If after issuing the 2nd summons as stated in the above clause the evidence wilfully fail to attend, and the Court are convinced that he has concealed himself they shall immediately after the expiration of the time specified in the 2nd summons, conform to Regulation I Section 18th clause 5th.

(5) Should the evidence attend agreeably to the orders of the Court and then refuse to give his deposition or to affix his signature to what he had deposed, or if any witness, complainant or Defendant act disrespectfully, using improper language to the Court, the Courts in such cases are authorised to impose a fine upon him to an amount not exceeding 10 Rupees, and for the recovery of which orders shall be sent to the Munsiff, but in the event of the person fined not having means to pay the same, the Court are authorised to confine him for a period not exceeding 1 month.

(6) The rules relating to modes of process prescribed in Regulation I Section 19th clause 2nd and 3rd, Section 20th clause 1st, 2nd and 3rd, Section 21st clause 1st, 2nd and 3rd, Section

22nd clause 1st, 2nd and 3rd, Section 23 clause 1st are also applicable to the Zillah Courts. All communications must be made by one Zillah Court to another, and not direct to the Munsiffs under the Jurisdiction of other Zillahs.

"16 (1) In the Registry of cases appealed to the Zillah Court by parties dis-satisfied with the Munsiff's decision, agreeably to Regulation I Section 24th clause 1st of the present year, the Zillah Court shall keep a separate Register in the following form, but such original suits as may have been preferred before the Zillah Court agreeably to this Regulation must be inserted according to the form No. 2 prescribed in Regulation I.

(2) If either party should dispute the Justice of a decree passed by the Zillah Courts, they are allowed to appeal within 45 days from the date when the decree was signed and sealed by the Court. Should the Appeal Court deem it necessary they are empowered to require Security as prescribed in Regulation I Section 24th clause 1st from the appellant for the amount decreed, such suits can only be admitted for receiving the institution fee as specified in Section 10th of this Regulation.

(3) If sufficient grounds are not stated in the petition by the parties in the appeal case against the original decision to the satisfaction of the Appeal Court, they are authorised to dismiss the same, stating on the back of such petition their

JURISDICTION OF ZILLAH JUDGES.

reasons for such dismissal and affix their signatures thereto.

(4) Petition for appeal that may not be preferred within the period specified in clause 2nd of this Section, shall not be admitted unless adequate reasons are assigned for such delay to the satisfaction of the Court. Immediately after the Appeal Court have admitted the petition against the decision of the Zillah Court, the Appeal Court shall issue order to the Zillah Court to stop execution of such decree. The Appeal Court shall keep a register of all Appeals of the above nature agreeably to the form set down in clause 1st of this Section.

(5) In investigating and passing decisions on appeals, the Appeal Court will be guided by the Rules prescribed in Regulation I Section 25th clause 1st and they are directed to call for the original Plaint preferred to the Zillah Court, as also the whole proceedings and pleadings connected with it, and after examining the same, if the attendance of the respondent and witnesses be required the Appeal Court shall forward summons for their attendance through the Munsiff the batta for serving summons must be recovered according to the distance from the Munsiff's Court to the residence of the parties, by the Appeal Court, and sent to the Munsiff, who will pay it to the Peon. The Munsiff shall after receiving, the Notices, summons, &c. act agreeably to the rules laid down for his guidance in Regulation I and

report the execution thereof to the Appeal Court, and return the summons &c.

(6) Should the party or parties thus summoned withhold his or their attendance after affixing his or their signatures to the same, the Appeal Court, are authorised to pass decision ex-parte, but should the summons be returned without being signed they shall conform to Regulation I Section 12th clause 2nd of the present year; the time to be allowed in the summons for attendance of the respondent is left at the discretion of the Court provided in no instance it be under 15 days nor exceed 30. With regard to the attendance of evidences after the issuing of summons, the Appeal Court shall abide by Section 15th clause 1st, 2nd, 3rd and 4th of this Regulation.

(7) In case of any person conducting himself disrespectfully before the Appeal Court, the Judges are authorised to impose a fine upon him not exceeding 50 Rupees, and for the recovery of which orders shall be issued to the Munsiff, but in the event of the person fined being unable to pay the same, he is liable to be confined in the Zillah jail, but the period of imprisonment shall not exceed 3 months.

"17. (1) The Appeal Court shall observe the rules laid down in Regulation I added to those in this Regulation with regard to passing decrees, and giving copies of them to the parties.

(2) Sircar Vakeels are directed to report to the Dewan and await his instructions before they make any defence to suits preferred before the Courts regarding Sircar affairs; the Courts should therefore allow the Vakeels sufficient time for that purpose not exceeding three months.

"18. Suits regarding family property should be made in the name of the chief or elder of the family, but his consent is not required by the Junior members to prosecute in cases unconnected with such property, but should the elder be accused of squandering away family property, the juniors are entitled to prosecute on that account.

"19. The Zillah Courts, shall forward to the Appeal Court a monthly register of cases investigated and decided by themselves and the Munsiffs agreeably to the forms appended to this Regulation, or in any other form that may hereafter be sent to them by the Appeal Court.

"20. In cases wherein appeal has been delayed beyond 90 days against the decision of a Munsiff as provided for in Regulation I Section 24th clause 3rd should sufficient reasons for the delay be assigned, a petition to that effect may be received by the Appeal Court, who after enquiry, may direct the Zillah Court to receive and reinvestigate such complaint.

"22. Zillah Courts are prohibited from receiving petitions or complaints preferred against Tahsildars or other Revenue

Officers on matters connected with Revenue affairs. Complaints of such nature are in the first instance to be preferred before the Dewan who on their receipt shall institute enquiry and pass decision according to their merits but shall it be found that the Tahsildars or other Revenue servants have conducted themselves contrary to the Regulations, and thereby caused grievance to inhabitants, and that the case should be investigated by the Court, the Dewan shall make endorsement to that effect on the back of such petitions. If at the expiration of three months the Dewan has not decided on such complaints, nor endorsed the same or if the parties dispute the justice of the Dewan's decision, the Courts are then empowered to receive such complaints and decide upon them. The Sircar Vakeels must be considered Defendants in suits preferred against the Sircar. Copies of suits preferred against the Sircar, or Sircar servants on account of Sircar affairs must be given by the Courts to Sircar Vakeels to be forwarded by them to the Dewan.

"23. If the Munsiff or his inferior servants, or those employed in the Zillah Courts, request leave of absence, Zillah Judges are authorised to grant the same for a period, not exceeding 30 days in each year either for the whole or broken periods but in cases of an extension of leave being required, or when the Judges and Shastry require leave of absence, application shall be made to the Appeal Court."

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 25th Edavam 1037.*

Whereas intimation has been received that a Bank has now been established at the Port of British Cochin with a view to bring into circulation, in these territories, the paper currency recently introduced by the Government of India for facilitating money transactions, and that currency notes tendered by any one in that Bank will be readily cashed and notes will be issued in lieu of coins tendered therein ; and whereas We are requested that the Sirkar will also co-operate with the British Government in popularising and facilitating the circulation of these notes : We are hereby pleased to command that the said currency notes, tendered by any one in payment of Sirkar dues, shall be accepted as legal tender like current coins, in taluk treasuries, bankshalls and customs houses, in the commercial treasury at Alleppey, in the Sadr Court and Civil Courts and in the Huzur.

This proclamation was published in *T. G. G. dated 13-6-1862.*

ACT OF 1040.

An Act for the appointment of duly qualified Vakils to plead in the Courts.

Passed by His Highness the Maharaja of Travancore on the 7th February 1865 corresponding with the 27th Makarom 1040.

[1—30. *Repealed by Act III of 1075.*]

31. The pleaders of Government are prohibited from giving any advice to the parties opposed to Government in any Civil suit or proceeding, and being concerned directly or indirectly on their behalf in suits which are directed to be carried on at the public expense, but in all other suits, the pleaders of Government are to be at liberty to plead for either of the parties, in the same manner as the other authorized pleaders of the Courts.

Government pleaders not to advise opposite parties.

32. [*Repealed by Act III of 1075.*]

Effect of Legislation.

Year.	No.	Short title.	How affected by subsequent legislation.
1040	..	Appointment of Vakils.	All except Section 31 repealed by Act III of 1075.

In the year 1040, four Acts were passed. They are in chronological order (1) The Breach of Contract Act, I of 1040. (2) The present Act for the appointment of Vakils. No number has been assigned to this Act. (3) The adjudication of Claims to waste Lands, Act (II of 1043) and (4). The Limitation of Suits Act (III of 1040),

The present Act dealt with the appointment of Vakils to the Civil Courts viz Sadr Court, the District Courts and the Munsiff's Courts, their remuneration, conduct, etc. Act I of 1043 was enacted providing for the appointment of Vakils in Criminal cases. Act III of 1075 repealed the whole of Act I of 1043 and all the provisions of the present Act except Section 31.

APPOINTMENT OF VAKILS.

The following are the repealed provisions of the Act:—

A Regulation for the appointment of duly qualified Vakils to plead in the Courts passed by His Highness the Maharaja of Travancore on the 27th Makaram 1040 corresponding with the 7th February 1865.

“1. Whereas it has been deemed necessary to abolish the practice of allowing unprofessional Vakils to plead before the Courts, and whereas it is essential, for the better administration of justice, that persons of some training should be appointed to the office of Vakeel, it is enacted as follows.

“2. The Sadr Court is empowered to appoint, to the office of Vakeel in that Court, or the District Courts, or the Munsiff's Courts, such a number of persons duly qualified for the situation, as may, from time to time, appear to them to be necessary.

“3. All parties instituting or conducting Civil suits, shall nominate one or other of such Vakeels to carry on such suits, except in cases where they may choose to appear in person.

“4. Parties employing authorised pleaders in the said courts, shall be at liberty to settle with them by private agreement, the remuneration to be paid for their professional services; and it shall not be necessary to specify such agreement in the Vakalathnamah,

provided that when costs are awarded to a party in a regular suit, original or appeal, decided on the merits, against another party the amount to be paid on account of the fees of pleaders shall be calculated according to the rates hereinafter following.

“5. But Vakeels are prohibited from entering into conditional agreements with their clients, making the payment of their fees, or the amount of such fees, depend on the result of the suit.

“6. Private agreements between parties and their pleaders, respecting the remuneration to be paid for professional services, shall not be enforced otherwise than by a regular suit.

“7. Persons who may hereafter be appointed to the office of Vakeel in the Zillah Court, or Sadr Court shall receive a sunnud of appointment duly authenticated by the Court to which they may be respectively attached.

“8. Whenever a Vakeel may be dismissed from his Office, or may die, or may resign his situation, his sunnud of appointment shall be recalled and cancelled by the Court to which such Vakeel may have been attached.

“9. Every Vakeel, previously to being allowed to practise, shall make and subscribe before the Court to which he may be appointed, a solemn affirmation, drawn up according to the annexed form.

ACT OF 1040.

"10. Pleaders employed in the several Courts of Civil judicature shall be liable to dismissal from their office, whenever they may be guilty of encouraging or promoting litigious suits, of wilfully delaying the suits of their clients for their own advantage, or refusing, or omitting, without sufficient cause to be shown to the Court, to carry on the suits of their clients, after having accepted a Vakalutnamah, or of fraudulent practices, neglect or other misconduct in the discharge of their professional duty, or of gross profligacy.

"11. The Sadr Court will at all times exercise their discretion in removing from office any Vakeel of that Court who may be deemed unfit for the situation.

"12. Whenever a Zillah Court shall be of opinion that a Vakeel of that Court is unfit for the situation, or that he is otherwise disqualified for the office of pleader, they shall report the circumstances of the case together with their opinion upon it to the Sadr Court, who will pass such orders on the case as may appear to be proper, or will call for any additional information, or direct any further inquiry that the nature and circumstances of such case may appear to demand.

"13. The Zillah Courts are empowered without the previous sanction of the Sadr Court, to suspend from his office any pleader attached to their Courts who may be guilty of any gross

act of fraud or misconduct; but in such instances it shall be their duty to report the circumstances of the case; with as little delay as possible, for the information and orders of the Sadr Court.

"14. Any party in a Suit who may be dissatisfied with the conduct of his pleader, shall be at liberty at any stage of the trial previously to the decision, to withdraw the power delegated to his pleader, and to appoint another Vakeel to plead the cause. In such cases the party is to present a petition to the Court, notifying that he has withdrawn the management of the Suit from such pleader, and is to file a new vakaluthnamah in the name of the pleader, whom he may appoint to carry on the Suit; all acts, however, which may have been done by the first pleader on the part of his client, previously to his having been dismissed, are to be held valid; unless special cause be shown to invalidate the same.

"15. If a pleader should be unable to attend the Court in consequence of indisposition, or other sufficient reason, he is to notify the same in writing to the Court, and the hearing of any cause in which such pleader may be employed is to be postponed to a future day—unless the party or his authorised agent shall commit the management of the cause to any other pleader of the Court or unless the party himself shall be present and willing to plead the cause in person. If the management of the cause be entrusted to any

APPOINTMENT OF VAKILS.

other pleader of the Court, instead of filing a new Vakalutnamah, it shall be sufficient for the party or his agent duly authorised to endorse on the back of the original Vakalutnamah, a written declaration that he has appointed such other Vakeel of the Court to conduct the cause, either permanently or during the absence of the pleader first appointed.

“16. If a pleader shall fail to attend in Court on any day fixed for the transaction of Civil business, and shall omit to notify in writing to the Court his inability to attend in consequence of indisposition, or other sufficient cause, the Court is authorised to impose on such pleader, a fine for the first offence not exceeding the sum of 20 (Twenty) Rupees; and for the second offence, not exceeding fifty Rupees. If such pleader shall be guilty of a similar offence a third time, he shall be liable to dismissal from his office.

“17. If any pleader shall be guilty of disrespect to the Court, in open Court, the Court is empowered to impose a fine upon him not exceeding the sum of 50 Rupees.

“18. All orders imposing fines on Vakeels under the preceding Sections, shall be subject to appeal to the Sadr Court. The amount of the fines is to be levied by the process which is prescribed for the execution of Decrees.

“19. Whenever a Vakeel of the Sadr Court or of a Zillah Court may die or may be

removed from his office, or may voluntarily resign his situation, such Court shall notify the same in a publication to be affixed in the Court-house and in the Zillah or Munsiff's Court, and in the offices of the Dewan Peishkar and Tahsildar of the District; the publication shall contain a statement of the several depending cases in which such Vakeel may have been employed, and a requisition to the parties who have retained such Vakeel to attend in person, or to substitute another Vakeel, in room of the pleader formerly appointed by them, within a reasonable period to be fixed by the Court, not being less than two months. In such instances instead of filing a new Vakalutnamah, it shall be sufficient, for the party or his agent duly authorised to endorse on the original Vakalutnamah a written declaration, that he has appointed some other Vakeel of the Court, in lieu of the pleader who may have died or resigned his office, or have been removed from his situation.

“20. A publication issued in conformity with the preceding rules shall be held and considered to be a good and sufficient notice, and if any party shall not attend or appoint another Vakeel within the period limited in the publication, he shall be required to shew cause for the omission, and if sufficient cause be not assigned, the Court shall proceed as in case of default, in conformity with the provisions in force.

ACT OF 1040.

"21. The Courts are authorised to apply the principle of the preceding rules to cases, in which the decision of suits may be materially delayed by the protracted indisposition of a pleader or by his continued inability to attend the Court, from any other cause which may be expected to be permanent, or of considerable duration.

"22. When a party in a cause may be desirous of retaining a Vakeel for the prosecution or defence of any Civil Suit, he shall execute to him a Vakalutnamah, constituting him pleader in the Cause, and authorising him to prosecute or defend the Suit, and further binding himself to abide by, and to confirm all acts which such pleader may do, or undertake in his behalf in the cause, in the same manner as if such party has been personally present and consenting; the party is to attest the instrument with his seal, or signature, or his mark, if he cannot write in the presence of two credible witnesses, who are likewise to attest it in the same manner; and who are to attend the Court and prove the Vakalutnamah in all cases in which it may be judged requisite.

"23. When a Vakeel to whom a Vakalutnamah may have been executed under the preceding Section shall consent to undertake the prosecution or defence of the Suit, he shall affix his signature to the back of the Vakalutnamah, together with the date on

which such signature may be affixed, and shall thenceforward be precluded from being employed in the same cause against the party who may have so retained him.

"24. In all regular Suits which may be instituted, either originally or in appeal, in any of the Zillah Courts or the Sadr Court, the Vakeels employed by the respective parties are to be allowed, for pleading the causes of their clients, the rates of fees calculated as follows.

"25. In suits for money effects, or for other personal property, or for land, or other immovable property of any description, if the amount or value of the claim shall not exceed 500 Rupees, 5 per cent.

If the amount or value shall exceed five hundred Rupees and shall not exceed 2,000 Rupees; on 500 Rupees, as above, and on the remainder 4 per cent.

If the amount or value shall exceed 2,000 Rupees and shall not exceed 5,000 Rupees, on 2,000 Rupees as above, and on the remainder 3 per cent.

If the amount or value shall exceed 5,000 Rupees and shall not exceed 20,000 Rupees, on 5,000 Rs. as above and on the remainder 2 per cent.

If the amount or value shall exceed 20,000 Rupees, on 20,000 Rupees as above and on the remainder one per cent. provided however that the total fee shall in no case exceed 1000 Rupees.

APPOINTMENT OF VAKILS.

"26. In all the preceding calculations, where the amount or value may be in fractions of Rupees, such fractions are to be rejected in calculating the fees thereupon.

The parties in a suit are respectively permitted to entertain two or more pleaders; it shall be sufficient in such cases, for the party employing two or more Vakeels in the same suit, to file a single Vakalutnamah.

"27. If the party shall agree to pay, to each of the Vakeels employed by him, the full amount of the authorised fee, the opposite party in the suit shall, in no case, be required to make good more than the fee of one of those pleaders, or such part of the fee as may be adjudged against him by the Court. The fees of the other pleader or pleaders are to be considered as a separate expense, to be defrayed exclusively by the party entertaining him, and for which he is not to be reimbursed in any case whatever.

"28. If a suit shall be withdrawn or dismissed on default, without a determination upon the merits of the case, before all the requisite pleadings shall have been filed in Court, the plaintiff or appellant, withdrawing the suit, or suffering it to be dismissed on default, shall be charged with one-fourth; or if after all requisite pleadings shall have been filed, with one-half of the established fee, on account of

the Vakeel of the defendant or the respondent, which he would have received, had judgment been given in the cause, together with all the other costs incurred by the defendant or the respondent and admitted by the Court.

The same rules shall be considered applicable to cases adjusted by Razeenamah, except that the fees of the pleaders and all other costs of the Suit shall be paid by the parties, in such manner and proportions as may have been agreed upon and inserted in the Razeenamah, provided that nothing contrary to the provisions of this enactment is contained in such terms.

"29. Pleaders are to give written receipts for all accounts, writings or documents which may be delivered to them by their clients in the course of any suit or process; and if a pleader shall refuse to return such accounts, documents, or writings, the Court upon a petition being presented to them for that purpose by the owners of the papers so withheld, shall cause them to be restored.

"30. The order of the Dewan, or of such officer as may be authorised by him to furnish instructions for conducting any legal proceedings in behalf of the Sirkar, is to be filed in Court, as the authority to plead the cause, and is to form part of the record of the proceedings.

ACT OF 1040.

"32. No part of this Regulation is to be construed to prohibit or prevent, any individual from appearing and pleading his own cause in person, in any of the Courts of Civil Judicature, without employing an authorised pleader.

This Regulation shall apply to the Zillah and the Sadr Courts, but it shall be competent to the Sadr Court hereafter to extend its operation to the Courts of Munsiff, with the sanction of His Highness the Maharajah.

PROCLAMATION.

*By His Highness the Maha Rajah of Travancore,
issued under date the 2nd June 1865 corres-
ponding with the 21st Edavom 1040.*

Whereas We earnestly desire that the possession of landed as well as other property in Our Territory should be as secure as possible ; and whereas We are of opinion that, with this view, Sirkar Pattom lands can be placed on a much better footing than at present so as to enhance their value ; We are pleased to notify to Our Ryots—

1st. That the Sirkar hereby and for ever surrenders, for the benefit of the people, all optional power over the following classes of lands, whether wet, garden or dry, and whether included in the Ayacut accounts or registered since :

Ven Pattom,
Vettolivoo Pattom,
Maraya Pattom,
Olavoo Pattom,
Mara Pattom,

Pattom Proclamation. This proclamation was published in *T. G. G. dated 13-6-1865.*

In the Administration Report of the year 1040, the objects and reasons for enacting this measure is stated as follows :—

“115. A large proportion of the lands of Travancore was held on a tenure called Sirkar Pattom. Besides garden and Punja lands, wet lands alone held under this tenure, come to about 200,000 acres.

“117. The Sirkar was considered the sole Jenmi,—Merassi-holder—or the land-lord of these lands. The ryots in possession of these lands held them of the Sirkar, just as the tenants of an ordinary Jenmi or Merassidar hold lands of him.

“118. Many serious disadvantages were attached to this tenure as a consequence of its character. The Sirkar was supposed to have the absolute dominion of a land-lord over these lands, limited only by its own considerations of self-interest. It seems that the Sirkar was not bound to respect possession. It was thought that the lands could, in some cases, be resumed, at the Sirkar's pleasure, though this was not often done in practice. Sirkar Pattom lands could not be legally sold by one ryot to another, for the reason, he was a simple tenant, and could not act as a proprietor. If a sale were nevertheless effected, it was deemed invalid, and the Sirkar had the right to ignore the transaction

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and all such Durkast Pattom, the tax of which is understood to be fixed till the next Survey and Assessment.

2ndly. That the ryots holding these lands may regard them fully as private, heritable, saleable, and otherwise transferable, property.

3rdly. Accordingly, the sales, mortgages, &c., of these lands will hence-forward be valid, may be effected on stamped cadjans, and will be duly registered. The lands may be sold for arrears of tax, in execution of decrees of Courts and such other legitimate purposes, and may also be accepted as security by the Sirkar as well as by private individuals.

altogether. When a sale was executed, it was done clandestinely and in a most circuitous manner, involving an infraction of the truth at almost every step. As Sirkar Pattom land could not be legally sold, such land was no security for the tax payable on it. When the tax on such land had to be levied by coercive process, the land could not, of course, be brought to sale, but the Sirkar had to seek out other property of the defaulter, and on failure, the demand had to be remitted. As sales were illegal, mortgages were also equally so; and thus the tenant was unable to borrow capital on the security of his Pattom lands, though such capital were required for the improvement of those very lands. It was only carrying out the pernicious principle, to refuse to accept Pattom lands as security for public servants, for public contracts, &c. Nor could Pattom lands be sold by the Civil Courts of the country in execution of decrees. The judgment creditor was not therefore at liberty to regard the Pattom lands in the possession of his debtor, as any assets

available for the satisfaction of the just debt. The Sirkar steadily refused to assent to any action on the part of the tenant, such as was calculated to establish any pecuniary interest of his, in the Pattom lands forming his holding. This was carried so far that, if a ryot asked to be permitted to spend capital in improving his lands, the Sirkar told him that he might do so if he liked, but that the Sirkar would not recognise the improvement, or respect any claim to consequent pecuniary interest in the property. Following out the system, no price or a mere nominal price was paid by the Sirkar for Pattom lands resumed for public purposes, such as for roads, canals, public buildings.

"119. It is easy to see how adverse such a state of things must have been to the permanent improvement of this important class of lands.

"120. A remedy was much needed and it was applied by His Highness by issuing the following Notification.

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4thly. That the holders of the lands in question may rest assured that they may enjoy them undisturbed so long as the appointed assessment is paid.

5thly. That the said holders are henceforth at full liberty to lay out labour and capital on their lands of the aforesaid description to any extent they please, being sure of continued and secure possession.

"121. This Notification has effectually removed the uncertainties of the Pattom tenure. The ryot in possession of Pattom lands may hereafter feel that, in effect, he is the landlord. He can regard the lands as his own property; and the wholesome feeling of ownership thus generated, is obviously of inestimable value."

A. R. 1040. Pp. 28-31.

The Dewan's letter dated 23-4-1865 to the Resident forwarding the draft of the Proclamation further explains the object of the measure. The following are extracts therefrom.

"15. The classes of land named in the draft include almost all the land under Sirkar Pattom tenure. I have purposely excluded Kandukrishi Pattom and the bulk of the Durkast Pattom lands, as they require a different treatment.

"16. It may be generally observed here that what the Notification proposes to do is no more than to place Sirkar Pattom lands on the same footing as that of the Ryotwari lands in the Madras Presidency.

"17. As the sales and other transfers of Sirkar Pattom lands will be declared legal hereafter such transactions will of course

in disputed cases come before the courts. Taking the extent of Pattom wet lands at about 2 lacs of acres, and valuing each acre very moderately at Rs. 50 to 75, the total value of these wet lands alone will amount to 10 to 15 millions or 1 or 1½ crores of Rupees; and to this must be added the value of dry and garden land of the same tenure. From these figures a rough estimate may be formed of the value that will be conferred on a large class of lands under the proposed arrangements.

"18. Under the liberty accorded by the Notification to the Ryots to spend labour and capital on Pattom lands, the lands are sure to improve so as to increase production and to lighten the pressure of taxation.

"19. The promise to pay full compensation for lands resumed for public purposes will, I am sure, be very welcome to the public. The partial compensation payable under the existing system is often little more than nominal, and, therefore, when landed property is resumed, private individuals very often suffer extreme hardship.

"20. The reservation made in the 7th clause is all that is necessary to secure the interests of the Sirkar. With this

PATTOM PROCLAMATION.

6thly. That the aforesaid description of lands will be resumable by the Sirkar like Jenmom and other private lands only for purely public purposes, as for instance, for making roads, canals, public buildings, &c., and when resumed for such purposes, compensation will be paid by the Sirkar not for improvements only as heretofore, but equal to the full market value of such lands.

reservation, the concessions to be made will confer great benefits on the holders of Pattom lands while they would be quite innocuous in respect to the Sirkar; nay more, they would ultimately benefit the Sirkar also.

"21. About the expediency of the provision embodied in clause 8, I own I am not myself quite sure. There are reasons for and against it, and it may serve a good purpose to detail these.

"22. If each field and each piece of garden land were charged with assessment exactly in proportion to its powers, there would be no fear of any field or piece of garden land being voluntarily abandoned. The holder would find it to his interest to continue to hold it; the property would always have marketable value; and it would be a good security for the revenue due on it to the Sirkar. In such a state of things, there would be no inducement to commit the fraud against which the provision under discussion is directed, and consequently, there would be no necessity for such a provision. But the state of things is not such. The last survey and assessment of Nanjah lands is now 62 years old, a period long enough to produce mutations sufficient to some

extent to dis-arrange the incidence of the best imposed tax. And it should be also remembered that the last survey and assessment was an operation very imperfect in several respects; and hence, though it may be presumed that a whole holding, composed of many fields has been equitably enough taxed, it is in some cases doubtful, and in others more than doubtful, whether the tax in its component parts has been proportionately adjusted to each field individually. It is possible, therefore, that some fields may have been over-taxed as others have been under-taxed, the two errors in a measure neutralising themselves. If, under these circumstances, some such provision as that under reference were not made, but complete freedom of alienation granted, might not an inducement be established for the Ryot to rid himself of the over-taxed parts of his holding and to retain the under-taxed only to the detriment of the public revenue? Would it not, therefore, be desirable to maintain the provision till the tax is equitably re-adjusted on each field individually?

"23. Nor is there anything unjust in such a provision. The whole is a matter of contract.

PATTOM PROCLAMATION.

7thly. That the foregoing concessions are not however to be understood to affect in any way the rights of the Sirkar to regulate the land tax, to resume escheats, to confiscate the property of criminals, and generally such rights as have heretofore been exercised upon all property in general.

8thly. That it is to be understood that when Pattom land, being a portion of a holding, is transferred to a pauper with the view of defrauding the Sirkar of the tax due to it, the Sirkar will have the right of apportioning the tax so as to prevent loss of revenue: and

A certain block of land is given in enjoyment to a Ryot on certain conditions as to rent, and he must take the block with its bad as well as its good parts; and he cannot claim it as a matter of right to divest himself of the bad parts and to claim abatement in proportion to the area resigned.

"24. While the provision is maintained with a view to prevent gross cases of fraud, it need not be enforced with that over-strictness which may be calculated to lead to inquisitorial proceedings.

"25. And, be it remembered that the provision in question is not a new arrangement; it is one that is and has all along been in force. What is proposed is to leave it undisturbed till the next settlement.

"26. On the other hand, it may be observed that, in consequence of the general lightness of the land tax and the recent rise of the price of all agricultural produce, it is not likely that, under a general freedom of cultivation, much land will be thrown up; that the sacrifice of revenue involved will be

very inconsiderable, and too insignificant to justify the retention of a rule which savours of illiberality; and that it is actually desirable to give an opportunity for the rejection of such land as entails loss on the holder, instead of forcing it upon him. It may be added that no precautions on the part of the Sirkar can be really efficient in preventing unprofitable land being thrown up, though they might delay the result and make its attainment dependent upon a series of intrigues.

"27. It is of course difficult to arrive at any accurate estimate of the extent of land that may be thrown up, if perfect freedom be granted to the Ryot to retain or reject lands at his pleasure. It is difficult to make even an approximate guess, unless with the aid of accounts which will take time and trouble to prepare. But my belief is that very few instances of the throwing up of land will occur except in the Nanjanad and one or two adjacent Taluks, where it is that the land tax is exceptionally high.

"28. On the whole, I am inclined to say that the provision

PATTOM PROCLAMATION.

9thly. That partly with a view to strengthen the title of the transferee, and partly with the object of realizing a fund to meet the additional expenses which the Sirkar will have to incur, in paying full compensation according to this Notification, for lands assumed for public objects, a fee at the rate of 2 per cent. of the interests transferred will be payable to the Sirkar by the transferee, at the period of the transfer, according to rules which the Dewan has been directed to promulgate.

under discussion had better continue to be maintained, if not until a new survey and settlement, till sufficient statistical information shall have been collected with a view to judge of the results likely to be attended upon the grant of perfect freedom. When it is remembered how long the Madras Board of Revenue refused to grant the perfect freedom in question, the caution now contemplated will not, I trust, be considered too excessive or superfluous.

"29. The objects aimed at in Clause 9 of the proposed Notification are specified therein. The fee proposed will, I think, be paid cheerfully, at any rate, there will be no complaint about it. It will be very moderate, if payable at distant intervals, and will be paid immediately by the purchaser and not the seller. Its payment will rather strengthen the title of the purchaser, will be useful in evidence in Courts of justice, and will also furnish valuable statistical information regarding the value of landed property and its mutations.

"30. It will thus, I hope, be seen that the Notification

proposed will do away with many serious evils without any sacrifice on the part of the Sirkar, and will afford a relief to an extensive class of property so as visibly to result in increased prosperity. Indeed, the advantages promised are so evident, numerous and important that it is rather to be wondered at that the steps now proposed did not suggest themselves long before this."—*L. R. M. Vol. I., Pp. 8-13.*

Clause 9. The Rules referred in this clause were published in *T. G. G. dated 8th Vrischigom 1041*. By an amending Proclamation issued under date 3-9-1057, the Pattom fee was made payable to the Sub-Registrars at the time of presenting the documents for registration instead of to the Parvathikars as enjoined by rules. The fees levied on transfers of Pattom lands were abandoned by Proclamation dated 5th Karkadakom 1059, such transactions having already been subjected to registration and stamp duties. It may also be noted that the arrears of Pattom fees and penalty which remained unpaid till 1062 were remitted by Proclamation issued under date 4-7-1062.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 29th June 1869 corres-
ponding with the 17th Mithunam 1044.*

Whereas it has hitherto been the practice of the Sirkar to assume such property as may have been left by a deceased person being a Hindu by religion and leaving no heirs but such as have become converts to a different religion; and whereas it is expedient to alter such practice; We hereby notify that from and after the date hereof, the Sirkar relinquishes all claim to property so left which will descend to the natural heirs independently of religious considerations, subject only to such public demands as would hold in the case of succession by Hindu heirs.

All Our officers concerned are hereby directed to take notice of these provisions and act accordingly.

This Proclamation was issued, as the old practice which it abrogated was considered inconsistent with the policy of religious toleration pursued by the Sirkar. — *L. R. M. Vol. I., P. 19.* It was published in *T. G. G. dated 6-7-1869.*

PROCLAMATION

*By His Highness the Maha Raja of Travancore,
issued under date the 24th September 1874
corresponding with the 10th Kanni 1050.*

Whereas it has been reported to Us that much injury to the Public Service results from the practice of appointing Relations of Peishkars, Tahsildars, and of other Superior Officers to situations in their own Cutcheries, Divisions, or Districts, this practice is for the future strictly prohibited.

2. A return of all such relatives now in service should be prepared in the form that shall be prescribed, and submitted to the Dewan for Our information, within two months from this date.

3. The Dewan will, on receipt thereof, order such transfers or other arrangements in regard to them as may be deemed necessary for the good of the Public Service.

4. If for special reasons the employment of a relative is desired, such case will be reported and special sanction obtained from the Dewan.

5. The term "Relative" should be understood to include not only Brothers, Sons, Nephews, Sons-in-law, but every kind of relation on the Paternal, Maternal, Wife's and Sister's sides.

6. This Rule shall apply to every grade of servant, every Department and Office in the State, and Officers transgressing it will be visited with Our severe displeasure.

This Proclamation was published in *T. G. G.* dated 29-9-1874, and re-published under Government Notification No. G-3684, dated 31st May 1908.—*T. G. G.*, dated 2-6-1908.

ACT I OF 1050.

NATIVE PASSENGER SHIPS ACT.

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The figures on the right side refer to the corresponding Sections of the British Indian Act VIII of 1876. This Act was amended by two other Acts passed in 1883 and 1884, and wholly repealed by Act X of 1887-

ACT I OF 1050.

An Act to provide against certain abuses in Native Passenger Ships.

Passed by His Highness the Maha Raja of Travancore, under date the 13th November 1874 corresponding with the 29th Thulam 1050.

Whereas abuses have occurred in the overcrowding of ships conveying Native passengers between ports and places in India and ports and places in the Red Sea or Persian Gulf, and whereas it is expedient for Us to prevent such abuses so far as possible; We do hereby enact as follows:—

1. This Act applies to all persons who offend against its provisions within Our territorial jurisdiction.

2. Nothing in this Act applies to any ship-of-war or transport belonging to or in the service of the British Government or to any ship-of-war belonging to any foreign Prince or State, or to any ship under contract with the Government of any European or American State, or to any sea-going steam vessel employed in the conveyance of the public mails under a contract, or to any coasting steamers.

3. In this Act the word "Master" includes every person having command or charge of a vessel.

4. The words "Native Passenger Ship" mean a vessel carrying more than thirty passengers, being natives of Asia or Africa, which may depart or proceed on any voyage from India to any port or place in the Red Sea or Persian

The Act was passed to provide against overcrowding in native passenger ships plying between Ports of this State and those situated in the Red Sea

and the Persian Gulf—A. R., 1050. P. I.

It was published in T. G. G. dated 24-11-1874.

SEC. 5.**NATIVE PASSENGER SHIPS.**

Gulf, or which may arrive at any port or place within Our territories from any port or place in the Red Sea or Persian Gulf having on board more than thirty such passengers.

5. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act applies, from any port or place within Our territories.

Ships not to sail from Travancore ports.

6. If any Native Passenger Ship departs or proceeds upon a voyage from any port or place in Our territories, the owner or Master shall, for every passenger conveyed on the ship, be liable to a penalty not exceeding one hundred Rupees, or imprisonment not exceeding one month, or both.

Penalty for every passenger taken.

And the ship, if found within two years in any place within Our territories, may be seized and detained by any Magistrate or Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment of the fines imposed under this Act with all costs has been enforced.

Offending ship to be detained until fine is paid.

7. If any ship bringing passengers from any port or place east of the Cape of Good Hope and not within India to any port or place within Our territories shall have on board a greater number of passengers or persons than in the proportion prescribed in this Act, the Master of such ship shall be liable, on conviction, for each person in excess of such proportion, to a fine not exceeding fifty Rupees, or imprisonment not exceeding one month, or to both.

Penalty for conveying more passengers than those permitted.

8. No such ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the ship.

Proportion of passengers to tonnage.

9. If any Native Passenger in any ship shall be landed at any of Our ports or places other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding two hundred Rupees, or to imprisonment for any term not exceeding a month, or to both.

Penalty for landing passenger at port not contracted for.

10. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger or to any other person, in respect of the breach or non-performance of any contract made with the Master or owner of the ship or his Agent.

Passenger's right of action against Master or owner not affected by this Act.

11. All offences against this Act shall be punishable in a summary manner by a Magistrate.

Adjudication of offences.

12. If the person on whom any fine is imposed under this Act is the Master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture and apparel.

Fine leviable by distress on ship.

13. Any Magistrate imposing any fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such fine is imposed, or in or towards payment of the expenses of the proceedings.

Person wronged to be compensated from fine.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 16th Edavom 1050
corresponding with the 28th May 1875.*

Whereas in communication with the Government of India, We have found it necessary to make special arrangements for the trial of European British subjects committing offences in Our Territories.

1. We do hereby divest Our ordinary Criminal Courts of every grade of jurisdiction to try offences committed by European British subjects, and do further declare that such jurisdiction shall, from and after the date of this Proclamation, be exercised exclusively by Special Magistrates, being European British subjects, whom We may from time to time appoint, such appointments being notified by the Dewan in Our Government Gazette.

2. Except where a separate territorial jurisdiction is assigned and notified in the Gazette, a European British subject charged with the commission of an offence shall be tried by the Special Magistrate whose station is nearest to the scene of the offence, unless by Our authority the case is transferred to another Special Magistrate.

"The negotiations with the British Government touching Criminal Jurisdiction over European British subjects in the State, having come to a close, a Royal Proclamation was issued (16th Edavam 1050 corresponding with 28th May 1875) to give effect to the arrangements under which Special Magistrates to be appointed by His Highness the Maha Raja and vested with the powers of a Magistrate of the 1st Class under the Indian Procedure Code, were empow-

ered to try all ordinary cases, within their cognizance, and in committable cases, to commit (in virtue of their contemporaneous appointment by the Viceroy as Justices of the Peace) either to the British Resident as a Court of Session or to the High Court at Madras" A. R. 1050., P. I.

The Proclamation was published in *T. G. G.* dated 1-6-1875.

See also Chapter XXXIII of the Criminal Procedure, Code Act VIII of 1117.

PROCLAMATION.

3. We are further pleased to confer the following powers upon such Special Magistrates : namely, power to pass, on conviction, any sentence not exceeding three months' imprisonment or fine up to one thousand British Rupees or both.

4. A Special Magistrate, appointed under this Proclamation for the trial of European British subjects, shall not take cognizance of offences committed by other subjects, unless he is also an ordinary Magistrate authorized by law to take cognizance of such cases.

5. In regard to committable cases the enquiry and committal will proceed by virtue of appointments to be made and powers conferred by His Excellency the Viceroy and Governor-General.

6. Nothing in this Proclamation shall be understood to prevent Our ordinary Courts of whatever grade taking cognizance as hitherto of cases of contempt of Court by whomsoever committed.

7. The special arrangements herein made are not intended to relieve Our ordinary Police, and Magistrates and Sub-Magistrates acting as Police-officers, from the functions they have hitherto exercised as such, in respect of European British subjects.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 22nd Thulam 1051
corresponding with the 6th November 1875.*

Whereas in communication with the Government of India, We have found it necessary to make arrangements for the hearing and disposal of appeals from the decision of the Special Magistrates appointed under Our Proclamation dated the 16th Edavom 1050/28th May 1875 and for revising their Proceedings: We do hereby constitute and appoint the Christian Judge for the time being of Our Sadr Court, being a European British subject, to be Special Appellate Judge to hear and dispose of appeals from the decisions of the Special Magistrates appointed under Our Proclamation above recited and to revise their Proceedings according to Law, hereby conferring on him the necessary Appellate Jurisdiction and the same punitive powers, as are conferred on Our Special Magistrates under the above Proclamation.

2. And whereas by Our said Proclamation, power was reserved to Our ordinary Courts of every grade to take cognizance of contempt of Court by whomsoever committed, which power it is necessary to define here, so far as European British subjects are concerned, We hereby direct that Our ordinary Courts aforesaid shall be competent to take cognizance of such cases of contempt only as are cognizable by *any* Civil, Criminal or Revenue Court in British India under Chapter XXXII of Act

This Proclamation was published in *T. G. G.* dated 16-11-1875.

Sec. 2. Chapter XXXII of Act X of 1872 referred to in the Section deals with "Contempt of Court," and contains four Sections— 435—Procedure in certain cases of contempt; 436—Procedure where Court considers that accused should be imprisoned or fined more than 200

Rupees; 437—Discharge of offender on submission of apology; and 438—Procedure when offender is a European British subject. These sections correspond respectively to Sections 480 and 481; 482 (1) and (2) and 347; 484; 445 and 447 (1), of Act V of 1898.

Under Act II of 1057, the Sadr Court was designated the High Court and the Christian

PROCLAMATION.

No. X of 1872 and subject to the provisions of that Act in respect of Procedure and Punishment.

Cases of contempt of Court not falling within the above para, and of which European British subjects are accused shall be referred, under the procedure indicated in the Act aforesaid, to the proper Court having jurisdiction in the case.

Judge of the High Court being a European British subject continued to exercise the functions of the Special Appellate Judge. To obviate the inconvenience due to the absence from the High Court of the aforesaid Judge invested with powers under the Proclamation, provision was made by Proclamation dated 10-10-1908/25-2-1084 whereby any one or more of the Special Magistrates and Justices of the Peace may be empowered to exercise the powers of the Special Appellate Judge. During

such period they were prohibited from exercising their ordinary functions as Special Magistrates and Justices of the Peace and to avoid delay in trials and other proceedings pending before them, power was conferred on the Special Appellate Judge by Proclamation dated 24-8-1912/9-1-1088 to transfer any trial or other proceedings from the file of one Special Magistrate to that of another.

See also Chapter XXXIII of the Criminal Procedure Code, Act VIII of 1117.

ACT II OF 1054.

COFFEE STEALING PREVENTION ACT.

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The figures on the right side refer to the corresponding Sections of the Madras Coffee Stealing Prevention Act VIII of 1878.

An Act to prevent Thefts of Coffee.

Passed by His Highness the Maha Raja of Travancore, under date the 14th August 1879 corresponding with the 31st Karkatakam 1054.

Whereas it is expedient to make special provision to prevent thefts of Coffee and to repress and punish the offence of receiving or disposing of stolen Coffee in the neighbourhood of Coffee Plantations or Estates; We are pleased to enact as follows:—

Preamble.

1. This Act shall take effect in such districts or parts of districts, or within such localities or limits, and from such dates, as Our Dewan may, from time to time, direct by Notification published in Our Government Gazette. The Dewan may, from time to time, modify or cancel such direction, by Notification similarly published.

Commencement and local extent.

2. In this Act,

Interpretation Clause. "Labourer."

"Labourer" means and includes all persons (except resident managers) temporarily or permanently employed on a Coffee Estate in any capacity, whether agricultural, menial, or otherwise howsoever.

"Carrier."

"Carrier" means and includes all persons for the time being employed in the transport of Coffee, whether by portage, pack animals, boat, cart, or otherwise, and whether as contractors, drivers, or otherwise.

This Act was published in T. G. G. dated 19-8-1879.

The Administration Report of the year 1054 explains the object of the measure as follows:—

"The Coffee Planters in the country having complained of the losses they were subjected to from theft of their produce, a law was passed on the lines of the British Indian Act to better protect their interests.

The main feature of the Act is that possession of Coffee, in the region of the Coffee Estates, by others than planters is regarded as *prima facie* evidence of illegal possession, unless the provisions of the Act have been conformed to or the Coffee is intended purely for home consumption. Even in the latter case, the purchase cannot be from a 'labourer' in a Coffee Estate."—A. R. 1054, P. I.

SEC. 3. COFFEE STEALING PREVENTION.

"Coffee Estate" means and includes any land on "Coffee Estate." which Coffee is growing.

"Coffee" means and includes all Coffee not roasted "Coffee." or otherwise prepared for immediate consumption.

3. It shall not be lawful for any one to purchase, take in barter or exchange, or receive Coffee from any labourer employed on a Coffee Estate.
Coffee not to be received from labourer.

4. It shall not be lawful for any one to purchase, take in barter or exchange, or receive Coffee from any person other than a labourer employed on a Coffee Estate, unless the person so purchasing, taking in barter or exchange, or receiving such Coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction specifying

(a) the name, residence, and occupation of the person from whom such Coffee was so purchased, taken in barter or exchange, or received ;

(b) the date of transaction ; and

(c) the quantity and description of the Coffee so purchased, taken in barter or exchange, or received.

Provided that this Section shall not apply to Coffee purchased, taken in barter or exchange, or received, from any person other than a labourer employed on a Coffee Estate, and intended *bona fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange, or receiving, the same as aforesaid.
Proviso.

5. All books required by Section 4 to be kept by persons purchasing Coffee shall be produced upon the requisition of any Magistrate or of any Sub-Magistrate or of any Police Officer specially authorized by a Magistrate or Sub-Magistrate to require the production of such books.
Books to be produced on requisition.

6. It shall not be lawful for any one to purchase, or take in barter or exchange, Coffee from any carrier, or for any carrier, to sell, or give in barter or exchange, any Coffee unless the person so purchasing or taking in barter or exchange such Coffee shall, besides making the entry required by Section 4 of this Act, also enter or cause to be entered in the book mentioned in the said Section 4 the marks (if any) on the bags, or other packages, in which such Coffee may be contained, and unless the entries required by this Section and by the said Section 4 be also correctly signed by such carrier in his own name and attested by the Proverthicaren, Millakaren, or Tannah Muthelper of the village within which the transaction takes place.

7. Any person committing any breach of the provisions contained in Section 3, 4, 5 or 6 of this Act shall be liable, on conviction, to pay a fine not exceeding five hundred Rupees, or, in default of payment, to undergo simple imprisonment for a period not exceeding six months.

8. Any cooly, maistry, or other labourer, employed on a Coffee Estate, found with green gathered Coffee in his possession and failing to account satisfactorily for such possession, shall be liable, on conviction, to pay a fine not exceeding five hundred Rupees, or, in default, to simple imprisonment not exceeding six months.

9. No person shall carry or remove Coffee from any Coffee Estate, premises, or place, or upon any road, highway, or footway, without the express permission of the owner or of his authorized agent. Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars:—

- (a) the quantity of the Coffee to be carried or removed;

SEC. 10. COFFEE-STEALING PREVENTION.

- (b) the number, description and marks of the packages in which such Coffee is secured ;
- (c) the place or destination to which the Coffee is to be carried or removed ; and
- (d) the names of consignor and consignee.

Any person committing any breach of the provision of this Section shall, on conviction, be liable to pay a fine not exceeding five hundred Rupees, or in default, to simple imprisonment not exceeding six months.

10. No Coffee shall be gathered, moved, loaded, or unloaded, on any Coffee Estate, between sunset and sunrise. Any person committing a breach of this provision or abetting such breach shall, on conviction, be liable to pay a fine not exceeding five hundred Rupees, or in default, to simple imprisonment not exceeding six months.

Hours of gathering coffee.

Provided that nothing in Section 9 or in this Section shall apply to the ordinary operations of curing the crop on the Estate, such as pulping or storing.

Sections 9 and 10 not to apply to curing operations.

11. If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence.

Procedure if gathering done for theft.

12. Notwithstanding anything said to the contrary in any previous Act, a Magistrate convicting under this Act is hereby empowered to award to the full extent the penalties herein provided, and a Sub-Magistrate to inflict a fine not exceeding fifty Rupees, or in default of payment, to direct simple imprisonment for a period not exceeding two months.

Magistrate's power to award full penalties.

13. It shall be at the discretion of the Magistrate or Sub-Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under Section 8 of this Act, to substitute or add corporal punishment under the provision of Act II of 1047 or of any other law for the time being in force in that behalf, for or to the penalties provided by this Act.

Provided that such substituted or additional punishment shall be awarded only in respect of the offence itself and not as an alternative penalty for non-payment of fine.

14. It shall be competent to any Magistrate or Sub-Magistrate, trying a case under this Act, to grant a portion of the fines he levies therein as rewards to persons furnishing such information as may have led to the conviction of offenders.

Sec. 13. Sec. 7 of Act II of 1047 (Re-distribution of Magisterial Powers) empowered Magistrates to inflict corporal punishments. Act II of 1047 has been repealed by Act V of 1067 which was in turn repealed by Act VIII of 1117. Chap. 24 of Act I of 1074 and Chap. 28 of Act VIII of 1117 deal with corporal punishments.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 2nd Mithunam 1056
corresponding with the 14th June 1881.*

Whereas it is desirable to correct any misapprehension that may exist in respect of mining rights in lands belonging to Devaswoms, Brahmins and other Jenmies, or proprietors or lessees holding directly from Our Government; We are hereby pleased to notify that all rights in metals and minerals throughout the State, by whomsoever and under whatever tenure the lands may be held, are Royalties belonging to the Crown and cannot be enjoyed, sold, leased or otherwise appropriated, except with the permission of Our Government, and subject to such Acts or Rules as have been or may hereafter be enacted by Us or under Our authority.

2. Except in so far as any particular mining rights have been or may hereafter be assigned by Our Government, the discovery of any useful metals or minerals shall be communicated to Our Government, and the proprietor, holder or discoverer shall, in respect of such metals or minerals, abide by the decision of Our Government. The fact of discovery or its announcement shall confer no rights of any kind in the metal or mineral discovered, beyond those accruing under any Acts or Rules which have been or may hereafter be passed by Us or under Our authority.

This Proclamation was issued to assert "the ancient right of the Government to all metals and minerals which might be discovered on private properties" A. R. 1056 P. 2.

It was published in the Supplement to T. G. G. dated 21-6 1881.

See also Mines and Minerals Act, III of 1103.

PROCLAMATION.

*By His Highness the Maha Rajah of Travancore
issued under date the 23rd Midhunam 1056
corresponding with the 5th July 1881.*

Under the various designations mentioned in the margin additional cesses are at present levied on paddy lands and gardens, these cesses are said to represent the interest on debts (in grain and money) originally contracted by the ryots with the Government and which they have been paying and are expected to continue to pay without limitation as to time, the option of redeeming the principal being denied them. As a means of mitigating this grievance, it was notified in 1036 that those who elected to pay twenty years' accumulated interest (in money or paddy as the case might be) would have the debt against them extinguished. This option, however, has not been availed of, as twenty years' interest would often exceed the principal and the rule is calculated to work unequally in practice.

To relieve the large number of ryots who have these debts kept hanging over them and from whom interest has been exacted for a long series of years and is still exacted, His Highness the Maha Rajah is pleased to cancel the arrangement sanctioned in 1036 and to accord to the ryots the option of paying up the principal (in money or paddy at the commutation rate of one and a half fanams per parah). This will relieve them from all obligation of paying interest hereafter. Where, however, there are no accounts to show the amount of the principal originally borrowed, it will be sufficient to pay down ten years' interest.

This proclamation was published in T. G. G., dated 19-7-1881.

PROCLAMATION.

*By His Highness the Maha Rajah of Travancore
issued under date the 5th of Karkadagom 1059
corresponding with the 19th July 1884.*

Whereas by a Royal Proclamation dated 21st Vykasi 1040/2nd June 1865, a fee of two per cent. was imposed on certain transfers of Pattom lands which yield an average annual revenue of 50,000 Rupees to the State; and whereas, since the date of the aforesaid Proclamation, Acts have been introduced which subject all important written transactions to the payment of both registration and stamp duties; and whereas the further maintenance of the fee on transfers of Pattom land will prove burdensome to the people and is otherwise objectionable on economic grounds as checking the free transfer of property; We are, therefore, pleased, with a view to relieving Our subjects from a burden which it is no longer necessary to retain, to command the relinquishment of the said tax from the commencement of the ensuing Malabar year, namely, from the 1st Chingom 1060/15th August 1884.

All documents executed on or after the said first day of Chingom shall accordingly be exempted from the payment of pattom fee

This Proclamation was published in *T. G. G. dated 22-7-1884.*
Fees and penalty in respect of deeds transferring Sirkar Pattom lands prior to 1060 were remitted by Proclamation *dated 4-7-1062.*

REVENUE SETTLEMENT PROCLAMATION.

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PROCLAMATION

*By His Highness the Maha Raja of Travancore
issued under date the 14th Kumbhom 1061
corresponding with the 24th
February 1886.*

Whereas the areas of wet lands recorded in the Ayacut of 978 M. E. are not the result of actual measurements, but an estimate deduced in a rough way from the assumed quantity of seed required to sow each field; and whereas the subsequent Ayacut of 1012 M. E. is likewise defective, in that the correct areas of gardens were not ascertained and recorded though the gardens themselves were in a manner measured; and whereas, further, the aforesaid Ayacuts are partial and incomplete as embracing cultivated land only, excluding wastes of all descriptions, it has been resolved by Us to carry out a complete Survey and Re-assessment of the entire State, embracing an accurate measurement, demarcation, mapping and valuation of properties of every description and a registration of titles, as the basis of a sound Revenue Administration.

2. The new Survey and Settlement accounts will record the areas in terms of acres and cents, the equivalent in Parahs and Edangalis being also shown in the case of rice lands.

The acre adopted as standard of measurements.

Revenue Settlement Proclamation dated 14-7-1061.

Amended by Proclamations dated 13th Karkatakam 1064 and 12th Kanni 1073. Affected by Proclamations dated 1-10-1068; 11-12-1070; 15-12-1070; 28-2-1072; 8-11-1085; 24-12-1118 and 25-11-1121.

This Proclamation was published in *T.G.G. dated 2-3-1886*. It "Sketches out the general plan of the Revenue Survey and Settlement and lays down the principle and procedure to

be observed in carrying on the operation." *A. R. 1061, Para 6.*

[For provisions relating to settlement of *Oodukoor* holdings see *Oodukoor Settlement Proclamation* dated 17-6-1947 given *infra*.]

3. In the Settlement of 1012 M. E., all productive cocoanut trees in the Taluks north of Chirayinkil were divided into four classes, and each class was charged with a distinctive rate of assessment thus:—

		ch.	c.	
1st class trees were taxed at		4	...	each.
2nd do.	„	3	...	do.
3rd do.	„	2	8	do.
4th do.	„	2	...	} do.
		& 1	8	

In the same way, jack trees were rated at four chuckrams per bearing tree, and the areca at half a chuckram. On the other hand, in the Taluks south of Quilon, not only the cocoanut, jack and areca, but also the palmyra, punnai, tamarind, mango and ilupai were assessed to the revenue; and the assessment, instead of being a single rate for each class or kind of tree, was based on no uniform principle and consisted of numerous and varying rates for each kind of tree in each Taluk. In fact, the state of things found existing in this part of the country at the time of the Settlement appears to have been left untouched.

The distribution of cocoanut trees into four classes in North Travancore appears to have been made with reference to their productive capacity as indicated by the number of bunches of nuts and the number of madals or fronds seen on each productive tree. Now, this in practice must prove a most difficult process and could not be expected to yield correct results. It is impossible for any human agency to look up at each tree in a garden, form a correct valuation of its productive power and place

The settlement effected under this proclamation was declared to be permanent for a period of 30 years. The Land Tax Proclamation of 1121 dated 25-11-1121 which was issued in supersession, and modification of the existing statutes relating to land revenue, charged and levied a low and uniform rate of basic tax on all lands and enacted that provisions therein contained shall be deemed to be a general revenue settlement of the State.

it in one or other of any prescribed number of classes, with any pretensions to accuracy. The scope, too, for fraud and oppression which such a procedure must necessarily afford to subordinate officials whose operations it must be impossible for superior officers, in such circumstances, to check and control, must be very great.

In the Settlement prior to 1012, the cocoanut tree was assessed at one single rate only. This course had the undoubted advantage of being simple and of shutting the door on the abuses inseparable from all classifications, but then a uniform rate must be very low if it is to be paid with ease, and such a low rate would be not only unequal in its incidence but involve an unnecessary sacrifice of the public revenue.

Thus, neither an elaborate classification such as was enjoined and attempted at the Settlement of 1012, nor the imposition of a uniform rate of assessment such as was introduced at the Settlement which immediately preceded that of 1012, being expedient, We have resolved, in the interests of Our agricultural population, to sanction a middle course, which, while avoiding the evils incident to either course, should combine the advantages of both—*i. e.*, We have decided that the gardens throughout the State shall be divided into blocks with reference to their situation, soil and productiveness, and each garden charged with a distinctive rate carefully determined with reference, among other circumstances, to the existing average assessment—such rate not to exceed four chuckrams or fall short of one chuckram for each productive tree in the garden, and the four chuckram rate to be applicable only in the case of any exceptionally superior tract.

4. In adopting the course above indicated, We have had prominently in view the advancement of the prosperity and happiness of Our subjects. The marked rise in the price of cocoanuts, as indeed in the prices of all agricultural produce during the last 30 years, and the fact that the existing garden assessment in the adjoining State of Cochin, varies

All right of Sirkar to enhanced assessment waived in the interests of the agricultural population.

in the adjoining State of Cochin, varies

from two and a half to six chuckrams per tree, and that in those parts of the Madras Presidency also in which a tree tax is levied, the tax on the cocoanut tree is higher than in Travancore, would have quite justified Our garden assessment being enhanced at the ensuing Settlement in the interests of the public revenue, the right of the State to such an enhancement being undoubted. But We have advisedly waived such right and adhered to the existing rates fixed 50 years ago, and have even reduced them in some cases, preferring the well-being and the contentment of Our land-holders to an increase of the public income when such increase is not absolutely called for.

5. It has already been stated that the jack and areca are taxed at a uniform rate in North Travancore, whilst, in the southern Taluks, they and other kinds of trees subject to taxation are taxed at varying rates on no intelligible principle. As it is desirable both in the interests of the taxpayer and for the simplification of the revenue accounts, that each kind of tree should be assessed at one uniform rate, We have sanctioned the following scale:—

				chs.	c.
1.	Jack	...	...	at 4	0
2.	Areca	...	...	„ 0	8
3.	Palmyra	...	...	„ 0	8
4.	Tamarind	...	...	„ 2	0
5.	Punnai	...	...	„ 0	12
6.	Mango	...	...	„ 0	12

1 and 2 will be taxed as at present throughout the State : 3 to 6 only in those parts in which they are at present taxed.

Sec. 5.—“Areca and jack are subject to taxation throughout the State. The tamarind tree is taxed in the five Taluks of Tovala, Agastisvaram, Eraniel, Kalkulam and Shencottah and in the Anchanad tract, the mango, in the first five Taluks and in the Vilavankod Taluk and in addition”.—S. F. R. P. 137.

SEC. 6.

REVENUE SETTLEMENT

6. The ilupai is at present taxed in only four Taluks and the revenue derived from it is so small that We have commanded the tax upon it to be abandoned at the ensuing Settlement.

Tax on ilupai abolished.

7. In some cases, the palmyra was taxed at the last Settlement in the Trivandrum Taluk, but as the trees so taxed are few and yield little or no return, they shall be exempted from assessment. This exemption will be extended to any other localities in which this kind of tree may be similarly circumstanced.

Palmyra exempted in certain places.

8. In the case of gardens only partially planted, We have commanded that the assessment should be determined by taxing the productive trees in the manner already indicated, and assessing the rest of the garden with the appropriate dry rate of assessment applicable to the land.

Partially planted gardens how to be dealt with.

Sec. 7.—“The palmyra is taxed in the five Taluks of the Padmanabhapuram Division, in the Shencotta Taluk and in the villages of Kulathur and Parassala in the Neyyattinkara Taluk. The Palmyra was taxed at the Settlement in parts of Trivandrum Taluk as likewise in all the 18 villages of Neyyattinkara Taluk, but it was exempted from assessment in the Trivandrum Taluk by Para 7 of the Proclamation as the trees so taxed were few and yielded little or no return, and, in exercise of the power vested in Government by this Para, the exemption was, under order dated, 3rd July 1901 extended to 16 villages of the Neyyattinkara Taluk in which this kind of tree was similarly circumstanced.”—S. F. R. P. 137.

Sec. 8.—“The assessment on garden lands is of a mixed character. It is made up partly of tree assessment and partly of ground assessment, the one being exclusive of the other; that is to say, gardens fully planted with assessable bearing trees have been subjected only to tree assessment, those containing no taxable trees have been charged with ground-assessment only, and in the case of partially-planted gardens, the assessment has been determined as laid down in para 8 of the Proclamation by taxing the productive trees and assessing the rest of the garden with the appropriate dry rate applicable to the land. The general rule is subject to a few exceptions. Standards were employed for calculating the

9. It appears to have been the practice at the previous Settlements to allow a remission called Abolition of Nadavukur from the assessment on Pattom and other gardens. But this practice was far from uniform. It was given at various rates and was granted in the case of some gardens and withheld in those of others. The remission was deducted sometimes from the Pattom assessment fixed at the time of the Settlement, sometimes from the difference between that assessment and the assessment determined at one or other of the previous Settlements. In short, there is nothing to show what properties are at this moment entitled to this deduction and what not, at what rate or rates the deduction should be made and on what principle—the accounts are so confused and unreliable. To continue this remission in these circumstances will be to place an engine of oppression in the hands of the Pillamars and to continue to encumber and complicate the accounts with no counter-balancing advantage.

unplanted area chargeable with dry assessment in partially-planted gardens. A garden was considered to be fully planted if it contained not less than—

- (1) 100 bearing cocoanut trees to the acre or
- (2) 800 " arecanut " " or
- (3) 50 " jack " " or
- (4) 500 " palmyra " " or
- (5) 50 " punna " " or
- (6) 50 " tamarind " " or
- (7) 50 " mango " "

In other words, a ground allocation was made at the rate of—

- 1 cent per bearing cocoanut tree
- 1/8 cent " arecanut "
- 2 cents " jack "
- 1/5 cent " palmyra "

- 2 cents per bearing punna tree
- 2 cents " tamarind "
- 2 cents " mango "

Where a garden contained more than one description of assessable bearing trees, the sum total of the areas allowable for the numbers of each kind of tree was deducted from the area of the garden and the remainder was assessed with ground tax"—S. F. R., Pp. 147-148.

Sec. 9. "Nadavukur.—A special feature of the older settlements in regard to garden lands by which the owners of garden lands especially those falling under Sirkar Pattom tenure were given an allowance for the labour and money spent by them in rearing new plants of the taxable species."—L. R. M., Vol. IV. P. 885.

Nor is this all: the reasons which at one time rendered this remission necessary and just no longer exist. It was applicable chiefly to Sirkar Pattom lands. These lands were originally the absolute property of Government, and the tenants were mere tenants-at-will. But by the Royal Proclamation of the 21st Edavoni 1040 Government generously waived all right to these lands and declared them to be the private, heritable, saleable property of the holders. When this was done, the right to the Nadavukur remission emphatically ceased. On that occasion, it is true that the Government reserved to themselves the right of charging a fee of 2 per cent. on every transfer of the class of properties thus enfranchised. But even this fee, which, for 20 years, had continued to yield between forty and fifty thousand rupees a year to the Government treasury, was relinquished only two years ago, entirely in the interests of the agricultural population. Superadded to all this is the fact that the rates of garden assessment to be adopted at the ensuing Settlement will be the same as those fixed 50 years ago, and this notwithstanding that the price of produce has in the interval more than doubled.

On these considerations, We have resolved to abolish the Nadavukur at the ensuing Settlement as a means both of simplifying the accounts and relieving the ryots from the hardships to which the continuance of a remission governed by no definite or uniform principles is likely to subject them.

10. Although the garden assessment is mostly in money, there are some few cases in which it was originally fixed in kind under the designation of Thengapattom, Kettuthengu, &c., and is now levied in the shape of cocoanuts, arecanuts, cocoanut oil,

Sec. 10.—“The tree tax was generally made payable in money. There were, however, certain exceptions in the cases of cocoanut and areca trees where the taxes respectively known as *Thengapattom* and *Pakkupat-*

tom were fixed in kind at so many nuts per tree. In some cases, 3 out of every 100 cocoanut trees were set apart for the supply of cocoanut oil. This was known as *Kettuthengu*.”

betel leaves or other produce. Whatever the origin of this assessment in kind, and however much it may have been preferred to money payments in former times, it is certain that it is now a source of abuse and exaction, and an anomaly which ought to be swept away. It has accordingly been resolved to abolish, at the ensuing Settlement, all assessments in kind and to substitute a money payment.

In making this change, the rate of ten fanams for 100 cocoanuts adopted some years ago in the Vilavankod and Eraniel Taluks for converting the demand in kind into money, and a fair average of the prices of late years for other articles will be adopted as the commutation rate.

The money assessment thus arrived at will necessarily be higher than the Pattom fixed on ordinary gardens, but the land-holders will have the option of having

(a) "The *Thengapattom* tax was levied in 10 taluks (Eraniel, Kalkulam, Vilavankod, Neyyattinkara, Trivandrum, Nedumangad, Chirayinkil, Quilon, Karunagapally and Ambalapuzha). The rates of assessment were more or less governed by the rule applying to money tax and amounted to 25 to 48 cocoanuts on a first class tree, 20 to 36 nuts on a second class tree, 15 to 24 nuts on a 3rd class tree and 10 to 15 nuts on a 4th class tree. This tax was, however, fixed at a uniform rate of 6 nuts per tree in the Ambalapuzha Taluk. Variations existed also in the mode in which this tax was recovered in the several Taluks where it prevailed. In some places, it was levied wholly in kind, in some others partly in kind and partly in money according to actual requirements, and in a few places wholly in money. The commutation rate for the conversion of the tax into

money also varied in different places.

"(b) The *Kettuthengu* tax was peculiar to six Taluks—Chengannur, Sbertallai, Vaikom, Ettumanur, Alangad and Parur. In the Chennittala Proverthi which originally formed part of the Chengannur Taluk, this tax was not levied in kind, but in money at the rate of 7½ Chs. per tree.

"(c) The *Thengapattom* rates were subject to deduction in reference to the tenures as in the case of money assessment, while the *Kettuthengu* tax was uniformly leviable at 3 Edangalies of oil per tree.

"(d) The areacanut tax or *Pakkupattom* was levied only in Ambalapuzha and Neyyattinkara. The rates varied from 10 to 40 nuts per tree in the former. The rates in Neyyattinkara are not known."—S.F.R., Pp. 15-16.

the former reduced to the latter by paying down twenty times the difference between the two.

11. The Rajabhogom now levied on Devaswom, Brahmaswom and other favourably assessed gardens is not uniform but varies from $1/8$ to $2/5$ ths, the different rates being $1/8$, $1/6$, $1/5$, $1/4$, $1/3$ and $2/5$ ths. The more prevalent rates, however, are only two, namely, $1/6$ and $1/8$, the others being exceptional. As it is desirable that this tax should be levied at one single uniform rate throughout the State, We have commanded that the lowest of the existing rates—namely $1/8$ —should be adopted at the ensuing Settlement.

12. At present, waste lands are assessed with Payattupattom on no fixed principle. The practice varies in different Taluks and is not reducible to any intelligible rule. It is proposed at the ensuing Settlement to have these lands examined, classified, valued and assessed at appropriate rates with reference to soil and situation. These rates will be moderate and will probably vary from, one to fifteen fanams an acre. Once this assessment is introduced, there will be no more interference with the holder. He will be at liberty to plant cocoanut or other trees, to grow tapioca or cotton or any other produce, or apply the land to any other use he thinks fit, without the assessment being altered during the time the Settlement lasts.

1. In the case of wet lands, the standard of measure at present in use is the Parah, but this varies in different localities. It could not well be otherwise when it is considered that, at the Settlement of 978, there was no actual measurement of the lands, but only a rough estimate was formed of the areas in terms of the

Sec. 13.—“In the Nanchanad Taluks of Thovala and Agastiswaram, the standard of measure for wet lands was declared to be the Kottah equivalent to an acre. In the Shencottah Taluk, the standard adopted was a Kottah, equivalent to 1'47 acres.”—*L. R. M. Vol. I, P. 69.*

estimated quantity of seed required to sow each field. As it is necessary now in assessing the lands to reduce the Parah to some uniform standard, and determine its equivalent in terms of the acre, it has been resolved, after due enquiry, to take the Parah as equivalent to 14 cents.

14. In assessing the lands according to the Survey out-turn, a deduction of 10 per cent. will be made to cover what are called unprofitable areas such as ridges, irrigation cuts, &c.

Ten per cent. deduction allowed to cover unprofitable areas.

15. As in the case of the land measure, so in that of the grain measure—also designated Parah—there is at present no uniform standard, the Parah varying in different localities. As it is desirable to have a fixed uniform measure throughout the State, We have sanctioned an Edangali of 80 cubic inches being adopted as the standard measure for the future, in supersession of the numerous varying measures now in use throughout the State.

A standard of grain measure fixed.

16. The rice lands of the country will be carefully examined and classified with reference to soil, situation, productiveness, proximity to market and other considerations, and assessed at so much per acre or Parah of each class. In doing this, the Settlement officers will avail themselves, as far as possible, of the local experience and knowledge of the land-holders concerned. The estimated gross produce per acre for the

Sec. 15.—The standard of grain measure adopted for Nanjanad at the Settlement was a Kottah, equivalent to 9 parahs $4\frac{1}{2}$ Edangalies. The standard of grain measure adopted for Shencottah was the Kottah, equivalent to 16 Parahs and 8 Edanglies. In connection with the abolition of the paddy tax, in pursuance of G. O. No.

C/1, dated 2nd February 1906, the equivalents of the Nanchinad and Shencottah Kottahs of grain measure were fixed at 8 Parahs and $6\frac{1}{2}$ Edangalies and 15 Parahs $8\frac{1}{2}$ Edangalies respectively, in reference to the portion of the paddy tax till then payable in kind."—L. R. M. Vol. I. P. 69.

different classes of land being determined on the best possible data, a deduction of one Parah for seed and an equal quantity for cultivation expenses will be made therefrom. From the remainder, one-third will be subtracted for the cultivator's share and the remaining two-thirds will be divided in the proportion of six-tenths to Government and four-tenths to the land-holder.

The assessment of two crop lands will be one and a half times the assessment determined as above laid down for one crop, and shall be divided equally between the Kanni and Kumbhom crops.

17. In fixing the assessment on the principles above laid down, it would be but fair to the State as representing the public, to adopt a higher commutation rate than that now existing ; for, prices of agricultural produce have more than doubled and the value of property has risen in proportion in the last 30 years. But here again from a regard for the well-being of Our agricultural population and the interests of the country at large, We have decided on not enhancing the commutation rate and *pro tanto* raising the assessment. The existing rate of six chuckrams per Parah will still be the rate of conversion adopted at the ensuing Settlement throughout the State. Opportunity will be taken to correct some slight deviations from this which will be found to exist in Eraniel, Kalkulam, Vilavankod, Neyyatinkarai and probably in other places.

18. As the Kadama now levied on rice lands held as Devaswom, Brahmaswom, &c., is, unlike the Rajabhogom on similar tenures in garden land, levied at so much per Parah without reference to the quality or productiveness of the land, it has been thought desirable to assess the Kadama at one-eighth of the Pattom or full assessment of the land as in the case of gardens.

Secs. 17 & 19.—“On the abolition of paddy tax on wet lands, a commutation rate of eleven chuckrams per Parah was fixed for that portion of the tax which was till then payable in paddy.”—*L. R. M. Vol. I. P. 70.*

19. [As the Government demand on wet lands is levied partly in kind and partly in money in varying proportions, it has been resolved to fix this as follows :
 Proportions in which Government demand is to be levied in money and grain.

One-half in kind and one-half in money throughout the Trivandrum and Padmanabhapuram Divisions, and one-fourth in kind and three-fourths in money throughout the Quilon and Kottayam Divisions.

This change is not intended to apply to the Sri Pandaravaga property.]

20. From the Pattom fixed on the lands, whether wet or garden, on the principles enunciated, Usual deductions from the Pattom. the deductions and additions incident to the tenure (excepting of course those which are abolished by the Proclamation) will be allowed and made as usual, and the resulting amount only will constitute the net demand.

21. Where such net demand is found in any case to exceed the Pattom, such excess will be struck off, and the land transferred to the head of Sirkar Pattom.
 All excess above Pattom to be struck off.

22. At former Settlements, the practice, in the case of Pandaravaga Otti and other tenures of a cognate nature, was to deduct from the Pattom assessment the interest due on the loan, add to the difference, Rajabhogom or Vitharai or Mupparai according as the
 Otti and other cognate tenures.

Sec. 19.—This section was substituted by Proclamation dated 13th Karkadakom, 1064. The original section was as follows :—“As the Government demand on wet lands is levied partly in kind and partly in money in varying proportions, it has been resolved to reduce this to some system as shown in the following statement. The present varying rates will give

way to two rates, namely, one half and one-fourth which have been fixed with reference to the requirements of each Taluk. This change is not intended to apply to the Sri Pandaravaga property.”

Sec. 22.—Regarding the tenures mentioned, the Final Report on the Revenue Settlement says—“The essential condition attaching to this class of tenures

land was garden or wet, and to take the resulting amount as the demand against the properties. It was further a condition of these tenures in many parts of the country that, on the transfer of any property by sale, it should be subjected to a process called *Ottivilakkom*, by which the mortgage amount is reduced by one-fourth and the Government demand is enhanced by the amount of the interest on the sum reduced. This process being repeated at every succeeding transfer, the result is the ultimate extinction of the debt and the raising of the Government demand to the full Pattom.

But, as always happens in such cases, the re-adjustment of the public demand entailed by the process described is almost invariably evaded in practice by transfers never being reported, *i. e.*, by the ryots concerned not coming forward to seek the registration of the transfer, as it involves an extinction of a portion of the debt on which they are entitled to interest and a corresponding addition to their payments to the Sirkar. In the few cases which occasionally do come before Government, the calculations involved are tedious and the preparation of

was that a money consideration in the shape of a mortgage loan was specified in the Government accounts and that interest for the money at varying rates was allowed to the ryot out of the full assessment. In other words, the relation between the State and the ryot in respect of these tenures was that between a mortgagor and mortgagee. The loan was real or constructive, that is to say, was either money actually borrowed or acknowledged as due for improvements, etc. The tax payable to Government on this class of lands was the residue of the full assessment after deduction of interest, plus a rajabhogam. In many cases *nadavukur* was allowed and deducted from the full assessment in fixing the

net demand. The *Otti* tenure which was the most important of this class was subject to a process of revision known as "*Ottivilakkom*" in cases of alienation by sale. Under this process, the mortgage amount specified in the accounts was reduced by 25 per cent. and the interest on this percentage was added to the tax. This process was repeated at each alienation until the capital debt was eventually extinguished and the property was converted into the Pattom tenure subject to the payment of the full assessment and even more in some cases. The process of *Ottivilakkom* was applicable only to 17 Taluks in the North. In the Taluks of the Trivandrum and the Southern Division and in Kunnatnad,

the annual accounts embracing the changes is often delayed; and, after all, the Sirkar gains little by the existing arrangements. It is Our will and pleasure, therefore, to relieve the ryots from the hardships imposed by this Ottivilakkom, to remove the obstacles which it interposes to the free and unrestricted transfer of property, and, at the same time to simplify the accounts by entirely abolishing the Otti tenure. We have accordingly commanded that, in the case of all lands falling under the designation of Otti and cognate tenures, by whatever name known,

(1) no debt shall be recognised as due to the holder;

(2) no interest shall be deducted from the Pattom on such debt;

(3) no reduction of debt or a corresponding enhancement of the Sirkar demand shall be made when such properties are transferred by sale, *i. e.*, in other words, that the Ottivilakkom Rules shall no longer be recognized and enforced.

The properties held on the tenures in question shall be recognized as so many favourably assessed lands or Inams and confirmed to the holders as such on the following simple terms:—

Alangad, Parur and Muvattupuzha, there was no *Ottivilakkom* except in cases of escheat. Even in such cases, the property escheated was sometimes sold outright, and if the sale proceeds exceeded the mortgage amount, the mortgagee was paid his money and the residue credited to Government, and the tenure was converted into Pattom subject to the full assessment. All favourable tenures, *viz.*, those other than Pattom, were liable to merge into Pattom in case of escheat, and excepting Kudijenmom, the other tenures were likewise convertible into Otti where alienations

by sale took place. The latter rule, however, came to be restricted in its application in process of time into Adima, Anubhogam, Thiruvilom, Kudumbaviruthi, Pariapaud, Kudiyirippu, Kudumbaneetu, Anubhogam viruthi and Anchilrendukaranma. Transfers of lands subject to *Ottivilakkom* were seldom brought to light and every kind of shift was resorted to, to evade *Ottivilakkom* with the result that when at any period a discovery was made, the property was found to have changed several hands. Nevertheless, the last change alone was taken into account and

I. All lands on which the present Government demand is found to be less than half the Pattom assessment according to the new Settlement, to have the demand fixed at one-half of that assessment.

II. All lands on which the Government demand at the time of Settlement is found to be more than half of the new Pattom assessment to have such demand confirmed and continued as the future demand. Where such demand is in any case found to be equal to or exceed the Pattom, the land will cease to be a favourable tenure and be classed as Pattom.

III. To the Government demand as above fixed on these lands, no Rajabhogom shall be added.

23. We have not yet finally resolved on the mode in which Erayali tenures should be dealt with, and command for the present that the Pattom assessment on them be fixed on the same principles and in the same manner as in the case of Sirkar Pattom and indeed all other lands.

24. All favourably assessed lands (excepting Deva-swom, Brahmaswom, Madambimar and Erayali properties) such as Adima, Anubhogom, Tiruvilom, Thiruvadaya-lom, &c., partake of the same character, and may, for purposes of simplification, be classed under

subjected to revision of tax and the intervening transfers were left out of consideration"—S. F. R. Pp. 21-22.

Rajabhogom means light rate or quit-rent levied in the case of favourable tenures.

Vithara is a form of Rajabhogom tax.

Mupra is Rajabhogom tax representing one-third of a Parah of grain which was assumed to be the average quantity of seed required for sowing that extent of land."—L. R. M. Vol. IV., *Glossary*.

Sec. 23.—The Erayali tenures referred to were dealt under the Viruthi Proclamation, dated 4-10-1061, which laid down the principles and procedure to be adopted in the settlement of Viruthi lands.

Sec. 24.—The provisions of paras 6 and 7 of Sec. 24 were declared not applicable to service Inams described in para I of the Section, by Proclamation dated 1-10-1068. For the Proclamation see *infra*.

"These (Inams) were of two classes—*viz.*, lands granted for service to be tendered or service

the head of Inams. These are of two classes, *viz.*, Inams granted for the support of individuals or families, or Personal Inams, and Inams granted for the performance of specified services, or Service Inams. The present recognized practice as regards these tenures is to abstain from all interference with Service grants, so long as the service for which they were granted continues to be maintained. As to Personal grants, the right of the original grantee and his descendants to enjoy the Inam is fully admitted, but, when it is alienated by sale or otherwise, the Sirkar steps in and subjects the property to the process of *Ottivilakkom* which is repeated at every subsequent alienation. All Inams are charged only with *Rajabhogom* which, generally speaking, is the only payment made to Government on these tenures.

As we have commanded that all *Ottivilakkom* should be abolished in the case of *Otti* tenures on account of its objectionable features, it is desirable that this should be done in the case of Inams also, and that this important class of properties, which is extensive, should be placed on a satisfactory footing advantageous alike to the holders and Government. And this will be best attained by freeing them altogether from Sirkar interference of any kind, and leaving the holders at perfect liberty to deal

inams, and those given as personal grants or personal inams. The service grants were inalienable and were left in the undisturbed possession of the holders so long as the prescribed service was duly rendered. When the holder died heirless, the lands were conferred on somebody else on the same terms. In the event of non-performance of service, the lands were liable to resumption by Government. The personal inams consisted of those that were by custom inalienable and which became subject to the process known as *Ottivilakkom* on alienation and those that were transferable without risk of the original tenure or tax being

interfered with. The Inam lands were liable to the payment of *Rajabhogam*, and in some cases a *michavarom* or quit-rent was leviable in addition. *Rajabhogam* was levied at numerous varying rates from $\frac{1}{8}$ to $\frac{2}{5}$ of the assessment and *michavarom* also varied according to local usage from $\frac{1}{40}$ to $\frac{1}{2}$ of the assessment. Some of the personal inams were, however, rent-free. Distributed with reference to the tax payable, the Inams were of three classes:—(a) those that were liable to only a *Rajabhogam*; (b) those that were liable to *Rajabhogam* plus *michavarom*; and (c) those that were absolutely tax-free.”—S. F. R., P. 22.

with them as they like. We have accordingly commanded the following Rules to be laid down for the Settlement of Inams, and they will be given effect to by Our officers at the ensuing Settlement :—

(1) All Inams granted for service of any description shall be left to be enjoyed without interference, so long as the service continues to be fulfilled, subject to the payment of one-eighth of the Pattom as Rajabhogam and any Michavarom which may be payable. When, from any cause, the service has ceased or shall cease to be performed, the Inam shall be resumed and assessed with Pattom.

(2) All Personal Inams, found at the time of the Settlement to be in the enjoyment of the family of the original grantee shall be exempt from all interference and continue to be so held, on payment of one-eighth of the Pattom as Rajabhogom plus any Michavarom with which they are already charged.

(3) All Personal Inams, found at the Settlement to be in the enjoyment of individuals or families other than the original grantee or his descendants, shall be charged with the payment of one-half of the Pattom assessment to Government, any Michavarom with which it is already charged in favour of any private individuals or institutions being payable as usual.

(4) No Inam to be subject to Ottivilakkom hereafter.

(5) A title deed to be granted to each holder at the time of Settlement, specifying the character of the Inam, whether Service or Personal, its extent and description, whether wet or garden, and particulars of the quit-rent with which it is chargeable under the above Rules.

(6) After the Settlement of the Inams under the foregoing Rules, the holders shall be at liberty to mortgage, sell or transfer them in any manner at their will and discretion, subject only to the payment of the quit-rent fixed.

(7) There shall be no further interference on the part of Government with these free-holds except such as might be necessary for the punctual realization of the quit-rent payable.

25. If what are called Kudi-iruppu or Kudi-jenmom properties or grants made to Brahmins and others entirely rent-free or other Inams of a similar nature require, on the ground of usage or any existing Rule, to be exceptionally treated, Our Settlement Officers shall be at liberty to do so in communication with Our Dewan.

26. Of these extra cesses, many were abolished in former years, but many more still remain encumbering the accounts and serving as a source of annoyance to the payers and probably of gain to the lower Revenue officials. Most of the cesses are petty,

Sec. 25. "Under the existing system, all lands fall under two broad classes, *viz.*, Jenmom and Sirkar or Pandaravaka. The Jenmom lands are again grouped under three heads:—(1) Absolute free-holds, (2) Conditional free-holds, and (3) Tax-paying from the commencement. The absolute free-holds are lands wholly exempt from payment of tax. The conditional free-holds comprise the *tanathil kidappu* lands of Devaswom and Brahmaswom Jenmis and become liable to the payment of Rajabhogam on alienation for valuable consideration. If the alienation is absolute, such as, out-right sale on attipere, gift, etc., the lands are charged with $\frac{1}{2}$ assessment and transferred to the head of Pandaravaka and designated as Kudijenmom. Such alienations used to be converted under the old revenue system and during the early years of the Settlement operations into Otti and subjected to the payment of $\frac{1}{4}$ the Pattom. The rule of conversion into Kudijenmom and charging

$\frac{1}{4}$ assessment was introduced by Huzur Sadanom No. 5 dated the 20th Chingom 1066. The Jenmom lands that are *ab initio* liable to the payment of Rajabhogam belong to non-Brahmin and non-Devaswom Jenmies known as Madambimars. These lands are assessed with $\frac{1}{2}$ Pattom and converted into Otti on alienation. Though the Jenmom lands of the taxable class are assessable as a rule only with Rajabhogam of $\frac{1}{8}$ of the Pattom the Munkarom has been fixed as the future demand in all cases where it has been found to be higher, with the result that the lands present numerous variations in the ratio of the tax to pattom. Prior to the present settlement, the Rajabhogam rate leviable on this class of lands varied from $\frac{1}{8}$, $\frac{1}{6}$, $\frac{1}{5}$, $\frac{1}{4}$, $\frac{1}{3}$ and $\frac{2}{5}$."—S. F. R., P. 199.

Sec. 26.—On the numerous petty cesses which were levied on garden and wet lands from remote times, the Final Report on the Revenue Settlement

small in amount and falling on a few individuals. On the other hand, there are some which it would be a needless sacrifice of revenue to relinquish, when it is considered how little some sections of the community contribute towards the expenses of the State. We refer to *Rekshabhogom*, *Ubhayampalisa*, *Chumattupanam*, *Kadapattom*, &c. As it is considered desirable to clear the accounts of all petty taxes as much as possible, We have commanded that,

1st. All cesses which are of a personal character should be abolished :

2ndly. Also, all cesses which fall upon any particular professions :

3rdly. Likewise, all cesses falling on ryots already paying the *Pattom* assessment—the cesses falling, on the other hand, on lands paying less than the full *Pattom* being retained and incorporated with the Government demand :

states as follows:—"There were 317 cesses under garden lands and 231 cesses appertaining to rice lands * * Many were petty and vexatious, and several others were of the nature of taxes on professions. * * There were a few which stood on a different footing from the rest.*

"*Ubhayampalisa* formed the most important of the extra cesses. It was known and levied under various names and was supposed 'to represent the interest due at varying rates on certain debts in grain and money contracted in former times by the ryots with the Government or certain religious institutions and which they were bound to pay annually without limitation as to time, the option of redeeming the debt being denied to them.' The debt was subsequently made redeemable by twenty years' purchase which was again reduced to 10 years',

and as a further act of concession the grain debt was made extinguishable by money payment at commutation value.

"*Rekshabhogam* is the next item calling for notice. It was of the nature of a police-tax and fell chiefly on those who otherwise contributed little or nothing towards the public expenses, such as, holders of *Jenmom* properties and *Inams* which were either exempt from the payment of any tax or paid next to nothing.

"*Pidikacooli* or *Kadapattom* was the ground-rent on bazaar sites and was more properly an item of miscellaneous revenue than an extra cess under which category it was credited in the accounts.

"*Chumattupanom*, or 'load-cess', was levied under 44 denominations and was prevalent in

4thly. The item of Ubhayampalisa will be dealt with under the terms of the Proclamation of 23rd Mithunom 1056:

5thly. Kada-pattom will be retained in all cases.

Acting on the foregoing principles, Our Settlement Officers will make full investigation into the various cesses and lay the result before Our Dewan who will finally decide what should be retained and what abolished.

27. The lands under this head comprise:—

- (1) What is called the Palliport Farm.
 Kuthagapattom lands. (2) A tract called Pulienthuruthu in the Alengad Taluk.
 (3) A small tract of rice land and some gardens in the Shertallai Taluk.

(4) And various small pieces of land scattered throughout the State belonging to the Sirkar and forming building-sites and compounds of Palaces, Cutcheries and other public buildings, which are leased out from time to time.

The proprietary right to the properties in the case of tracts (1) and (2) vests in Government, and accordingly, the resident tenants are held to be mere tenants-at-will, without even the right of occupation. The rates of assessment paid are also higher than in the case of Pandarapattom lands. Although, in these circumstances, the

almost all the Taluks and varied from 10 cash to 3 fanams. It fell on the holders of Sirkar Pattom, Inam, Sripandaravaka and Nair Viruthi lands."—P.24.

Proclamations dated 11-12-1070, 15-12-1070 and 28-2-1072 abolished a good number of these cesses. For the Proclamations see *infra*.

"Kadapattom is now restricted to shops in the towns under the Municipal Regulation." L. R. M. Vol. I, P. 78.

Sec. 27.—"The Kuthakapattom lands were exclusively Government property. The rice lands were given out on leases for short periods at the highest rents offerable at a public auction. The gardens were assessed with rates far above the normal Pandarapattom rates."—S. F. R., P. 19.

Kuthagapattom is lease of Sirkar land or trees either for a definite period or without limit of time; also lands under the

Sirkar would be justified in selling these properties and recouping themselves for the money invested in their purchase, We, deeming it more important to encourage private industry and enterprise and impart to the industrious tenants already on the estate a sense of security, have resolved to confirm to them the garden lands now in their possession and confer upon them full property rights in regard to them, subject only to the payment of the present assessment (all extra payments being abolished). This assessment is higher than that of Pandarapattom lands, but this is unavoidable being an incident of the original tenure of the properties. It will be open, however, to the holders to purchase exemption from the high assessment, and have the gardens placed on the same footing as other Pattom lands, by paying down once for all 20 times the difference between the normal and the exceptional assessment. This will be allowed either at the time of the Settlement or subsequently according to the convenience of the holders. All the gardens in question will of course be demarcated, surveyed and assessed in the first instance.

The rice lands comprised in the above properties and the whole of No. (3) are entirely at the disposal of Government and have no resident tenants with any rights. They will, therefore, after being also demarcated, surveyed and assessed, be sold by auction to the highest bidder, to be held like other Pattom lands subject to the payment of the Pattom or assessment fixed at the ensuing Settlement.

The building sites now leased on Kuthagapattom will continue to be so without change.

The Kadukaval lands need not any longer be retained under the head of Kuthakapattom.

Palliport Farm which under the old system were given out on temporary lease for long periods.—*L. R. M. Vol. IV, P. 883*

In respect of Kuthakapattom lands comprised in Palliport

Farm, this Section was modified by Proclamation dated 3-11-1085/17-6-1910 and in respect of such lands in Pulienthuruthu, the section was modified by Proclamation dated 24-12-1118/9-8-1943.

28. These lands, as is well known, are what may be called the Home Farms or the private property of the Sovereign and are cultivated by tenants who are entitled only to the cultivator's share and have no rights of any kind in them. Formerly, the Proprietor used to supply to the cultivating tenant the seed and cattle required for the cultivation, and in return received payment, in addition to the Melvarom or Government share, of what is called *Kolulabhom* or the Proprietor's share. But as this custom has now ceased and the labourer is left to find his own seed, cattle and implements, We have commanded that this *Kolulabhom* should be no longer levied, but that the lands, after being demarcated, and surveyed and assessed on the same principles as other lands, be allowed to be enjoyed on the existing terms, subject only to the payment of the Pattom in kind as at present. All extra payments outside this Pattom will be abolished.

29. On the Settlement being effected with each landholder, he will be furnished with a Grant of Pattahs and Receipt books. Pattah under [the signature of the Settlement Dewan Peishkar and the seal of Our Dewan] showing the particulars of the land held, by him, the Pattom assessment, any deductions incident to the tenure, the net demand, the kists or instalments by which it is payable and any other essential particulars. He will also be supplied at his cost with a Receipt book in which the payments made by him according to the kist-bundi shall be entered and signed by the Pakuthi Accountant and Proverticar as a protection from exaction.

Sec. 23.—“The Kandukrishi lands were what may be termed the Crown-lands or the home-farms of the Sovereign. They were granted on simple leases revocable at pleasure, and the ryots had not only no proprietary rights, but not even transferable rights of occupancy. The rent was generally fixed and payable all in grain. Though the tenants were

strictly speaking, no more than mere tenants-at-will, the Sirkar as a rule, never interfered with their occupancy so long as the rent was regularly paid.”—S. F. R. P. 19.

Sec. 29.—The words within the brackets were substituted for the words “under the seal and signature of” Our Dewan by Proclamation dated 12th Kanni, 1063.

30. Separate Notifications will be issued, from time to time, by Our Dewan, as each Taluk is ready for Settlement and distribution of Pattahs.

Dewan to issue Notifications, from time to time, as each taluk is ready for Settlement.

31. Such are the principles and procedure We have approved, sanctioned and commanded to be carried out at the new Settlement. Our paramount aim and object in laying down these principles has been to avoid those periodical revisions of the garden assessment, once in 12 years, which, though not strictly carried out in practice, formed an essential condition of the last Settlement and which a system of assessment of trees by tale necessarily entails. Such revision means the employment of a large body of Pillamars throughout the country to count the trees, to make out accounts of those entitled to remission for trees lost, and of those who have become liable to it for trees newly planted. And the employment of a large staff of such low-paid agency means petty exaction and oppression on one side, and fraud and chicanery on the other. Such a process, repeated once in 12 years, must have the effect of destroying the confidence of Our ryots in the permanency of the assessment, impairing industry and checking the free employment of labour and capital. To obviate these evils and to secure to Our land-holders the utmost freedom of action in improving their properties and turning them to the best advantage according to their means and inclination, We have resolved to declare the new Settlement permanent for a term of 30 years. During this time, the assessment fixed will not in any way be enhanced on the ground that the owner has added to the trees already assessed to the revenue, or has planted new trees on unplanted portions of his garden which under the Settlement will be charged only with the dry assessment, or that he has substituted for trees assessed at low rates

Sec. 31.—The assessment fixed by this Proclamation has been in force till the promulgation of the Land Tax Proclamation.

trees liable to higher assessment, or that land assessed as one crop has been converted into two crop land, or that a third crop has been grown on land assessed as two crop only. In short, no interference of any kind will be permitted with the new Settlement, when it is completed, for the next 30 years.

32. In the prosecution of a work of such importance as the formation of a new Ayacut including the re-assessment of land and the registration of titles—a work calculated to promote the well-being and prosperity of Our kingdom—We feel persuaded that Our loyal subjects will cordially co-operate with Our officers of every grade and afford them every facility and help in the performance of their official duties, while, on the other hand, We are equally certain that Our superior officers will strive to protect Our land-holders and tenants from all exaction and hardship in the course of the various operations incident to the Settlement which it is Our earnest desire should prove a lasting benefit to the interests of Our agricultural population and to the country at large.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 4th Edavom 1061 cor-
responding with the 16th May 1886.*

Whereas the Nair Viruthi system, owing to failure to adapt it from time to time to altered economic conditions, is known to have become far less efficient for its purpose than when it was originally established, and to entail hardship in its practical working on those subject to its operation ; and whereas it is necessary to check the abuses which in process of time have unavoidably grown around the system, and to improve the condition of the Viruthicars by the application of remedial measures which past experience has shown to be called for, it has been resolved by Us to take the opportunity afforded by the Revenue Settlement, now in progress, to cause a searching inquiry to be made into the condition of the holders of the Viruthi tenures and to afford them such relief as may be found necessary.

1. The services at present rendered by the Viruthicars, whether in the shape of finding supplies of vegetables, &c., or of providing labour and building materials on stated occasions, will be carefully scrutinized and revised.

This Proclamation was published in *T.G.G. dated 25-5-1886*. It was a sequel to the Settlement Proclamation dated 14-7-1061/24-2-1086, which contained the following declaration in Section 23, regarding Erayali lands:—

‘We have not yet finally resolved on the mode in which Erayali tenures should be dealt with, and command for the present, that the pattom assessment on them be fixed on the same principles and in the same manner as in the case of Sirkar pattom and indeed all other lands’

“The Viruthi Proclamation was issued three months after the Settlement Proclamation, with the object of “providing for a searching enquiry being instituted in the course of the Revenue Settlement into the condition of the holders of the Viruthi or Service tenures and laying down the principles and procedure to be observed in re-arranging the Viruthi service in consonance with the present economic conditions of the country, so as to check all abuses, remove hardships and give to the holders of these lands such relief as may be found necessary”—*A. R. 1061., P¹ 2.*

2. The future requisitions for such provisions and labour, and the occasions on which, and the quantities in which, they shall be made, will be reduced and restricted as far as practicable in the course of such revision.

3. A new schedule will then be framed of such requisitions showing for each Village, definitely and clearly, the supplies of provisions and labour and materials of every description which will be demanded hereafter; the institutions or purposes for which and the occasions on which they will be required, and the number and names of the Viruthicars who will have to render the services.

4. A thorough revision will also be made of the prices now paid for the provisions and materials supplied, as those prices are considerably below the current ruling prices. This revision will be based on the returns of the prices of late years, so that the payments made by Government in future may represent, as near as may be, what the Viruthicars would realize if they carried their goods into the open market.

“The revision of the Viruthi system on the lines indicated in this Proclamation was not taken up immediately as certain preliminary points had to be settled. These formed the subject of correspondence between the Dewan and the Settlement Dewan Peishkar. (*S. F. R. App. II, Vol. VI, P. p. 161-168.*)

“In December 1887, a Committee was appointed to examine the existing system of the Nayar Viruthis and to propose for the consideration of Government, measures for ameliorating and reforming the same in accordance with the Royal Proclamation of the 4th Edavom 1061. The Committee sent up their report on the 12th June 1889, in which they recommended several measures for

the amelioration of the Viruthikars. The gist of the recommendations was that the Viruthi system should be retained only for mere personal service, where absolutely necessary, and that all other Viruthi lands should be either publicly sold or confirmed to the occupants on payment of a fair value.

“The recommendations of the Viruthi Committee were adopted by Government and gradually given effect to by restricting the scope of the Viruthi service from time to time.”

“The question of restricting the scope of the Viruthi system continued to engage the attention of Government for several years, and though the system was eventually abolished

5. The table of rates prepared, as above indicated, will be afterwards revised, when necessary, with reference to any material rise or fall in the prices ruling in the open market.

6. While the Viruthicars are thus paid for their provisions and materials, at the prevailing market rates, they will need to be remunerated for the expenditure of time and labour involved in their fulfilling this obligation and for performing such personal services as they may undertake to do; and for this purpose, a grant of land, at so much per head, to be determined by the Settlement Peishkar in communication with Our Dewan, will be made out of the present Viruthi holdings. And such land shall be subject to the payment of Rajabhogom only and be exempt from all other demand.

7. No addition will be made to the services fixed under para 3 of this Proclamation at the time of settlement as those to be rendered by the Viruthicars thereafter.

throughout the State, there are still some Viruthis retained as the result of the procedure adopted in the early days of Viruthi Settlement work. These Viruthis are governed by the provisions of this Proclamation.

"In regard to the settlement of Viruthis, in pursuance of the policy enunciated by this Proclamation, the question of demanding vilayartham or 'fair value' from the holders of Viruthi lands was raised by the Viruthi Committee appointed in 1887, and when the actual settlement of Viruthi lands was taken up in 1895, this suggestion was acted upon, with the result that in the Taluks where Viruthi settlement was conducted under the original scheme, Viruthi lands were disposed of either on payment of vilayartham, which went up, in some

cases, to 40 times the assessment, or by auction. The legality and soundness of this procedure was subjected to a critical examination in connection with the revised scheme of Settlement introduced in 1080. The whole question was dealt with in Dewan Mr. V. P. Madhava Rao's note in *re* 'Vilayartham on Viruthi' appended to his Settlement Memorandum dated 24th August 1904. In the Proceedings of Government, No. S/262, dated 23rd September 1904/8th Kanni 1080, the final decision of Government on the subject was expressed as follows :—

' * * * In view to facilitate the progress of Settlement work and minimise the scope for vexation, loss and hardship to the parties, as well as to secure to

8. No Viruthicar shall be at liberty to alienate, by sale, gift, mortgage or otherwise, the Inam given to him for the Viruthi Service. All such alienation shall be null and void, and the Government shall have the power of resuming any such alienated Viruthi Inam and restoring it to the holder or otherwise disposing of it as to them may seem fit. No action shall lie respecting any such land in any Court of Law.

9. All transfer of Viruthi Inams will, from the date of this Proclamation, be exempt from the payment of any Aerialum, Adiara or other fees.

10. All surplus land, if any, out of the present Viruthi holdings which may remain after allotting fresh Inams under para 6 of this Proclamation, shall remain at the disposal of the Sirkar. They will either be assessed with full Pattom and confirmed to the present holders if they so wish it, or otherwise disposed of according to circumstances.

11. Any Viruthicar who may be unwilling to continue the Viruthi service even under the terms of this Proclamation shall be at liberty to relinquish the same. This shall be done in writing.

the Viruthi holders the full advantage of the liberal policy adopted in the Proclamation dated 16th May 1886, Government deem it necessary to simplify the procedure in the settlement of Viruthi lands in the manner specified below:—

(1) If the land is proved to be in the possession of the Viruthi holders, it shall be confirmed in the name of such holders on full pattom.

(2) If it is in the hands of alienees and has been so for twelve years or upwards, a vilayartham of five times the

existing assessment or pattom shall be levied.

(3) If the period of such possession be less than twelve years, ten times the *existing* assessment shall be levied as vilayartham.

(4) The Tahsildars should hold a summary enquiry to find out the persons in whose names the lands should be registered and send up the cases with their opinion for the sanction of the Division Peishkar whose decision shall be final. In cases of doubt or difficulty it shall be open to the Division Peishkar to obtain the sanction of the Dewan.'

12. If such Viruthicar has no land assigned to him for the service, but has only Muthalelpu, whether in paddy or money, to make good, he will be relieved of the Viruthi on his paying down the Muthalelpu; or, failing that, on his agreeing to pay, till the debt is discharged, interest on such Muthalelpu at 3 per centum per annum.

13. But if the Viruthicar who seeks to withdraw from the service is possessed both of Viruthi lands and Muthalelpu, he will be relieved of the Viruthi on his surrendering to the Sirkar such lands, whether rice land or Puraidom or both, and on his also paying down the Muthalelpu, or, failing this last on his undertaking to pay interest thereon at the rate of 3 per centum per annum till the debt is discharged. The Viruthi lands surrendered will be allowed to be held by the outgoing Viruthicar on Sanjayapattom, to be ultimately disposed of as the Government might think fit. The Pattom fixed will be that determined under the new Settlement.

14. Any Viruthi falling under the last preceding Clause may be assigned to any other Viruthicar or other person who may offer to undertake it, at the discretion of Government.

It was in accordance with these rules the Viruthi Settlement was conducted in the taluks dealt with under the revised scheme of Settlement"—*L. R. M. Vol. 1, P. p. 83-85.*

"In regard to the Viruthis settled under this Proclamation in the Taluks of Trivandrum, Cherayinkil, Nedumangad and Neyyattinkara, a set of Rules was passed under sanction of His Highness the Maha Raja on the 4th Thulam 1074|19th October 1898, defining the conditions of Viruthi tenure and the duties of the Viruthi holders.

"In para 57-59. of G. O. No. 1372|L, R. and F., dated 25th

December 1913. reviewing the Settlement Final Report, a detailed account is given of the Nair Viruthis and the various steps taken, from time to time, in the settlement of Viruthis under this Proclamation."—*L. R. M. Vol. I. P. 111.*

See also Settlement Final Report P. p. 19, 87-93.

The burden of Viruthicars was further lightened by Proclamation dated 29-12-1068, 7-8-1893. For Proclamation see *infra*.

Sec. 12. Muthalelpu was abolished by Proclamation dated 28-2-1072. For Proclamation see *infra*.

15. After the re-arrangement of the Viruthi service on the lines above laid down, it shall be the duty of Government to check all abuses, as far as possible, by proper administrative measures, to protect the Viruthicars from exaction, and ensure the due and punctual payment to them of the prices at the stipulated rates.

16. Orders have been issued to the Settlement Peishkar to give effect to the foregoing Resolution after due inquiry and in communication with Our Dewan, and all Viruthi holders are called upon to assist the Settlement Officer in the prosecution of the inquiry entrusted to him so as to enable Our Government to effect a satisfactory re-settlement of the Viruthi question.

PROCLAMATION.

*By His Highness the Maha-Raja of Travancore
issued under date the 12th Kanni 1063 cor-
responding with the 27th September 1887.*

Whereas it is expedient, for facility of business, to amend Section 29 of Proclamation dated the 24th February 1886/14th Kumbhom 1061, We are pleased to command that for the words "under the seal and signature of Our Dewan" in the said Section, the following shall be substituted:—

"Under the signature of the Settlement Dewan Peishkar and the seal of *Our Dewan*."

This Proclamation was published in T. G. G. dated 11-10-1887.

ACT V OF 1063.

REVENUE SUMMONS ACT.

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ACT V OF 1063.

REVENUE SUMMONS ACT.

An Act to empower certain Revenue officers to summon Persons to attend at their Cutcheries, or to produce documents in connection with matters relating to Revenue Administration.

Passed by His Highness the Maha Raja of Travancore under date the 10th April 1888 corresponding with the 30th Meenom 1063.

Whereas it is found expedient, with a view to facilitate the disposal of matters connected with Revenue administration; to empower certain Revenue officers to issue summonses for the attendance of persons or the production of documents relating to matters of Revenue; It is hereby enacted as follows:—

Effect of Legislation.

Year.	No.	Short title.	How affected by subsequent legislation.
1063	V.	Revenue Summons Act.	Amended by Act V of 1099, Act IV of 1105, Act XI of 1114 and Act XXVII of 1116.

Act- V of 1063. Objects and Resons.—The Act was passed “to empower certain Revenue officers to summon persons to attend at their Cutcheries to produce documents or give evidence in connection with matters relating to the administration of the revenue, and to punish disobedience of such summonses. The Revenue officers had hitherto no power to call up parties before them except what they obtained from ill-defined usage. Revenue work thus fell into arrears from the inability of the officers to readily obtain

the evidence necessary for its disposal. The punitive power of the officer is restricted to a fine of 50 Rs., and the power cannot be exercised till it is specially conferred on him by Notification in the Gazette. Any abuse of the power given is guarded against by providing appeals to two superior authorities against the order imposing a fine”—A. R. 1063, P. 2.

This Act was passed before the Legislative Council came into existence. It was published in *T. G. G. dated 10-4-1888.*

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Act V of 1099. Objects and Reasons.—The amending Act was enacted “with a view to give the Land Revenue and Income-Tax Commissioner the powers now given to the Division Peishkars and Tahsildars and to give jurisdiction to the former to hear appeals from the latter.” S. O. & R; T. G. G. dated 10-10-1922.

Report of the Select Committee was published on 27-3-1923. For Council proceedings see L. C. P. Vol. II Pp. 196-201, 1245; L. C. P. Vol. IV, P. 818. The Act was published in T. G. G. dated 15-7-1924.

Act IV of 1105. Objects and Reasons—“It is felt that some conflict is possible between Section 7 as it stands and Section 10 as to the appellate authority in respect of orders passed under the Regulation. Further, doubts are possible as regards the appellate authority over the Division Assistants who may be invested with powers under Section 10 of the Regulation and yet again, it is not possible, as the law now stands, to appoint Division Assistants as the appellate authority over Tahsildars for the purposes of the Regulation. Clauses 2 and 4 of the Bill are intended to meet such difficulties as the aforesaid.

“Clause 3 makes but a verbal correction.”—S. O & R., T. G. G. dated 16-4-1929.

The Official Member in charge in introducing the Bill, said:—
“It will be seen from the Revenue Summons Regulation that it authorises specifically certain officers of the Land Revenue

Department, namely, the Land Revenue Commissioner, the Peishkars, and the Tahsildars to issue summons and to punish the person summoned if he does not appear. This is Section 1 of the Regulation. The Regulation authorises also, by Section 10, the issue of a Notification by Government empowering any other Officer to issue summons and likewise to empower him to award punishment for disregard of the summons. In respect of these orders of punishment, appeals may be necessary and provision is made for it in Section 7 of the Regulation which, as it now stands, runs as follows:—

“Any person aggrieved by an order passed against him, either in the first instance or in appeal, may appeal to the Officer to whom the Officer passing the order is immediately subordinate, within thirty days from the date of service of the notice referred to in Section 6.

Explanation.—For the purposes of this Section, a Tahsildar is immediately subordinate to a Division Peishkar, a Division Peishkar, to the Land Revenue and Income-Tax Commissioner and the Land Revenue and Income-Tax Commissioner, to the Dewan.”

“The *Explanation* obviously refers to appeals against the orders passed by the Land Revenue Officers specifically mentioned in Section 1 and the body of the Section to appeals generally. But as regard Officers who may be empowered by Government to issue summons and to punish the recalcitrants, what Section 10 now

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says is that the Government may authorise any Officer to be the appellate authority in respect of the orders passed by the Officers who have been so empowered to issue summons and punish. Having regard to the provisions in Section 7 and in Section 10, it has been felt that some conflict is possible. It would be seen from Section 7 that the principle that is accepted therein is that the appellate authority is the person who is immediately superior to the Officer who passes an order. But Section 10 authorises Government to appoint *any* person to be the appellate authority, so that if the Government appoint a Division Assistant to be the appellate authority of, say, an Assistant Tahsildar it may very well be questioned whether he is the immediate superior of the Assistant Tahsildar. If such a question is raised the point will arise whether the express provision of Section 7 should be applied and a decision arrived at as to who is the immediate superior or the provisions of Section 10 which empowers Government to appoint any person as the appellate authority should be applied. Similarly, if, say, a Range Officer is given power to issue summons and punish persons who fail to appear, the appellate authority has to be appointed by Government and if the Government do it the question may yet arise whether the principle accepted by Section 7 should operate or the Government appointment should operate. For instance, if the Conservator of Forests is appointed as the appellate

authority over the Range Officer, it may very well be done under Section 10. But the question may arise whether that action of Government is right and whether the D. F. O. is not the legal appellate authority because of the fact that he is the *immediate* superior of the Range Officers. It has therefore been felt that it would be expedient to rearrange these two Sections in a clear manner. So, I have proposed in the Bill to maintain the principle that the immediate superior Officer is the appellate authority but that power should be taken by Government to declare who that immediate superior authority is.

"I have also amended Section 10 *inter alia* by adding an *explanation* that the provisions of Section 7 will operate even in regard to those Officers who are empowered to issue summons under that Section.

"No new principle is really involved in the Bill**"—*L.C.P. dated 24-4-1929.*

"For Select Committee report see *T. G. G. dated 23-7-1929.*

For Council Proceedings see *L. C. P. Vol. XIV, Pp. 471-474; L. C. P. Vol. XVI, Pp. 22-23, 532.* The Act was published in *T. G. G. dated 10-6-1930.*

Act XII of 1114. *Objects and Reasons*,—"Section 4 of the Revenue Summons Act dealing with service of summons provides a case for affixture of a copy of the summons on the outer door of the house *only* in cases where the person summoned cannot be found. The section is silent as to the procedure to be followed in a case

1. [(1) (The Division Peishkars, Assistant Peishkars and Tahsildars) shall have power to summon any person whose attendance may appear to them to be necessary in connection with any revenue matter which it is their duty to investigate or dispose of, and also to require the production of any document relevant to such matter which may be in the possession or under the control of such person.]

Revenue Officers empowered to summon persons to appear or produce documents.

Provided that a (Division Peishkar or an Assistant Peishkar or a Tahsildar) shall not have such power except in regard to persons who ordinarily reside within the local area of his jurisdiction.

(Provided further that, subject to the Rules framed by Our Government in this behalf any person summoned under this Act shall be entitled to his travelling and other expenses.)

of refusal to acknowledge service of summons. This appears to be an omission. The point has been actually raised in certain appeal cases. The amendment proposed is to rectify the omission." S.O. & R., T. G. G. dated 13-12-1938.

For legislative proceedings see A. P. Vol. XIII, Pp. 46-49, 106 and C. P. Vol. XIII, Pp. 32-34. The Act was published in T. G. G. dated 21-3-1939.

Act XXVII of 1116. This Act was passed direct by His Highness the Maha Raja and was necessitated on account of the abolition of the post of Land Revenue and Income-Tax Commissioner. The Act was published in the Gezette dated 15-7-1941.

Sec. 1. This Sec. was substituted by Sec. 1 of Act V of 1099. The old Sec. ran as follows:—

"1. Division Peishkars and Tahsildars shall have power to

summon all persons resident within the local areas of their respective jurisdiction, whose attendance may appear to them to be necessary in connection with any Revenue matter which it is their duty to investigate or dispose of, and also to require the production of any document relevant to such matter which may be in the possession or under the control of such person :

Prvided that when the person whose evidence may be required is unable from sickness or infirmity to attend before the officer issuing the summons, or is a person whom by reason of rank or sex it may not be proper to summon, the Officer issuing the summons may, of his own motion or on the application of the party whose evidence is desired, dispense with the appearance of such person and order him to be examined by a subordinate

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(2) When the person whose evidence may be required is unable from sickness, infirmity or other sufficient cause to attend before the officer issuing the summons or is a person whom by reason of rank or sex it may not be proper to summon, the officer issuing the summons may, of his own motion or on the application of the party whose evidence is desired, dispense with the appearance of such person and order him to be examined by a subordinate deputed by such officer for the purpose.]

When personal attendance dispensed with.

2. Such summons shall be in writing and authenticated by the signature and seal of the officer by whom it is issued; and it shall specify the time and place at which the person summoned is required to attend and whether his attendance is required for the purpose of giving evidence or to produce a document or both; and any particular document the production of which is required shall be described in the summons with reasonable accuracy.

Summons.

3. Any person summoned merely to produce a document shall be deemed to have complied with the summons if he causes such document to be produced instead of attending personally to produce the same.

Persons summoned to produce documents need not attend personally.

deputed by such Officer for the purpose."

In Sub-sec. (1), the first two sub-clauses of the 2nd Proviso were suggested by the Select Committee with the following observation:—"We think it desirable that a witness summoned by the Land Revenue and Income-Tax Commissioner should not be compelled to travel a very long distance and put to serious inconvenience thereby. We therefore think that a witness living seventy-five miles away from the place

to which he is summoned and, where there is a Railway communication to three-fourths of the distance, living beyond one hundred and twenty-five miles should not be so compelled".—S. C. R. When the Select Committee's Report was considered by the Council, the word 'fifty' was substituted for 'seventy-five' in Sub-clause (1), 'to secure uniformity with similar provisions in other Regulations, such as the Departmental Enquiries.'—

L. C. P., dated 11-4-1923.

4. The summons shall be served by delivering a copy thereof to the person summoned or to his authorised agent or to some adult male member of his family residing with him who shall be required to sign an acknowledgment of service endorsed on the original summons. [If such persons refuse to acknowledge service of the summons as aforesaid, or if the person summoned cannot be found] and there is no other person on whom the service can be made, the serving officer shall affix a copy of the summons on the outer door of the house in which the person summoned ordinarily resides and return the original with an endorsement attested by two respectable witnesses stating that he has so affixed a copy and the circumstances under which he did so.

Sub-clause (3) was put in by the Council and incorporates in the Statute itself the provision regarding expenses.

In Sub-sec. (2), the words "or other sufficient cause" were inserted by the Select Committee 'to cover cases in which the Land Revenue Commissioner cannot summon under Sub-section (1) and other cases.-- S. C. R.

The sec. thus substituted was amended by S. 2 of Act XXVII of 1116 as follows:—In Sub-sec. (1) the bracketed words were substituted for the words "the Land Revenue and Income-Tax Commissioner, Division Peishkars and Tahsildars." In the first *Proviso* the bracketed words were substituted for the words "Division Peishkar or a Tahsildar." The present second *Proviso* was substituted for the old one which ran as follows:—"Provided further that no witness shall be compelled to appear

before the Land Revenue and Income-Tax Commissioner in person to give evidence,—

(1) If he resides beyond fifty miles, or

(2) Where there is a railway communication to three-fourths of the distance, if he resides beyond one hundred and twenty-five miles, from the place to which he is summoned.

(3) Subject to the Rules framed by Government in this behalf any person summoned under this Regulation shall be entitled to his travelling and other expenses."

Sec. 4. The bracketed words were substituted for the words "if the person summoned cannot be found." by S. 2, of Act XII of 1114. The Statement of Objects and Reasons appended to the Bill which proposed the amendment said "Section 4 of the Revenue Summons Act dealing with service of summons provides a

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5. [(1) If any person who has been duly summoned to attend or produce a document refuses or fails to attend and does not show satisfactory reasons for so doing, the Officer who issued the summons may impose on such person a fine not exceeding fifty Rupees :

Penalty for disobedience.
Remission of fine.
Provided that it shall be competent to the Officer who imposed the fine to remit it in whole or in part or to cancel his order on sufficient cause being shown within thirty days from the date of the order.

(2) Such fine may be levied by warrant under the hand of the Officer imposing it in the same manner as a fine imposed by a Criminal Court.]

6. The Officer imposing a fine under the last preceding Section shall record a proceeding clearly setting forth the grounds of his order : and a notice containing the substance of the order shall be served on the person affected by it. The service of the notice shall be made in the manner hereinbefore prescribed for the service of summons. If

case for affixture of a copy of the summons on the outer door of the house *only* in cases where the person summoned cannot be found. The Section is silent as to the procedure to be followed in a case of refusal to acknowledge service of summons. This appears to be an omission. The point has been actually raised in certain appeal cases. The amendment proposed is to rectify the omission".
S. O. & R.

or produce a document refuses or fails to attend and does not show satisfactory reasons for so doing, the Division Peishkar or the Tahsildar who issued the summons is hereby authorised to fine the defaulter in a sum not exceeding Rs. 50. Such fine may be levied by warrant under the hand of the officer imposing it in the same manner as a fine imposed by a Criminal Court:

Sec. 5.—The new Sec. was substituted by Sec. 2 of Act V of 1099 for the old Sec. which was as follows:—

"5. If any person who has been duly summoned to attend

Provided that it shall be competent to the officer who imposed the fine, to remit it in whole or in part or to cancel his order on sufficient cause being shown within thirty days from the date of the order."

the fine is remitted in whole or in part or the order imposing it be cancelled, a proceeding stating the reason for so doing shall likewise be recorded.

7. (1) [Any person aggrieved by an order passed against him, either in the first instance or in appeal, may appeal to the Officer to whom the Officer passing the order is immediately subordinate, within thirty days from the date of service of the notice referred to in Section 6.]

[(2) For the purposes of sub-section (1) Our Government may declare who the Officer is to whom the Officer passing the order is immediately subordinate, and in the absence of any such declaration, (as amongst the Tahsildar, the Assistant Peishkar and the Division Peishkar, the Tahsildar shall be deemed to be immediately subordinate to the Assistant Peishkar and the Assistant Peishkar to the Division Peishkar.)]

Sec. 7. The Sec. as originally enacted was as follows:—

"7. Any person aggrieved by an order passed by a Tahsildar may, within thirty days from the date of the service of the notice referred to in Section 6, appeal to the Division Peishkar and any person aggrieved by an order passed, either in the first instance or on appeal by a Division Peishkar, may within thirty days from the date of notice of such order, appeal to the Dewan."

It was substituted by S. 3 of Act V of 1099. This contained an *explanation* which was as follows: "*Explanation.* For the purposes of this Section, a Tahsildar is immediately subordinate to a Division Peishkar,

a Division Peishkar to the Land Revenue and Income-Tax Commissioner, and the Land Revenue and Income-Tax Commissioner to the Dewan." By Sec. 2 of Act IV of 1105, the *Explanation* was deleted, the remaining portion of the Sec. was numbered Sec. 7 (1) and Sec. 7 (2) was added. The bracketed words in S. 7 (2) were substituted by S. 3 of Act XXVII of 1116 for the words "as amongst the Tahsildar, the Division Peishkar and the Land Revenue and Income-Tax Commissioner, the Tahsildar shall be deemed to be immediately subordinate to the Division Peishkar and the Division Peishkar to the Land Revenue and Income-Tax Commissioner."

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8. On presentation of the appeal, the appellate authority may, if he deems fit, stay its disposal. execution of the order appealed against, and shall, after examining the records and hearing the appellant or his agent and after taking such further evidence and making such enquiry as may be necessary, confirm, alter or [reverse] such order.

9. The Dewan shall have power to revise the proceedings of all subordinate officers under this Act. He may also make and issue general Rules for the conduct of the subordinate officers in regard to matters dealt with in this, Act.

10. It shall be lawful for Our Government by Notification in Our Official Gazette, to invest any Revenue officers, other than those named in Section 1, with all or any of the powers conferred by this Act.

Explanation :—The provisions of Section 7 apply as regards the appellate authority in respect of the appeals against the orders of such officers.]

11. [Omitted by Section 4, Act XXVII of 1116.]

12. This Act shall come into force on the 1st Chittra Commencement. 1063.

Sec. 8. The word bracketed was substituted for the word 'revise' by Sec. 3 of Act IV of 1105.

Sec. 10. The second sentence in the original Sec. 10. viz. "The said notification shall indicate also the Officer other than the Dewan to whom the appeal referred to in Section 7 is to be preferred" was omitted and the present *Explanation* was added by Sec. 4 of Act IV of 1105.

Sec. 11. The Sec. omitted ran as follows:—"Division *Pieshkar*. 'Division *Peishkar*' means and includes the Dewan *Peishkar* or other Officer in charge of a Division. *Tahsildar*. *Tahsildar* includes any officer who is temporarily placed in charge of a Taluk." The Sec. has been repealed in view of the provisions contained in Sec. 2 (3) and Sec. 13 of the General Clauses Act.

PROCLAMATION.

By His Highness the Maha Raja of Travancore, issued under date the 30th June 1888 corresponding with the 18th Mithunom 1063.

Whereas it has been represented to Us that the Adiyara or succession fee, calculated at a fourth of the estimated value of the property which forms the subject of succession, which those classes of Our subjects who follow the Marumakkathayam law of inheritance are, under existing custom, bound to pay to Our Government to entitle them to inherit the property of their Kuttukars or distant kindred dying without leaving any direct heirs, as well as the Adiyara which Kalachettis and a few other classes who follow the Makkathayam law have to pay to Our Government to entitle them according to a custom peculiar to those classes to succeed to the property of their uncles on the mother's side who die without issue,

Adiyara Proclamation :—
This was published in *T. G. G. dated 3-7-1888*. The reason for the issue of the Proclamation was explained as follows :—

“Certain classes of people following the Marumakkathayam law were hitherto obliged to pay to Government a succession fee for Adiyara calculated at 1/4 of the value of the property claimed as descending to them from a person remote in kin. Similar fees were also paid by Kalachettis and a few other classes following the Makkathayam law, to entitle them to succeed to the property of their uncles on the mother's side who left no issue.

Though the impost was legitimate in principle if it were equally distributed, it was objectionable in this respect—that it pressed on certain

classes of the population, while other classes were free to inherit from very distant kindred without the payment of the fee. His Highness the Maha Raja was therefore pleased to abolish the unequal burden on His subjects.—*A. R. 1063, P. 3.*

“A Royal Proclamation was issued relinquishing the right of the Government to an adiyara or succession fee, equal to one-fourth of the property left by a person under the Marumakkathayam Law of inheritance when he died leaving no direct heirs, but only distant kindred to succeed to the property. The Proclamation relinquished also the fee leviable in the case of persons belonging to certain Makkathayam classes, such as Kalachettis dying without issue, but leaving the children of their sisters to succeed.

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is a source of grievance to the said classes of Our subjects, inasmuch as it presses upon them exclusively, while the rest of Our subjects are exempt from such contribution; and whereas We are anxious to remove such inequalities in the distribution of burdens on Our subjects; We are pleased to command the relinquishment of the said two Adiyaras from the date of this Proclamation.

2. Nothing herein contained shall affect any Adiyara which may have been paid to the Government before the date of this Proclamation.

“The chief object of this Proclamation was to remove inequalities in the distribution of the public burdens, all other classes of His Highness' subjects being exempt from the payment of a succession duty. By far the greater number of escheat cases that came before the Revenue Officers related to succession by Koottukars. The enquiry into the claims of alleged heirs caused much annoyance and vexation and loss

to the people, so much so that not in a few cases the direct heirs have been kept out of possession of their ancestral property, or the property has been placed under attachment, for years pending the termination of protracted enquiries. The above measure is, therefore, calculated to remove all unnecessary hardships to the people and of illicit gain to unscrupulous revenue subordinates.”—*Ibid*, P. 184.

PROCLAMATION.

By His Highness the Maha Raja of Travancore issued under date the 13th Karkadagom 1064 corresponding with the 27th of July 1889.

Whereas under para 19 of the Proclamation on the Revenue Survey and Settlement dated 24th February 1886/14th Kumbhom 1061 the proportions in which the Government demand on wet lands are leivable are, with a few exceptions, one-half in kind and one-half in money in the Trivandrum and Padmanabhapuram divisions and one-fourth in kind and three-fourths in money in the Quilon and Kottayam divisions, and whereas it is desirable to adopt these rates uniformly for all the localities in the divisions to which they respectively apply, we are pleased to command, in modification of the provision in para 19 of the abovesaid Proclamation that the rates shall, without exception be—

One-half in kind, and one-half in money throughout the Trivandrum and the Padmanabhapuram divisions and one-fourth in kind and three-fourth in money throughout the Quilon and Kottayam divisions.

This change is not intended to apply to the Sree Pandaravagai property.

This Proclamation was published in T. G. G. dated 6-8-1889.

ACT I OF 1068.

REVENUE RECOVERY ACT.

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ACT I OF 1068.

An Act to provide for the recovery of arrears of Public Revenue in Travancore.

Passed by His Highness the Maha Raja of Travancore on the 19th January 1893 corresponding with the 8th Makaram 1068 under Section 9 of Act II of 1063.

Whereas it is necessary to define the procedure for the realisation of the Public Revenue ;
Preamble. We are pleased to enact as follows :—

Effect of Legislation.

Year.	No.	Short title.	How affected by Subsequent Legislation.
1068	I	Revenue Recovery Act.	Repealed in part by Act X of 1097 Amended by Acts III of 1087; VIII. of 1094; X of 1097; II of 1099; XXV of 1116 and VIII of 1122.

Act I of 1068. Objects and Reasons. In introducing the Bill the member in charge explained its objects as follows :—

“You are aware that, as yet we have no definite law to enable the Officers of Government to collect the land tax and several other Government dues usually recovered in the same manner as the tax on land. Usage and a number of Rules and Circulars not easily accessible to the public regulate the collection; but in these days when the School Master and the Vakils are very much abroad, the Officers of revenue feel themselves considerably hampered in realising it. The ryot too has ground for complaint that either the demand made or the procedure adopted to recover it is not legal. The Bill, I propose to bring in, defines the obligations of the tax-payer, the powers and

responsibilities of Revenue Officers and lays down the procedure to be adopted for the realisation of the revenue when it is not punctually paid”.—
L. C. P., dated 23-8-1888.

The Bill closely followed the Madras Act II of 1864. The provisions relating to arrest and imprisonment of defaulter found in the Madras Act were omitted in the Bill. The Madras Act has been repealed in part by Act XII of 1873 and amended by Acts III of 1884, I of 1897, I of 1909, VIII of 1914 and XIV of 1937. Most of the provisions of these amending Acts have been introduced in Act I of 1068 by subsequent amending Acts.

For Select Committee report see *T. G. G. dated 1-3-1892*, For legislative proceedings See *T. G. G. dated 23-10-1888 6-10-1891, 1-3-1892, 24-5-1892*,

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5-7-1892, 26-7-1892, 23-8-1892 and 24-1-1893 The Act was published in T. G. G. dated 24-1-1893

Act III of 1087. Objects and reasons. "As doubts have arisen whether the six months' period of limitation prescribed under Section 51 of the Revenue Recovery Regulation, for suits at the instance of parties deeming themselves aggrieved by the decision or order or proceedings taken under the Regulation, is applicable also to cases where action is taken under the Regulation, for arrears alleged to be due from such parties, it is desirable to amend the Section by making it clear that, in respect, of all such suits, the period of limitation prescribed in the Section is absolute and that if such suits be not instituted within the six months' period prescribed in the Section, the right of the parties to seek for a remedy in the Civil Courts, is barred". S. O. R., T. G. G. dated 11-10-1910.

In introducing the Bill in the Legislative Council, the Member in charge observed as follows:—"It has been recently judicially construed that the six months' period of limitation prescribed by the Section for institution of suits in Civil Courts, applies only to cases where the sale of property was admittedly had for arrears of revenue *really* and *in fact* due, and not to cases where the aggrieved party alleges in his plaint that there were no arrears of revenue.... In the latter cases, it is stated

that the period of limitation is that prescribed in the Limitation Regulation. The wording of Section, therefore, if allowed to stand as it is, would seriously affect the operation of the Revenue Recovery Regulation. The object of the Section is two-fold, *viz.*, (1) to give the aggrieved party a redress by a full and regular trial in a civil suit, and (2) to secure the title of the auction purchaser to the property by limiting the period to six months, during which title to the property purchased shall remain unsettled and subject to question by the institution of a civil suit. In the light of the construction put upon the present Section, the second of the two objects cannot be duly fulfilled. For, it frequently happens that a suit for setting aside an auction sale held under the Revenue Recovery Regulation, is based on the ground that arrears of revenue for which the auction sale was held did not really exist. In such cases, under the present ruling, it is open to the aggrieved party to bring his suit within the statutory period prescribed in the Limitation Regulation, *viz.* twelve years, too long a time for any purchaser to wait. This will, to my mind, have a deterrent effect upon intending purchasers in revenue auction, and will eventually affect not only revenue sales but also the owners of the properties, inasmuch as they are not likely to obtain good or even fair prices for their properties, and lastly it is very likely to encourage speculation in litigation. The

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amendment proposed, which is quite harmless in itself, will prove an effective remedy', *L. C. P., dated 30-11-1910*

For Select Committee Report see *T. G. G. dated 21-3-1911.*

For legislative proceedings see *T. G. G. dated 27-9-1910-13-12-1910, 20-6-1911, and 23, 1-1912.* The Act was published in *T. G. G. dated 6-2-1912.*

Act VIII of 1094. Objects and reasons. See secs. 1 (c), 3, 31 33, 33-A, 48, 51 and 59.

For Select Committee Report see *T. G. G. dated 30-9-1918.* For legislative proceedings see *T. G. G. dated 16-10-1917, 23-7-1918 and 15-4-1919.* The Act was published in *T. G. G. dated 13-5-1919.*

Act. X of 1097. Objects and Reasons.

"The Revenue Recovery Act provides for a written demand being served on a defaulter before any coercive steps are taken. This provision leads to needless delay, and the collection of arrears of revenue is thereby considerably hampered. When the Patta specifies the tax to be paid, and fixes the time for payment, and when no payment has been made in pursuance thereof, there is no necessity for a written demand being served at all; for the Patta itself is a standing demand, and there is no uncertainty in its terms.

"2. As however, coercive steps against immovable property have always been considered to be more serious in

their consequences than in the case of movable property, the provision for service of a demand in writing is reserved in such cases only.

"3. The Act requires the previous sanction of the Peishkar before a Tahsildar can hold a sale of immovable property under attachment. Such a provision has no effect except to delay the proceedings taken to realise revenue, and is proposed, therefore, to be omitted".—*S. O. & R. T. G. G. dated 12-7-1921.*

In introducing the Bill and moving for the affirmation of its principle, the Member in charge further explained as follows :—

"*The Bill seeks to introduce two important amendments. One is with reference to the issue of demand notice. The existing Regulation provides that whenever an attachment has to be made, a demand notice in writing has to be issued. The issue of such notice not only delays the collection of revenue, but also it frustrates the very object of the provision. The object is to seize movable property. To give notice to a defaulter that his property will be seized and then to go and try to seize his property will be absolutely of no use. This will be simply asking the defaulter to remove his movables. What the proposed amendment seeks to provide is that the officer who goes to make the demand

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should be entrusted with the necessary powers by the Tahsildar or other person empowered by that authority to seize and distrain the movable property. This course is considered to be necessary, as otherwise it will be impossible to seize movable property. This is the first important amendment. The other amendment relates to the sale of immovable property attached for arrears of revenue. Two new Sections relating to the procedure regarding the attachment of immovable property have been added. The Tahsildar has under the existing law to obtain the permission of the Peishkar for the sale of an immovable property attached for arrears of revenue, and this entails delay. The provision requiring the permission of the Peishkar in such cases is proposed to be deleted**.

The Bill was opposed by several Non-official Members and in replying to the objections raised, the Member in charge said:—

"Some of the arguments advanced by my friends are that there are other Departments that are concerned with the recovery of arrears and that the Revenue Recovery Regulation may be applicable to them also, and that there are the Edavagais and other estates which are governed by the Estate Rent Recovery Regulation as regards the recovery of rents due to them. With reference to these Estates which are governed by the Estate Rent Recovery Regulation, a reference to that Regulation, will show that a

condition precedent for the recovery of rent due to them under the Revenue Recovery Regulation is that they must keep a correct rent roll, similar to the one prepared by Government. After that, if they are not in a position to recover the rent, they have to send a communication to the Tahsildar, and he takes action under the Revenue Recovery Regulation. So that, if it is found impossible for them to collect the rent, they write to the Tahsildar, and then have recourse to the provisions of the Revenue Recovery Regulation. There is a record, the rent roll, which is revised from year to year. With reference to the Municipal Regulation, all the assessment lists have to be kept up-to-date and open to the parties for inspection. Every Municipal tax has to be paid before a fixed date. So also in the case of the Excise Department, for every Abkari rent there is a record. There is a notification. There is a kaichit executed by the contractor saying that he will pay the instalment regularly on or before a fixed date. I cannot therefore see where the difficulty arises in such matters. As regards other matters referred to by my friends, I think they may be threshed out in the Select Committee"—
L. C. P., dated 28-7-1921.

For Report of the Select Committee see *T. G. G. dated 24-10-1921.*

For legislative proceedings see *T. G. G. dated 6-9-1921, and 20-12-1921.*

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The Act was published in
T. G. G. dated 27-12-1921.

Act II of 1099. Objects and reasons. "As the office of the Land Revenue and Income Tax Commissioner has been created for the purpose *inter alia*, of relieving the Dewan from attending to numerous details of Land Revenue administration, several powers have to be vested in the commissioner which originally vested in the Dewan. The amendments proposed have the object of removing the existing statutory bar to the contemplated devolution of powers".—*S. O. & R.; T. G. G. dated 14-11-1922.*

Introducing the Bill into the Council, the Member in charge said:—"In the first place, it is proposed to amend Sec. 3 where it is stated that the authority to collect tax may be the *Proverthikar* or the Accountant as may be directed by the Dewan. Till now, the Dewan was the ultimate authority so far as these matters are concerned. It is now proposed to substitute the Land Revenue Commissioner for the Dewan.

Then in Sec. 25 it is stated that the Dewan Peishkar may take up the management of any property attached under the orders of the Dewan. It is proposed to substitute the Land Revenue Commissioner there also. That is to say, if the Land Revenue Commissioner thinks that any particular property attached should

be under the management of the Peishkar, he may order that to be done.

The third amendment is in regard to the Section which says that, in cases where the Dewan thinks that the Peishkar himself should conduct any sale, he may so order. Here also the Land Revenue Commissioner is put in instead of the Dewan.

Then, as regards the powers of revision under Sec. 50, it is now restricted to the Dewan alone. Ordinarily appeals lie only to the Peishkar, and the Dewan exercises a power of revision. It is desirable that the Land Revenue Commissioner should exercise some powers of revision in certain cases. And therefore Sec. 50 proposes that the Dewan may delegate some of the functions in certain cases or classes of cases in the matter of revision.

Lastly, under Sec. 51, a consequential amendment has to be made, because Sec. 51, proposes to exempt the time taken for revision in the calculation of the period of limitation. If the Land Revenue Commissioner also is given powers of revision to some extent, then the time taken for revision by the Land Revenue Commissioner may also have to be exempted from the calculation of the period of limitation. Therefore, the amendment to Sec. 51 is only consequential upon the amendment to Sec. 50"—*L. C. P., dated 30-10-1923.*

1. For the purpose of this Act, the following terms shall have the several meanings hereunder assigned to them :—

Definitions. Interpretation of terms.

(a) The term "Public Revenue due on land" shall include the assessment in kind or money charged on lands and payable to the Government or Sreepandara-vagai, and all fees and cesses, whether in kind or money, which, whether charged on land or not, are recovered as assessment on land.

The Bill was not referred to a Select Committee. For Council proceedings see *L. C. P. Vol. IV, pp. 72-73, 485 and 119.*

The Act was published in *T. G. G. dated 15-7-1924.*

Act XXV of 1116. This amending Act was passed direct by His Highness the Maha Raja. The abolition of the post of Land Revenue and Income-Tax Commissioner necessitated the amendment. This amending Act was published in *T. G. G. dated 15-7-1941.*

Act VIII of 1122. This amending Act was also passed direct by His Highness the Maha Raja. The Act was published in *T.G.G. dated 7-1-1947.*

Sec. 1. Clause (a). The Bill did not contain the *Explanation*. The Select Committee added the *Explanation* under which pattoms due on Kandukrishi lands alone was included within the meaning of the definition. This was done with a view "to remove any doubt as to whether the pattom due on these lands which cannot

strictly be considered 'assessment' is included in the definition". As regarding provisions for collection of dues on Sreepadam Estates, the Committee thought it expedient to have separate legislation—*S. C. R. paras 4. 46.*

In the Council the scope of the *Explanation* was sought to be extended by including dues on lands belonging to Sreepadam and those comprised within the limits of Kilimanoor and Edappally Edavagais, The Council after discussion appointed a committee to consider whether separate legislation is necessary in respect of recovery of dues on Sreepadam and other Estates. *L. C. P. dated 16-7-1892.*

The Committee was of opinion that a separate Act applying the provisions of the Revenue Recovery Act to those Estates should be passed and that the relation of those Estates to the holders of lands therein and to the Government so far as it concerns the rates of assessment, the system of account etc., be declared. *L. R. M. Vol. I p. 157.*

Explanation.—Pattams due on Kandukrishi and Sreepadom lands are within the meaning of this definition.

(b) An "arrear of Public Revenue" due on land is the whole or any portion of any kist or instalment of such Revenue not paid on the day on which it falls due according to the kistbundi or any engagement or usage.

(c) "Land-holder" [means the registered holder for the time being of any land, and includes his legal representative.]

When the Bill was again considered by the Council, a motion was made to include pattams due on Sreepadam lands as well within the ambit of the *Explanation*. The member in moving the amendment said :

"I confess that I was under some misapprehension as to the exact nature of the Sreepadam lands and the conditions under which they are administered. My idea was that these are entirely the *private* property of Their Highnesses the Ranees in the same manner as the Killimanoor Estate is the private property of the Kilimanoor family. From the observations made by the esteemed mover of the amendment, I see that the Sreepadam lands are, like Kandukrishi lands, the private property of the Sovereign. Their Highnesses the Ranees having only 'a life interest' in them. Even now, the Kariakar or the chief officer who administers these lands is appointed by His Highness the Maha Raja. Such

being the nature of these lands, this Council cannot, I venture to think, have any valid objection to their being dealt with as the other Crown lands, so far as the procedure for the recovery of the dues from such lands is concerned. The sentiment of which reference has been made by the mover of the amendment is also, in my humble opinion, entitled to the highest respect and consideration from this Council....." The motion was carried.—*L. C. P., dated 30-7-1892.*

The corresponding definition in Sec. I of the Madras Act is:—"Public revenue due on land shall, for the purposes of this Act, be taken to include cesses or other dues payable to Government on account of water supplied for irrigation."

Clause (c). The term 'land-holders' is defined in Sec. 1 of the Madras Act as comprising Zamindars Inamdars, etc., and "all persons farming the land revenue under Government. A!"

holders of land and Ryotwar Settlements, or in any way subject to the payment of revenue direct to Government."

As originally enacted, the definition was as follows:—"The term 'Land-holders' shall include all holders of land liable to the payment of Public Revenue as defined in Clause (a)." The present definition was substituted by Sec. 1 of Act VIII of 1094.

The definition given in the original Bill which was passed as Act VIII of 1094 was as follows:—"Land-holder, means the registered holder or *pattadar* for the time being of any land, and includes any person in lawful management of such land otherwise than as agent, servant, mortgagee or lessee of the registered holder or *pattadar*." The statement appended to the Bill said:—"Every land-holder is under Sec. 3 bound to pay the revenue due on his land. Otherwise he becomes a defaulter. The term 'defaulter' has been constructed to mean the registered holder. (I.T.L.J. 26 and 30. T. L. R. 50). It is thought desirable to extend the meaning of the term 'land-holder.'—S. O. & R.

In introducing the Bill, the Member in charge said:—"Clause I defines 'land-holder' and extends its meaning so as to include a real owner of the property, though he may not be a registered holder or *Pattadar*. This amendment has been necessitated by the rulings reported in I. T. L. J. P. 26 and

30 T. L. R., P. 50. * * The decision in these cases has created some difficulty in the realisation of arrears. In some instances it may be that the registry holder is dead and, owing to a dispute among the heirs, a transfer of *Pattah* may not have been effected. It may also be that though the registry holder is alive, the property has been transferred to one or more individuals who have thereupon become the proprietors of the property. As the law stands at present, the Government cannot compel the real owner to pay the revenue. The logical effect of the rulings will also be to put the registry holder and the real owner to inconvenience and difficulty. If the registry holder pays the amount with the hope of recovering it from the real owner in possession of the property, the Courts won't give him relief on the ground that he is the person bound to pay and that his payment should be considered voluntary. This was the ruling in 33 Mad. 41. Similarly, if a *Pattadar* sells his properties under a *Pattah* to two individuals, and one pays the whole of the tax under *Pattah* and sues the other owner for contribution, he may not get a decree as it may be held that he is not under a statutory obligation to pay the tax. (Vide 30 Mad. 35). The law as it stands now is therefore according to the later rulings unsatisfactory. It is therefore thought desirable to amend the definition of 'land-holder' so as to include persons other than *Pattadars*. This amendment is quite in

2. The land, the buildings upon it and its products shall be regarded as security for the Public Revenue. Security for the Public Revenue. Public Revenue on such land.

keeping with the view expressed in the earlier Madras rulings. * * As the definition of 'land-holder' has been amended, and as it is the land-holder that is bound to pay the revenue and if he is in arrear he becomes a defaulter, it is not thought necessary to define the term defaulter separately.—*L. C. P., dated 11-9-1917.*

The Select Committee who reported on the Bill thought that "it will be enough if the meaning of the term 'land-holder' is extended so as to include, in case of the death of the registry holder, his legal representative." The definition as amended by the Select Committee was passed by the Council.

Sec. 2. The words "on such land" at the end of the Section were added by the Council as the result of a motion made by a Non-official Member to the effect that land bearing a separate number in the Government account, should not be made liable for the revenue due from a land bearing a different number, though both the lands may be included in one Tandaper account. In I. L. R. Madras VIII, P. 130, it was observed that, by accepting a Pattah, the Pattadar pledges each and every field as security for the whole amount and that he cannot split the security any more than an ordinary mortgagor. Quoting this

decision the Member said:—"I fear that the same interpretation might be put by our Courts if we adopt the British Section without explaining that we do not intend to give the extended construction put by the Madras High Court on the Section. I suppose that it is not the intention of the Council to make one land security to the revenue of another land when both the lands are registered in the same Thandaper. In IV T. L. R., 82, a Full Bench of our High Court has held that the arrear of revenue due on one land cannot be treated as charge on other lands in the holding of the defaulter and that the prior encumbrances are not affected by the sale, if the arrear was not due on the land sold. That this view of our High Court is in consonance with the long prevailing customary law of the country cannot be denied. If the proposed legislation will tend in any way to interfere with this long-established principle, I feel no doubt in saying that it will be a very great hardship to most of our land-holders ..."—*L. C. P., dated 18-6-1892.*

See also L. R. M. Vol. I. para 159.

The corresponding Sec. 2 of the Madras Act is:—"The land, the buildings upon it, and its products, shall be regarded as the security for the public revenue."

3. Subject to such Rules as Our Dewan may prescribe from time to time, every land-holder shall pay, to the Proverthicar, [the Village Accountant] or the Tahsildar or any other officer whom [the Dewan] may authorise in that behalf by Notification in the Government Gazette, the revenue due from him on or before the day fixed for payment, and the payer shall be entitled to a receipt signed by the Proverthicar, [the Village Accountant] or Tahsildar or such other officer as aforesaid, as the case may be, for the payment so made.

4. Arrears of Public Revenue due on land shall bear interest at the rate of six per cent. per annum whenever interest is chargeable upon such arrears.

Interest on arrears of revenue .

Sec. 3: "Although, as a rule, the revenue due on land is paid to the Proverthicar, yet there are cases (coffee lands, for instance) in which the tax is directly payable to the Tahsildar. To meet all such cases, the Section has been slightly modified, leaving it to the Dewan to determine, from time to time, the officer or officers to whom revenue is payable."—*S. C. R.*

Sec. 2 of Act VIII of 1094 introduced the words "the Village Accountant" after the word "Proverthicar." The statement of Objects and Reasons appended to the Bill said:—"In practice the Proverthicar and Village Accountant are both entrusted with the collection of revenue. The amendment gives legal validity to the practice." *S. O. & R. Clause 2. T. G. G. dated 14-8-1917.*

The words "Land Revenue and Income-Tax Commissioner" were substituted for the words "Dewan" by Sec. 1 of Act II of 1099. But by Sec. 2 of Act XXV of 1116, the words "Land Revenue and Income-Tax Commissioner" were substituted by the word "Dewan" thus restoring the Sec. as it originally stood. See *Objects and Reasons, supra.*

This section corresponds to Secs. 3 and 56 of the Madras Act. S. 56 of that Act provides for issue of receipts for revenue paid.

Sec. 4. The corresponding section 7 of the Madras Act runs thus "Arrears of revenue shall bear interest at the rate of 6 per cent per annum."

5. When Public Revenue due on land may be in arrear, such arrear, together with interest, if any, and costs of process, may be recovered by the sale of the defaulter's movable or immovable property or both, in the manner hereinafter provided.

Process of recovering arrears of revenue.

6. [*Repealed by Section I of Act X of 1097*]

Sec. 5: Sec. 5 of the Madras Act is as follows:—"Whenever revenue may be in arrear, it shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to proceed to recover the arrear, together with interest and costs of process, by the sale of the defaulter's movable and immovable property, or by execution against the person of the defaulter in manner hereinafter provided."

Sec. 6. The repealed section read as follows:—"Before taking coercive measures against a defaulter under this Regulation the following procedure shall be observed:—

(1) A written demand signed by the Tahsildar shall be served on the defaulter specifying the amount of revenue with interest, the land on which and the date from which it is due, and requiring him to pay the same or to show cause why he should not pay the same within a time fixed therein.

(2) The service of the demand shall be in the manner prescribed in Code of Civil Procedure for serving summonses on defendants.

(3) If the defaulter appears and objects to the claim of arrear, wholly or partly, the Tahsildar shall inquire into the objection and record a decision.

(4) An appeal shall lie from such decision to the Division Peishkar within 30 days from the date thereof.

(5) If the objection of the defaulter be set aside or the defaulter fails to appear within the prescribed time, or appearing, fails to show cause why the arrear should not be paid by him, and no arrangement for securing payment of the same shall have been entered into to the satisfaction of the Tahsildar, the Tahsildar shall proceed to recover the arrear in the manner hereinafter provided.

Explanation.—Nothing in this Section shall preclude the Tahsildar from attaching the defaulter's property by reason only of an appeal having been preferred against his decision under Clause (4). But the appellate authority may, for sufficient cause, order the attachment to be stayed."

7. In the seizure and sale of movable property for arrears of Public Revenue due on land, the following Rules shall be observed.

Rules for seizure and sale of movable property.

[*Clause 1.* (i) The Tahsildar may distrain the property of a defaulter either in person or by the Proverthicar or any other person specially authorised by the Division Peishkar for that purpose.

(ii) Before making the distraint the Tahsildar shall prepare, and if need be, shall furnish to the person employed to distrain the property of a defaulter, a demand in writing signed by him, specifying the name of the defaulter, the amount of the arrear and the date on which the arrear fell due. A copy of such writing shall be served on the defaulter in the manner prescribed in the Code of Civil Procedure for serving summonses on defendants.

(iii) If the arrear together with the batta due under Section 46 be not paid within the time fixed in the demand, such time being not less than seven days from the date of service of the demand, the Tahsildar or other person may, on the authority of the demand in writing referred to in sub-clause (ii), proceed to make the distraint, provided that, if the defaulter prefers a petition in writing to the Tahsildar, objecting to the payment of

Sec. 7. Clause (1). This clause was substituted by Sec. 2 of Act X of 1097. The original clause read as follows:—"The Tahsildar may distrain the property of a defaulter either in person or by the Proverthicar or any other person specially authorised by the Division Peishkar for that purpose."

The statement of Objects and Reasons appended to the Bill (X of 1097) explains the reason for the change as follows:—"The person who proceeds to distrain the movable property of a defaulter is furnished with a writ-

ing which serves at once as his authority to distrain, and as the formal demand to be made before distraint. This is analogous to a warrant of arrest issued by a Civil Court, to be shown to the judgment debtor so as to enable him to discharge the debt, if he can, immediately. - S. O. & R.

In the corresponding Section 8 (1) of the Madras Act no period of time is allowed for the payment of arrears together with batta due to the person employed to distrain. The payment has to be made at once.

the arrear wholly or in part, the Tahsildar may, in his discretion, stay the making of the distraint on such terms as to security or otherwise as he thinks fit and shall inquire into the objection and record a decision.]

Clause 2. The distraint shall, as far as possible, be conducted in the presence of two Thadasthers who shall be required to attest the list or the inventory of the property distrained.

Clause 3. On the day on which the property may be distrained, the Tahsildar or other person making the distress shall deliver to the defaulter a list or inventory of the property distrained, endorsing thereon the name of the place where it may be lodged or kept.

Clause 4. The endorsement shall further set forth that the distrained property will be brought to public sale unless the amount with interest and all the expenses of the distress, be [previously] discharged.

Clause 5. When a defaulter may be absent, a copy of the list with the endorsement shall be left with some adult male member of his family living with him, or fixed at his usual place of residence or on the premises where the property may have been distrained, immediately after the distress.

8. When the distrainer is other than the Tahsildar, he shall transmit to the Tahsildar a copy of the inventory of the property distrained within 48 hours from the time of distraint.

Procedure when the distrainer is other than the Tahsildar.

Clause 2. This was not in the original Bill, but was added by the Council on the motion of a non-official member. *L. C. P. dated 18-6-1892.*

Clause 4. The word 'previously' was substituted for the words 'at once' by Sec. 2 of Act X of 1097. The correspond-

ing provision of the Madras Act contains the former word.

Sec. 8. The words 'within 48 hours from the time of distraint' were added by the council on the motion of a non-official member. *See. L. C. P. 18-6-1892.*

9. The Tahsildar shall thereupon cause to be affixed to the outer door of the defaulter's house, or on the premises where the property may have been distrained, a list of the property to be sold, with a notice under his signature specifying the place where and the day and hour at which, the distrained property will be sold, and shall cause proclamation of the intended sale to be made by beat of tom-tom in the village to which the lands on which the arrear has accrued may belong and in such place or places as the Tahsildar may consider necessary to give due publicity to the sale. No sale shall take place until after the expiration of a period of 15 days from the date on which the notice may be affixed, but perishable articles which will not keep for 15 days may be sold at any time after the affixing of the notice.

10. The Tahsildar may conduct the sale either in person or through the Proverthicar acting under his written authority, or through an officer appointed by the Division Peishkar and authorised by him in writing for the purpose.

11. At the appointed time, the property shall be put up in one or more lots, as the officer conducting the sale may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting interest and expenses of process, shall be paid to the defaulter.

12. The property shall be paid for in ready money at the time of sale, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same in full. Where the

Sec. 9. The corresponding Section 22 of the Madras Act does not contain provision for the sale of perishable articles.

Sec. 12. The corresponding Section 24 of the Madras Act

runs as follows :—"The property shall be paid for in ready money at the time of sale, or as soon after as the officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away.....was made". The

purchaser may fail in the payment of the purchase-money, the property shall be re-sold at once and the defaulting purchaser shall be liable for any loss arising from, as well as the expenses incurred on the re-sale. Where the property may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

13. Where a defaulter may tender payment of the arrear demanded, after his property may have been distrained, and before sunset on the day preceding the day fixed for the sale, together with the interest and all necessary expenses of distress, the distrainer shall receive the amount immediately, grant a receipt for the same and forthwith release the property.

14. The distrainer attaching the crops or ungathered products of the land belonging to a defaulter may cause them to be sold when fit for reaping or gathering, or, at his option, may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expenses of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold. When crops or products belonging to a tenant shall have been sold, it shall be lawful for such tenant to deduct the value of the crops or products so sold from any rent which may be due by him then or afterwards to the defaulter in respect of the land on which such crops or products have been grown. It shall also be lawful for a tenant, whose crops are attached for an arrear of revenue, to pay the arrear with interest, if any, and costs of process, and deduct the amount in the aforesaid manner from any rent due by him then or afterwards.

change in the present section was introduced to obviate the inconvenience and delay incidental to giving fresh notice of resale should the purchaser default payment of the money.

SEC. 15.**REVENUE RECOVERY**

15. The distrainer shall not work the bullocks or cattle or make use of the goods or effects distrained ; he shall provide the necessary food for the cattle or livestock and the feeding expenses shall be defrayed by the owner upon his redeeming the property or from the proceeds of the sale in the event of its being sold.

16. Where property distrained may be stolen or lost or damaged by reason of the necessary precautions for its due preservation not having been taken or from its having been worked or made use of, the amount of such loss or damage shall be recoverable by process under this Act by the Division Peishkar from the officer whose neglect or act occasioned the loss or damage, and the amount, when recovered, shall be paid to the person damaged.

17. The distress levied shall not be excessive, that is to say, the property distrained shall be, as nearly as possible, proportionate to the amount of the arrears ; and it shall not include,

(a) the ordinary wearing apparel of the defaulter and his family ; and
 Exceptions as to distress.

(b) his implements of husbandry and ploughing cattle.

18. Distress shall be made after sunrise and before sunset and not otherwise.

19. When any person, not being a defaulter or responsible for a defaulter, may claim a right to, or any interest in, the property distrained, and the distrainer may, notwithstanding, cause the same to be sold, such claimant shall recover from the distrainer in a Court of Law reasonable compensation for the loss sustained by the

Sec. 17. Section 14 of the Madras Act does not contain the words 'and it shall not includeploughing cattle.'

Sec. 19. The corresponding Section 17 of the Madras Act is as follows:—"when any personclaim a right to the

sale. But claims to crops upon the ground, or gathered products of the ground attached, which may be in the possession of the defaulter, whether founded upon a previous sale, mortgage or otherwise, shall not bar the prior claim of revenue due from the ground upon which such crops or product may have been grown.

20. It shall be lawful for the distrainer to enter, or if necessary, to force open and enter, any dwelling house, cow-house, granary, godown, out-houses or other building, and he may also break open the door of any room in such dwelling-house, for the purpose of attaching property belonging to a defaulter and lodged therein :

provided that it shall not be lawful for the distrainer to enter any dwelling-house or to attach any property or to put his seal to any door or place or break open or enter any apartments, in any dwelling house, appropriated to women, which, by the usage of the country, are considered private, except as hereinafter provided.

21. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within any apartments appropriated to women, which, by the usage of the country, are considered private, he shall, before entering such apartments, give notice, in the presence of

property distrained..... to be sold, such claimant, on proof of such right in any Civil Court of competent jurisdiction, and in the event of the distrainer being unable to prove the responsibility for the arrear of revenue on account of which the property may have been sold, shall recover from the distrainer the full value of such property with interest, costs and damages according to the circumstances of the case. But claims to crops upon the ground.....may have been grown."

lawful for the distrainer to force open any stable.....other building, and he may also enter any dwelling house the outer door of which may be open, and may break open.....lodged therein: Provided always that it shall not be lawful for such distrainer to break open or enter any apartment in such dwelling-house appropriated for the Zenana or residence of women, except as hereinafter provided."

Sec. 20. Section 19 of the Madras Act is:—"It shall be

Sec. 21. Section 20 of the Madras Act provides for representation being made by the

Thadasthers, for the removal of the women from them, and furnish means for their removal in suitable manner, if they be women of rank or who, according to the custom of the country, cannot appear in public, and shall also immediately remove from such apartments any property belonging to the defaulter found therein, and leave them free to the former occupants.

22. Persons entering the apartments of women contrary to the provisions of this Act shall, on conviction before a Magistrate, be liable to a fine not exceeding 50 rupees, or to simple imprisonment for any period not exceeding one month.

Punishment for entry into such apartments.

23. In the [* * *] demand issued under Sections [7 and 23-A] with reference to the revenue payable in kind, wholly or in part, its value in money shall be stated as the amount of revenue due on the land.

Notice to state value of revenue in kind.

distrainer to the Police and for Police Officer being present when distrainer forces open outer door or enter Zenana apartments for distraining property deposited therein.

Sec. 22. Section 21 of the Madras Act is as follows:—
“Persons entering the apartments of women, or forcing open the outer-door of dwelling-houses, contrary to the provisions of this Act, shall on conviction before a Magistrate, be liable to a fine not exceeding Rs. 500, or to imprisonment of either description for any period not exceeding six months.”
This was adopted *in toto* in the original Bill. The Select Committee modified it and they said in their Report:—“The words ‘or forcing open the outer-door

of the dwelling-houses’ are unnecessary, the act not being forbidden under Section 20, as under the corresponding Section of the British Enactment. As the act contemplated by this Section consists of the mere entry into the apartment of a *Gosha* woman and as any other improper act will be punishable under the Penal Code, we think the punishment provided in the Section is too heavy. We have therefore reduced it.....”—
S. C. R.

Sec. 23. In the original Bill, the Section stood as follows:—
“When the revenue is payable in kind, it shall be lawful for the Tahsildar to prevent the removal of the crop from the land until a division has been made, and the portion which

[23-A. (1) Before proceeding to attach the immovable property of a defaulter, a written demand signed by the Tahsildar shall be served on the defaulter, specifying the amount of Revenue due with interest, the land in respect of which it is claimed, and the date when it fell due, the batta due to the person who shall serve the demand and the time allowed for the payment.

(2) Such demand shall be served on the defaulter in the manner prescribed in the Code of Civil Procedure for serving summonses on defendants.

(3) If within the time prescribed under Sub-section (1), the defaulter objects to the claim of arrears wholly or in part, the Tahsildar shall inquire into the objection and record a decision before proceeding to attachment.

belongs to Government has been set apart, unless the landholder furnishes such security as the Tahsildar may deem satisfactory." This is the same as S. 51 of the Madras Act. On this, the Select Committee observed: "But unlike British India, where tax payable in kind forms an infinitesimal portion of the total revenue, the bulk of the revenue here is payable partly in kind and wholly so in some cases. This section would therefore be productive of considerable vexation and annoyance to the ryots, whilst its omission does not appear to be likely to, in any way, affect the interests of Government. We have accordingly rescinded it; and have, in its place, substituted a Section which provides that when revenue is payable in kind, its value in money shall be stated in the demand. This is necessary as the price (which will, we believe, be the *Niruk* or market price)

is a varying quantity and it is expedient that the defaulter and the person who attaches and sells property should know definitely what amount in money is due."—S. C. R.

In the Section enacted, as proposed by the Select Committee, Sec. 3 of Act X of 1097 deleted the words "notice or" before "demand", and substituted "7 and 23-A" for "6 and 7" after the word "Sections."

Secs 23-A & 23-B. The two Sections were inserted by Sec. 4 of Act X of 1097. The statement appended to the Bill said:—"This provides for a demand in writing being served on the defaulter, before attachment is placed on land, so as to give him time to satisfy the demand. It will be seen that there is no express provision for preferring objections and the manner of dealing with them. It follows as a necessary incident

23-B. When the amount due shall not have been paid pursuant to the terms of the demand, and no arrangement for securing the same shall have been entered into to the satisfaction of the Tahsildar or other officer empowered in this behalf by the Division Peishkar, the immovable property of the defaulter may be attached and sold in the following manner.]

Procedure when defaulter neglects to pay.

24. The attachment of immovable property shall be effected by affixing a notice thereof to some conspicuous part of the land or building to be attached, by the Tahsildar in person or through the Proverthi-car acting under his written authority or through any other official appointed by the Division Peishkar and authorised by him in writing for the purpose. The notice shall specify the amount of revenue with interest, the land on which and the date from which it is due and the party in arrear, and shall set forth that, unless the arrear with interest and expenses, be paid within the date therein mentioned, the land or building concerned will be

Attachment of immovable property.

that, when a demand is made, the person who is called upon to pay has the right to object to it in any way that is open to him. An express provision is wholly superfluous. When an objection is preferred, the Tahsildar is bound to consider it, and, if valid, is bound to give effect to it. The existing provision as regards appeals to the Peishkar is also omitted, as, in the case of non-payment of tax and the rejection of objections by the Tahsildar, an appeal to the Peishkar is cumbersome procedure, wholly unreasonable in the circumstances. Of course, the Peishkar's right to interfere as a superior officer is wholly unaffected.—S. O. & R.

Sub-secs. (1) and (2) of Sec. 23-A correspond to Sec. 25 of

the Madras Act. Sub-sec. (3) of Sec. 23-A was added by the Select Committee, as they thought "it desirable to make it clear that objections to a demand may be preferred by the defaulters."—S. C. R.

Sec. 24. The words "shall specify the amount of revenuein arrear and" were added after "Notice," by the Council on the motion of a Non-official Member who said:—"This provision in the notice of attachment is absolutely necessary. Any person who may have interest in the land and who may like to pay up the arrear under Sec. 30 must have means of knowing the amount of arrears and the land on which the arrear is due. The notice under Sec. 6 is only to the defaulter

brought to sale in due course of law. The notice of attachment shall be affixed in some conspicuous part of the Taluk and the Proverti Cutcheries and shall also be published by beat of tom-tom on the immovable property attached. The publication shall also be reported to the Division Peishkar.

25. It shall be lawful for the Division Peishkar, [* * * *] at any time during attachment, to assume the management of the immovable property attached.

Management of property attached.

In such cases, he shall appoint an agent, with a proper establishment of officers, to manage the property, and shall give the agent a certificate of appointment with written instructions under his seal and signature, and the expenses of management shall be defrayed out of the income of the property; Provided always that, where property may be too inconsiderable to admit of its being charged with the salary of an agent, it shall be committed to the care of such Revenue officer as the Division Peishkar may select, who shall be subject to all the provisions herein contained in reference to agents.

Appointment of an agent.

and it might often happen that the person who should have the means of knowing the arrears is somebody else than the person on whom the notice under Sec. 6 was served, and the best way of serving a general notice of the fact of a land being in arrear of revenue is by stating it in the notice of attachment."—*L. C. P. dated 18-6-1892.*

The words added are not found in the corresponding Sec. 27 of the Madras Act.

Sec. 25. The original section read as follows;—"It shall be lawful for the Division Peishkar with the previous sanction of the Dewan at any time.....' Sec. 2 of Act II of 1099 substituted the words 'Land Revenue and Income Tax Commissioner' for 'Dewan.' By Sec. 3 of Act XXV of 1116 the words 'with the previous sanction of the Land Revenue and Income Tax Commissioner' were omitted.

SEC. 26.**REVENUE RECOVERY**

26. Notice of assumption of management shall forthwith be served on the defaulter in the manner described in [Section 23-A, Sub-section 2] and shall be notified by public proclamation on the property and by publication in the Government Gazette.

27. It shall be the duty of the agent, during the continuance of the management under Section 25, to collect the rents and profits due, or accruing due, upon the estate, according to the engagements subsisting between the defaulter and the parties holding under him, or according to established usage where no specific engagements exist.

The agent shall keep accounts of all his receipts and disbursements and submit the same and pay over the balance to the Division Peishkar or other officer empowered by the Division Peishkar in that behalf, whenever required, and the defaulter shall be at liberty to inspect the accounts at all reasonable times and to take copies of the same at his own expense without fee.

28. All sums received from the property attached after paying the expenses of attachment and management, shall be carried to the credit of the defaulter in discharge of the arrears due and interest thereon, and as soon as all arrears, interest, costs of attachment and expense of management shall have been liquidated, the attachment shall be withdrawn and a full account rendered of all receipts and disbursements during its continuance.

Sec. 26. Sec. 5 of Act X of 1907 substituted the words (2) Section 6.

29. All engagements entered into between the landholder and his tenants shall be binding upon the Government during attachment, but if the Tahsildar finds that any engagements have been made collusively with a view to defeat or delay the effect of the attachment, or that engagements have been entered into subsequently to attachment, he shall report such circumstances to the Division Peishkar, who, if he finds reason, may declare all such engagements null and void against the Government.

Sec. 29. The Section corresponds to section 32 of the Madras Act. The section as drafted in the Bill ran as follows:

“All engagements entered into between the landholder and his tenants, except such as are hereinafter mentioned shall be binding upon the Tahsildar during attachment, but if the Tahsildar finds that any engagements have been made collusively with a view to defeat or delay the effect of the attachment or that any leases of land have been granted at a rate lower than the usual rates of assessment or that engagements have been entered into subsequently to attachment, he shall report such circumstances to the Division Peishkar who, if he finds reason, may declare all such engagements and leases null and void against the Government, subject, however, to the rights of the parties to such agreements to appeal to the Dewan against the decision of the Peishkar, and after the result of such appeal is known, to bring a suit against the Government in the ordinary tribunals to establish the same,

and all charges and incumbrances upon such land shall be postponed to the payment of the public revenue.”

The Select Committee, in reporting on the Bill, observed:—“In the first part of this Section, we have, to prevent any possible misunderstanding, substituted ‘Government’ for ‘Tahsildar’. A very important exception to leases granted at lower than the usual rates of rent, which is provided in the corresponding Section of the British Act, *viz.*, ‘not made *bona fide* for the purpose of erecting factories or buildings or of bringing waste-land into cultivation’ had been omitted in this Section. We not only fail to see the reason for this omission, but are of opinion that the exception is very necessary, and have accordingly restored it.

“We have omitted from this Section and from the other parts of the Bill the provision relating to regular appeals to the Dewan. We consider such appeals unnecessary because the parties affected by the orders of the Division Peishkar have a

30. If, within 30 days from the date of attachment of any immovable property, any objection is made by any other than the defaulter to the attachment of the whole or any portion of such property on the ground that such property was not liable for the arrear of revenue for which the attachment was made, the Tahsildar shall inquire into such objection and report the result of such inquiry to the Division Peishkar. The Division Peishkar shall thereupon decide whether such property is liable to be attached, and, in case he finds the attachment untenable, he shall forthwith direct the release of the attachment.

Release of attachment when objected to by any other than the defaulter.

31. It shall be lawful for any person, claiming an interest in land which has been or is about to be attached, to obtain its release by paying the arrears, interests and costs incurred; and all such sums, if paid by a tenant, may be deducted

Persons interested in the land may obtain release from attachment.

right of action in the Civil Courts. We may add that, in British India, no appeal is provided even to the Board of Revenue in such matters. We did not, at the same time, forget the fact that an appeal to the Dewan has the effect of reducing litigation by the opportunity it affords to correct any mistakes or remedy any injustice which may be patent in the decision of the Peishkar. To secure this object, we have added a Section (50) giving the Dewan power to revise all decisions passed by a Division Peishkar or other revenue officer under this Regulation".—S. C. R.,

When the Bill, as amended by the Committee, was considered by the Council a Non-official Member proposed the omission of the words "or that

any leases of land have been granted at a rate lower than the usual rate.....and not made *bona fide*.....waste-land into cultivation", and also the omission of the words "subject, however, to the rights of the parties.....the payment of the public revenue".

The motion was carried. See *L. C. P. dated 18-6-1892.*

Sec. 30. The Madras Act does not contain a corresponding provision. This Section was added by the Council See *L. C. P. dated 18-6-1892.*

Sec. 31. Sec. 3 of Act VIII of 1094 substituted the words bracketed for the words—"and if paid by a *bona fide* mortgagee or other incumbrancer upon the estate, shall constitute a debt from the defaulter to him and shall be a charge

from any rent then or afterwards due by him to the defaulter ; [and if paid by *bona fide* mortgagee or other incumbrancer upon the estate or by any person not being in possession thereof but *bona fide* claiming an interest therein adverse to the defaulter, shall be a charge upon the land, but shall only take priority over other charges according to the date at which the payment was made. Such sums when paid by a *bona fide* mortgagee or other incumbrancer shall further constitute a debt from the defaulter.]

32. In the sale of immovable property under this Act, the following Rules shall be observed :—

Rules to be observed in the sale of immovable property.

(1) All such sales shall be conducted by the Tahsildar [* * * *] unless, in any case, [* * * *] the Division Peishkar may deem it necessary that the sale should be conducted by [himself.]

Such sale to be conducted by the Tahsildar generally.

(2) Previous to the sale, the Tahsildar shall issue a notice specifying the name of the defaulter, the position, tenure and extent of land and the buildings therein ; the amount of revenue assessed on the land or upon its different sections ; the proportions of the

Notice of sale. The particulars thereof.

upon the land, but shall only take priority over other charges according to the date at which payment was made".

The Objects and Reasons appended to the Bills says :—

"A person may *bona fide* though mistakenly claim an interest in land and in pursuance to such claim may pay the revenue to prevent the sale of the land, though ultimately it may turn out that he has no claim over the land, it is thought desirable that he should not be in a worse position than a

tenant or a mortgagee making a similar payment". S. O. & R. The Section thus amended is the same as the amended Section 35. of the Madras Act..

Sec. 32. Sub-section (1) as it originally stood read as follows :—"All such sales shall be conducted by the Tahsildar with the previous sanction of the Division Peishkar unless in any case the Dewan or the Division Peishkar may deem it necessary that the sale should be conducted by the Division Peishkar." Sec. 6 of Act. X of

Public Revenue due during the remainder of the current Malabar year, and the time, place and conditions of the sale.

This notice shall be posted, 30 days at least before the sale, in the nearest Police Station-House, the Proverthkar's and Taluk Cutcheries and on some conspicuous part of the land or building as the case may be.

Notice to be one month before sale.

(3) The sale shall be by public auction to the highest Public auction. bidder.

(4) A sum of money equal to 15 per cent. of the price of the land shall be deposited by the purchaser with the officer conducting the sale at the time of the purchase, and when the remainder of the purchase-money may not be paid within 30 days, the money deposited shall be liable to forfeiture.

Deposit and payment of balance.

(5) Where the purchaser may refuse or omit to deposit the said sum of money or to complete the payment of the remaining purchase-money, the property shall be re-sold after notice, as prescribed in Clause 3 above, at the expense and hazard of such purchaser, and the amount of all loss or expense which may attend such refusal or omission shall be recoverable from such purchaser in the same manner as arrears of Public Revenue. Where the lands may, on the second sale, sell for a higher price than at the first sale, the difference or increase shall be the property of him on whose account the said first sale was made.

1097 deleted the words 'with the previous sanction of the Division Peishkar' between the words 'Tahsildar and 'unless'. The words 'Land Revenue and Income Tax Commissioner' were substituted for the word 'Dewan' by Sec. 3 of Act II of 1099. Sec. 4 of Act. XXV of

1116 deleted the words 'the Land Revenue and Income Tax Commissioner or' between the words 'case' and 'the Division Peishkar' and substituted the word 'himself' for the words 'the Division Peishkar' where they occurred for the second time.

(6) All persons bidding at a sale may be required to state whether they are bidding on their

own behalf or as agents, and, in the latter case, to deposit a written authority signed by their principals. If such requisition be not complied with, their bids may be rejected.

33. It shall be competent to the defaulter, or to any person acting on his behalf or claiming any interest in the land, to tender the full amount of the arrears of revenue with the interest thereon and all charges which have been incurred in demanding the arrears or in attaching or managing the estate or in taking the steps necessary for sale, and thereupon the sale shall be stayed :

[Provided always that such tender must be made before the lot is knocked down, and all sums paid under this or the next succeeding Section by any tenant or *bona fide* mortgagee or other incumbrancer or any person *bona fide* claiming an interest in the estate adverse to the defaulter may be recovered in the manner provided in Section 31.]

Sec. 33. The Section as it now stands corresponds to Section 37 of the Madras Act, as amended by Acts I of 1897 and I of 1909, the only difference being that for the words in the proviso 'before the lot is knocked down' occurring in this section the words 'before sunset on the day previous to that appointed for the sale' appear in the section in the Madras Act.

The present proviso was substituted by section 4 of Act VIII of 1094. The proviso as it originally stood ran as follows:— "Provided always that such tender must be made before the lot is knocked down and all

sums so paid by any tenant or *bona fide* mortgagee or other incumbrancer may be recovered by the payer in the manner provided in Section 31". The Statement of Objects and Reasons appended to the Bill stated as follows:—"The existing law allows payment until the lot is knocked down. The amendment requires the tender to be made before sunset on the previous day and this brings the section in conformity with Section 13". S. O. & R. But the Select Committee substituted the words 'before the lot is knocked down' for the words before sunset etc.

[33-A. (1) Any person owning or claiming an interest in immovable property sold under this Act may, at any time within thirty days from the date of sale, deposit in the treasury of the Taluk in which the immovable property is situated—

Application to set aside sale of immovable property on deposit.

(a) a sum equal to five per centum of the purchase-money ; and

(b) a sum equal to the arrears of revenue for which the immovable property was sold, together with interest thereon and the expenses of attachment, management and sale and other costs due in respect of such arrears, to be determined by the Tahsildar at the time of sale ;

and may apply to the Division Peishkar to set aside the sale.

(2) If such deposit and application are made within thirty days from the date of sale, the Division Peishkar shall pass an order setting aside the sale, and shall repay to the purchaser the purchase money so far as it has been deposited, together with the five *per centum* deposited by the applicant :

Provided that, if more persons than one have made deposit and application under this Section, the application of the first depositor to the officer authorised to set aside the sale shall be accepted.

(3) If a person applies under Section 34 to set aside the sale of immovable property, he shall not, unless he withdraws such application, be entitled to make an application under this Section.]

Sec. 33-A. This sec. was added by Section 5 of Act VIII of 1094 and is a re-production of Section 37A of the Madras Act which was inserted by the Amending Act I of 1909, the only difference being that that section does not contain the words 'to be determined.....of sale'.
The Objects and Reasons

appended to the Bill says:—

"This is intended to give the owner or any person interested in the property a last chance of recovering the property by depositing the arrears with five per cent. of the purchase money." The clause follows Section 307-A of the C. P. C." (now Or XXI, R. 86) S. O. & R.

34. (1) Where a sale of immovable property has been conducted by a Tahsildar, he shall, as soon as may be after the conclusion of the sale, report the result thereof to the Division Peishkar.

Sale by Tahsildar to be reported to the Division Peishkar.

(2) At any time within thirty days from the date of such sale, application may be made to the Division Peishkar to set aside the sale on the ground of some material irregularity or mistake or fraud in publishing or conducting it; but, except as otherwise is hereinafter provided, no sale shall be set aside on the ground of any such irregularity or mistake unless the applicant proves to the satisfaction of the Division Peishkar that he has sustained substantial injury by reason thereof.

(3) If the application be allowed, the Division Peishkar shall set aside the sale and may direct a fresh one.

(4) On the expiration of thirty days from the date of the sale [if no application to have the sale set aside is made under Section 33-A or under Clause (2) of this Section] or if such application has been made and rejected, the Division Peishkar shall make an order confirming the sale: Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reason in writing, set aside the sale.

(5) Whenever the sale of any lands is not so confirmed or is set aside, the deposit or the purchase-money, as the case may be, shall be returned to the purchaser.

(6) After the confirmation of any such sale, the Division Peishkar shall register the lands sold in the name of the person declared to be the purchaser, and shall execute and grant a certificate of sale bearing his seal and signature to such purchaser.

Sec. 34. The words bracketed in clause 4 were substituted for the words 'if no such application is made' by Section 6 of

Act VIII of 1094. Clause 7 was added by Section 5 of Act XXV of 1116.

Such certificate shall state the property sold and the name of the purchaser, and it shall be conclusive evidence of the fact of the purchase in all the Courts and tribunals where it may be necessary to prove the same; and no proof of the Division Peishkar's seal or signature shall be necessary unless the authority before whom it is produced shall have reason to doubt its genuineness.

[(7) Our Government may by notification in our Government Gazette direct that a revision from the decision or order under this Section of any officer empowered under Section 58 shall lie to the Division Peishkar :

Provided that no revisional order shall be passed without previous notice to the party to be affected by such order.]

35. Before the issue of the certificate referred to in Section 34, the Tahsildar shall publish in the villages in which the lands sold are situated and in the Proverthicar's Cutcherry, the name of the purchaser and the date of the purchase, together with a declaration of the lawful succession of such purchaser to all the rights and property of the former land-holder in the said lands.

36. Where, notwithstanding such publication, any lawful purchaser of land may be resisted and prevented from obtaining possession of his purchased land, the Division Peishkar, on application and production of the certificate of sale provided for by Section 34, shall cause the proper process to be issued for the purpose of putting such purchaser in possession in the same manner as if the purchased lands had been decreed to the purchaser by a decision of a Civil Court.

Sec. 36. The corresponding Section 40 of the Madras Act empowers *only* the civil court to deliver possession of purchased lands in case of resistance. The Section as originally drafted in the Bill was on the same lines. The Select Committee amended it by putting in the existing provision as they considered such a circuitous procedure unnecessary since the revenue proceedings may be called in question in a Civil Court, subsequently.

For purposes of this Section the Division Peishkar may exercise all the powers of a Civil Court under the Code of Civil Procedure.

37. All certificates issued under Section 34 shall be registered under Act I of 1042 at the cost of the parties to whom they are issued.
 Certificate of sale to be registered.

38. All contracts entered into by the defaulter with his tenants and all payments to him by them shall be binding upon the purchaser to the same extent and under the same conditions as laid down in Section 29.
 Contracts of existing tenants to hold good with purchaser also.

39. All lands brought to sale on account of arrears of revenue due thereon shall be sold free of all incumbrances and, if any balance shall remain after liquidating the arrears, interest and the expenses of attachment and sale and other costs due in respect of such arrears, it shall be paid over to the defaulter unless such payment be prohibited by the injunction of a Court of competent jurisdiction.
 Revenue officials not responsible for incumbrance on the lands sold.

40. Arrears of rent which, on the day of sale, may be due to the defaulter from his under-tenants, shall, in the event of the sale, be recoverable by him, after the sale, by any process which might have been used by him for that purpose before the said sale.
 Defaulter entitled to recover arrears of rent due on day of sale.

Sec 37. Act I of 1042 was repealed by Act I of 1070. The latter Act was also repealed and the law re-enacted by Act II of 1087.

Sec. 39. This Section reproduces Sec. 42 of the Madras Act, with the difference that the words "due thereon" after "revenue" are not found in that Act. They were added by the Select Committee. They said:—"We have added (what,

we believe, is obviously implied) the words 'due thereon' after 'revenue'. All revenue other than what is due on the land itself is in the nature of an ordinary debt and should not obviously take priority over other encumbrances."—S. C. R. Pr. 28.

Sec. 40. In the corresponding Section 43 of the Madras Act, the words 'except-distrain' occur after the word 'process'.

SEC. 41.

REVENUE RECOVERY

41. It shall be lawful to the Division Peishkar or Tahsildar to attach or sell the whole or any portion of the land of a defaulter for the recovery of arrears of revenue : provided always that no larger portion of the land shall be attached or sold than may be sufficient to discharge the arrears with interest and expenses of attachment and sale.

Lands sold to be proportionate to arrears due.

42. Where only a part of a property, bearing a single number in the account subject to the payment of a lump assessment, may be sold, the assessment upon such part shall be apportioned by the Division Peishkar previous to sale, under such rules as Our Dewan, with Our sanction, may, by Notification in the Gazette, from time to time, prescribe.

Apportionment of assessment when part only of a single property is sold.

Sec. 41. The corresponding Section 44 of the Madras Act runs thus :—"It shall be lawful for the Collector, or other officer empowered by the Collector in that behalf, to sell the wholeof a defaulter in discharge of arrear of revenue : provided always that, *so far as may be practicable*, no larger *section* in the land shall be sold than may be sufficient to discharge the arrears with interest and expenses of attachment, *management* and sale."

The reason for the change was stated as follows by the Select Committee :—"We have amended this Section so as to apply the restriction contemplated therein to 'attachment' as well as to 'sale'. This is necessary especially with reference to Section 27 of the Bill (Sec. 25) under which the whole of the property attached may be taken up under Government management, and it is manifestly

expedient that more property should not be so dealt with than is absolutely necessary."—S. C. R.

Sec. 42. The corresponding Section 45 of the Madras Act. runs as follows :—"The amount of revenue to be assessed on each division shall bear the same proportion to the actual value of such division as the total amount of the revenue of the whole property may bear to the total actual value of the entire property previous to such division."

The reason for the change adopted in the section is stated by the Select Committee as follows :—"In reference to the principles which seem to obtain in apportioning assessment on wet and garden lands, we have deemed it expedient to make the Section sufficiently elastic."—S. C. R.

43. If, at any time before the lot is knocked down, a defaulter tenders security, it shall be lawful for the officer conducting the sale to accept the security and postpone the sale of the defaulter's property upon such conditions and until such time as he may appoint; in the event of default being made in the performance of such conditions, such officer may enforce the security subject to the provisions of Section 45.

The security bond shall be in duplicate, one of which shall be kept in the custody of the officer conducting the sale and the other shall be forwarded forthwith to the Division Peishkar.

The security bonds given under this Section shall be exempt from stamp duty.

44. The officer conducting a sale may, for sufficient reasons, which shall be recorded, postpone the sale to a subsequent day.

Whenever a sale is postponed under this Section, a fresh proclamation of the intended sale shall be published in the manner provided in Section 9 or 32 as the case may be.

Sec. 43. Section 47 of the Madras Act is as follows:—
 "When a defaulter tenders security, it shall be lawful.....to accept it.....such conditionsof such conditions, the Collector or such officer may sell the property and proceed against the defaulter, or against his security, or both." With a view to make the language more precise the Select Committee recast the section and added the last two paragraphs. The reason for the addition was stated as follows:—"the first to ensure that the security bond is properly taken and the second to afford all reasonable facility for defaulters and others interested

in the property attached profiting by the provisions of this Section. As the amount of arrears for which properties may be attached will generally be small, the liability to pay stamp duty on security bonds will deter many persons from coming forward as sureties and rescuing honest defaulters from the peril of their losing their holdings. We venture to think that the loss of revenue entailed by the proposed provision will be a mere trifle compared with the benefit likely to accrue therefrom."—S. C. R.

Sec. 44. This section was added by the Select Committee.

45. All the remedies prescribed by this Act in case of revenue defaulters may be employed against their sureties, and it shall be lawful for the Tahsildar or the Division Peishkar, as the case may be, to enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the principals; so, nevertheless, that no more than the total sum of arrears with interest, costs and charges shall be realised from both.

46. Persons employed in serving notices or other processes under this Act shall be entitled to batta at such rates as may, from time to time, be fixed by the Dewan with Our sanction and published in the Gazette, and such batta shall be treated as part of the costs.

47. Where property, having been attached or distrained, may be ordered to be put up for sale, and the sale may be countermanded, the defaulter shall, nevertheless, be responsible for the expenses incurred in consequence of the attachment or distraint in the same manner as if the sale had taken place; in the event of such proprietor omitting to discharge the amount, it shall be recoverable by the process under which the original demand would have been recoverable.

Sec. 47. Section 55 of the Madras Act is as follows:—“Where property.....countermanded, the *proprietor*.....in the event of such *proprietor*.....recoverable.” The Bill reproduced the same wording. The Council substituted the word “defaulter” for the word “proprietor” where it occurred for the first time. The reason for the change is given as follows:—“As the Section stands, the effect of it would be

that when the property of somebody else is attached and the attachment is set aside at the instance of the proprietor of such property, such proprietor will be saddled with the expenses incurred in consequence of such attachment. Certainly, this is not just or equitable. There can be no question that in all such cases the defaulter who has been the cause of such proceedings should be held responsible for such costs.”—L. C. P., dated 16-7-1892.

48. When a defaulter or his surety may hold property out of the Taluk wherein default has been made, the Tahsildar of the Taluk in which such defaulter or surety holds property shall, on the written application of the Tahsildar in whose Taluk such default has been made, proceed in all respects against the property of the defaulter or surety or both in the same manner as if the default had been made in his own Taluk.

Every such application shall be signed and sealed by the Tahsildar making it and shall be conclusive as to the amount due and the party in arrear in all proceedings against the Tahsildar acting upon such application or any person acting under his authority, and no proof of the seal or signature or official character of the Tahsildar making the application shall be required unless the Court shall see reason to doubt its genuineness.

[* * *]

In such cases, the Peishkar of the Division, who is the superior officer of the Tahsildar taking proceedings on the written application of a Tahsildar of another Division, shall exercise all the powers which may be exercised by the Peishkar of the Division in which the default was made.

Sec. 48. The Section as it originally stood contained a proviso which ran as follows:—"Provided always that nothing herein contained shall affect the right of any party to sue, in his own district, the Tahsildar who made the application."

This was deleted by Section 7 of Act VIII of 1094. The

Objects and Reasons appended to the Bill says:—"The Tahsildar who makes the application to another Tahsildar for recovery of revenue due to Government need not be treated differently from one who exercises his powers under the Regulation in his own Taluk."

—S. O. & R.,

49. If no other property of the defaulter is available for the recovery of arrears of revenue, the salaries and debts due to him may be attached and realised for the recovery of any arrear due from him in the manner and to the extent provided

for attachment and realisation of debts and salaries in the Code of Civil Procedure.

50. [The Dewan may, for sufficient reason, revise any orders passed, or proceedings taken, by a Division Peishkar, Tahsildar or Proverthicar, under the provisions of this Act. [* * *]

Dewan's powers of revision and delegation of such powers.

Provided that no order shall be passed under this Section without previous notice to the party to be affected by such order.]

51. [Nothing in this Act, shall be held to prevent parties, deeming themselves aggrieved by any decision or order passed or proceedings taken, (or purporting to be passed or taken) under this Act, for

Saving of rights to sue.

Sec. 49. This Section was put in by the Select Committee. The reason for introducing the Section is given as follows:—“Of course they are included in the term ‘movable property’ which under Section 5 is liable for arrears of revenue; but, from their very nature, a special procedure is necessary for their attachment and realization. Ordinarily, it may not perhaps be necessary to have recourse to salaries and debts; but the provision is nevertheless important especially in connection with dues other than land revenue, such as, arrears from abkari renters and sub-renters, for the recovery of which the same procedure is applicable.”—S. C. R.

Sec. 50. The sec. as it stands at present is the same as it was originally enacted. The Sec. was substituted by Section 4 of Act II of 1099, the effect being only the addition of the words “or may generally or in certain cases or in certain classes of cases only delegate such powers of revision to the Land Revenue and Income Tax Commissioner.” These words were deleted by Section 6 of Act XXV of 1116.

Sec. 51. The Section as originally enacted read as follows:—“51. Nothing in this Regulation shall be held to prevent parties, deeming themselves aggrieved by any decision or order passed or proceedings taken under this

arrears due or alleged to be due from such parties, from suing the Government in the Civil Courts :

Provided that such suits shall be preferred within one year from the time at which the cause of action arose :

Limitation.

Provided further that the whole time occupied by the Dewan (in revising the proceedings under Section 50, or by the Division Peishkar, under Section 34, Sub-section (7)) shall be excluded from the computation of the period of limitation of the said one year.]

Regulation, from suing the Government in the Civil Courts: Provided that such suits shall be preferred within six months from the time at which the cause of action arose: Provided further that the whole time occupied by the Dewan in revising the proceedings under Section 50 shall be excluded from the computation of the period of limitation of the said six months." The Section was substituted by Section 1 of Act III of 1087. In the first paragraph of the substituted Section the words "or purporting to be passed or taken" between the words "taken" and "under" were inserted by Section 8 of Act VIII of 1094. The Statement of Objects and Reasons appended to the Bill said:—"In 25 T. L. R. 233 it was decided that, if in fact there was no revenue in arrears, the revenue sale was beyond the jurisdiction of the revenue officer and the period of limitation mentioned in Section 51 will therefore not apply. It was thought that this decision would seriously affect the operation of the Revenue Recovery Regulation and the section was therefore amended by Regula-

tion III of 1087. It was subsequently decided in 28 T. L. R. 55 that if the formalities prescribed in Section 6 are not followed the limitation prescribed in Section 51 will not apply. It is not thought desirable to make a distinction between an omission to observe the formalities prescribed in Section 6 and the non-existence of any arrears of revenue. Hence the amendment."—
S. O. R.

The second proviso of the substituted section read as follows:—"Provided further that the whole time occupied by the Dewan in revising the proceedings under Section 50 shall be excluded from the computation of the period of limitation of the said one year" The words "or the Land Revenue and Income Tax Commissioner" were added in this proviso by Section 5 of Act II of 1099. By Section 7 of Act XXV of 1116, the words "or the Land Revenue and Income Tax Commissioner in revising the proceedings under Section 50" were substituted by the words "in revising..... sub-section 7."

52. No Civil Court shall take into consideration or decide any question as to the rate of land-revenue payable to the Government or as to the amount of assessment fixed, or to be hereafter fixed, on the portions of a divided estate.

Questions as to rate or amount of assessment not to be considered by a Civil Court.

53. Whenever any land, which is under attachment in execution of a decree of a Civil Court, is attached under this Act for arrears of revenue due on such land, the judgment-creditor at whose instance the Civil Court attached the property may pay the arrears of Public Revenue and expenses of revenue attachment to the Tahsildar; and add the amount so paid to the judgment-debt and recover it as such. The Tahsildar shall grant a receipt under his signature and seal and it shall be conclusive evidence of such payment. Upon such payment, the revenue attachment shall be withdrawn.

Judgment-creditor of the defaulter may pay arrears.

This Section corresponds to Section 59 of the Madras Act which runs as follows:—“Nothing contained in this Act, shall be held to prevent parties deeming themselves aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Civil Courts for redress: provided that Civil Courts shall not take cognizance of any suit instituted by such parties for any such cause of action, unless such suit shall be instituted within six months from the time at which the cause of action arose.”

Sec. 53. This Section was put in by the Select Committee.

They said:—“Cases may arise in which a Judgment creditor may find it to his interest to release a property from revenue attachment. As the tax is the first charge on the property, the Civil Court will find it impossible to sell the property under such attachment to advantage. Even though the property may be sufficiently valuable to satisfy both the judgment-debt and the revenue, the judgment-creditor may be kept out of his due by delay, collusive or otherwise, in bringing the land to sale. The proposed Section meets all such cases, while it in no way affects the interests of public revenue.”—
S. C. R.

54. Whoever, knowing that any movable property is under distraint, removes such property without the permission of the distrainer, shall, on conviction before a Magistrate, be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

55. When the property of a defaulter has been placed under the management of an agent, it shall be lawful for the defaulter to proceed by prosecution or suit against that agent in respect of any criminal or illegal act done by him to the injury of the defaulter or his estate, and all tenants or other persons holding by a subordinate title shall have the same remedies against him as they would have had against the defaulter if the act were done by the defaulter.

56. When an attachment has been duly made under the provisions of this Act, any private alienation of the property attached, whether by sale, gift, mortgage or otherwise, during the continuance of the attachment, shall be void as against the Government.

Sec. 54. This Section corresponds to Section 18 of the Madras Act which runs as follows:—"Where it may be proved to the satisfaction of any Civil Court of competent jurisdiction that any person has forcibly or clandestinely taken away property once distrained the Court may summarily cause such property to be restored to the distrainer. The offender will further be liable to the penalties prescribed by the Indian Penal Code."

Sec. 56. This section was added by the Council. The Official Member who moved the

addition observed that "this provision was necessary to protect the interests of Government as against alienations of the attached property in cases in which the arrears of revenue for which the attachment was made were not due on the property attached; and did not interfere with the right of the defaulter to alienate the property subject to the payment of the arrears of revenue for which the attachment was made."—*L. C. P., dated 16-7-1892.*

Section 16 of the Madras Act enacts:—"Where a defaulter may make a fraudulent conveyance

57. All payments, on account of rent or profits actually due, made before public notice of assumption of management, to or on behalf of any land-holder by any person holding under him, shall be valid against the Government, and all such payments made after public notice of such assumption, or made before they were actually due, shall be null and void against the Government, who shall be entitled to recover, as arrears of rent, the full amount from the parties by whom it was paid, leaving them to sue the defaulter in the ordinary Courts of Law.

58. Our Government may, by Notification in the Gazette, authorise any officer by name or [by virtue of his office] to exercise all or any of the powers conferred by this Act on Division Peishkars, Tahsildars or Proverthicars.

[58-A.] Our Government may with Our previous sanction declare by notification in Our Government Gazette that the provisions of this Act shall be applicable to the recovery of amounts due from any person to any specified class or classes of institutions and thereupon all the provisions of this Act shall be applicable to such recovery.]

59. [All arrears of Public Revenue due to Government other than land revenue, all moneys due from any person to Government (the Palace, the Mathilakom or the Ulsavatom) which under a written agreement executed by such person are recoverable as arrears of Public or Land Revenue, and all specific pecuniary

of property to prevent the distress of arrears, any Civil Court of competent jurisdiction, upon proof thereof shall summarily cause the property to be delivered up to the distrainer. The defaulter will further be liable to the penalties prescribed by Section 424 of the Indian Penal Code."

Sec. 58. The words bracketed were inserted by Section 6 of Act II of 1099.

Sec. 58-A. This Section was inserted by Section 2 of Act VIII of 1122.

Sec. 59. The original Section read thus:—"All arrears of Public Revenue due to Government other than Land Revenue

penalties to which such person renders himself liable under such agreement,

and also all sums declared by any other Act for the time being in force to be recoverable as arrears of Public or Land Revenue,

may be recovered under the provisions of this Act.]

60. No Officer, having in his official capacity any duty to perform in connection with any sale under this Act, shall, either directly or indirectly, bid for, acquire, or attempt to acquire, any interest in any property sold, at such sale.

Who shall not bid at revenue sales.

61. This Act shall come into force from the 1st Commencement. Vaikasi 1068.

and all advances made by Government for cultivation or other purposes connected with the revenue, or for providing labour or supplies, which arrears or advances are, according to a written engagement or usage, recoverable in the same manner as arrears of Land Revenue, may be recovered under the provisions of this Regulation."

This Section was substituted by Section 9, Act VIII of 1094. The Statement of Objects and Reasons appended to the Bill said:—"The existing Section was so worded as to cover various kinds of advances which by usage or written agreement were recovered as land revenue. Advances to Viruthicars have now ceased. Nor is there any advance to contractors under the present system. Regulation III of 1080 may be applied for the recovery of advances from public servants. A good portion of the section as it stands has therefore become unnecessary. There could be no objection to the recovery of any amount due

from a person to the Government if he by a written agreement agrees to have the same recovered under the Regulation....."S. O. R.

The bracketed words were added in the section so substituted by Section 3, Act VIII of 1122.

The corresponding Section (52) of the Madras Act is as follows:—"All arrears of revenue other than land revenue due to Government, all advances made by Government for cultivation or other purposes connected with the revenue, and all fees or other dues payable by any person to or on behalf of the village-servants employed in Revenue or Police duties, and all cesses lawfully imposed upon land, may be recovered in the same manner as arrears of land-revenue under the provisions of this Act, unless the recovery thereof shall have been or may hereafter be otherwise specially provided for."

Sec. 60. This Section was put in by the Select Committee.

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ACT II OF 1068.

An Act to make better provision for the Protection and Management of Our Forests,

Passed by His Highness the Maha Raja of Travancore on the 19th January 1893 corresponding with the 8th Makaram 1068, under Section 9 of Act II of 1063.

Whereas it is expedient to consolidate, amend and define the law for the Protection and Management of Our Forests; We are pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

Short title, Commencement. **I.** This Act may be called "The Travancore Forest Act of 1068", and it shall come into force on the 1st Auvany 1069.

Effect of legislation.

Year.	No.	Short title.	How affected by subsequent legislation.
1068	II	The Forest Act.	Amended by Acts IV of 1071; IX of 1085; IV of 1089; VIII of 1097 and XII of 1112. Affected by Proclamations dated 27-5-1111 and 9-1-1117.

Act II of 1068 *Objects and reasons*:—"While the working of Forest Laws is causing much heartburning and complaint in British India, the introduction of a Bill for passing a law on the same subject in this country requires special explanation, and the more so, because forest land is being freely granted by His Highness' Government for permanent cultivation and any restriction in regard to the use of

such land might indirectly be a restriction on the extension of the area to be brought under the plough. But this Bill has been framed, so far as possible, without creating any restrictions beyond those already in existence and its object is to preserve from wanton havoc and destruction, first to the people, those very forests in which they wish to exercise certain necessary rights and then to the Government,

that forest wealth for which this country has been long famous. If our forests are not conserved as they ought to be by proper rules, I think, in course of time, they will very nigh cease to exist. Whatever rules we have at present on the subject of forest conservancy are scattered about in so many Proclamations, Notifications and Circulars that it is not possible to get at them easily for the information of the public. Moreover, those rules have no penalties attached to them and although, under the old Regulation, VI of 1010, forest-offences used to be punished, under the improved state of the general laws of the country, it has become impossible to secure convictions of persons who infringe forest rules; and in a discussion which took place last year in our High Court regarding the legality of the conviction of a person for using Government teak timber, it was rightly stated by one of the judges that "the old law which gave rise to a good deal of doubt and difficulty, has since been recast and separate Regulations dealing with articles of Sircar monopoly, such as Tobacco, Opium, Salt and forest-produce have been recently passed, but the recent Regulation for the protection of forests and forest-produce contains no express allusion to teak timber, nor does it legalise any exceptional procedure in regard to this kind of timber. The law relating to this latter commodity continues in the same unsatisfactory state as of old. The absence of any express legislation for protecting the Sircar's right in teak trees is remarkable as showing

that the legislature did not deem fit to provide any exceptional remedies for the protection of such rights." What was said in regard to teak timber would no doubt, be said of other Royalties also when a case arises in regard to any of them. But certainly the Government never meant, when it passed Regulation IV of 1063, to give up its rights in its Royalties. What has happened before a Criminal Court must certainly happen before a Civil Court also, if a suit is taken before it against the Forest Department for confiscating timber or for holding any other proceeding. The necessity for legislation will thus be evident.

"In April 1884, His Highness the Maha Rajah's Government appointed a Committee to consider and report on the present Forest Administration in Travancore and its defect and to submit their proposals for its improvement. After holding a number of sittings and taking evidence from a number of witnesses, the Committee submitted their report in July of that year and along with it also the draft of a Regulation. Almost all those delicate questions which seem to cause so much heart-burning in the working of the Forest Laws of British India were fully gone into by the Committee. The draft Regulation submitted by the Committee was itself prepared on the lines of the Madras Act V. of 1882, and the present Bill generally follows those lines and the Conservator of Forests. Mr. Vernede, as well as the present Acting Conservator,

Mr. Bourdillon, have been freely consulted in its preparation.

"Regulation IV of 1063 is the second Chapter of the Committee's draft Regulation with, however, a few alterations, and it has been restored to its place in the present Bill almost in its present form. It deals with the subject of Reserved Forests.

"CHAPTER III of the present Bill as also of the Committee's draft deals with the management of land belonging to Government other than Reserved Forests and the few provisions which it contains will not be found to interfere much with the liberty of the people who use those lands at present. The clearing or breaking up of the land for purposes of cultivation has also been brought within the scope of this Chapter, but it will not be the officers of the Forest Department who will regulate this matter. The Officer of the ordinary Revenue Department, with the help of the rules for the grant of Puthuval lands and for regulating Malavaram cultivation, will still continue to supervise this work as hitherto.

"Chapter IV treats of the control over forests which do not belong to Government and this has been adopted from the Forest Committee's draft. I had, however, much hesitation in embodying it in the present Bill, but after considering over the subject I do not see objection to it. Section 26 is simply to enable the Government to bring under their management private forests when the owners thereof

express such a desire and there can be no harm by having such a clause; and Section 27 is necessary when the ownership of a forest is divided between the Government and private parties. It is to the principle contained in Sections 23, 24 and 25 that there might be any apparent objection. It will not be denied that it is reasonable that for the protection of our valuable forests we must ask the owners of the lands bordering on them to do or omit to do certain acts. But when such an owner refuses to take the necessary precautions, the Government are not authorised by the proposed Bill to summarily oust him, but he is to be allowed full compensation temporarily or permanently as he may desire to have. The provisions of this Chapter may perhaps be very rarely enforced.

"Chapter V treats of the Government control over forest-produce including timber, and the necessity for the provisions it contains hardly requires any explanation. It is, in fact, nothing but the re-enactment of the existing law on the subject. To Section 29 an explanatory clause has been added setting forth the right that the owners of private lands have on the Royalties growing on them. Mr. Vernede is of opinion, and I agree with him, that the owners of land on which teak, black-wood, ebony and sandal-wood grow should have some encouragement shown to them. At present they have no interest of any kind in such trees, while perhaps they are subjected to much oppression when those

trees are removed from their properties. A portion of the price should be paid to them for taking care of the trees during growth just in the same way that cardamoms are paid for and this is contemplated by Section 29.

"Chapter VI deals with the penalties and procedure under the new law when it is passed, and there is only one matter in it which calls for special explanation. The onus is thrown upon a person accused of a forest-offence to prove that the forest-produce which is found in his possession has been lawfully obtained from Government. Until the recent rulings on this subject were passed throwing the onus on the Government to prove that the accused dishonestly obtained such produce, the rule was the other way; and it is this rule which has been reaffirmed in this Chapter. In Legislation of this kind it is not unusual to prescribe such an exceptional procedure and recent instances of it are not wanting.

"The other Chapters do not call for special explanation."—*S. O. & R., T. G. G. dated 2-6, 1897-*

For Select Committee Report, see *T. G. G. dated 19-4-1892*. For legislative proceedings see *T. G. G. dated 22-4-1890; 19-4-1892; 24-5-1892; 23-8-1892 and 24-1-1893*. The Act was published in *T. G. G. dated 24-1-1893*.

The provisions of this Act are based on the Madras Forest Act of 1882 and the Indian Forest Act VII of 1878. The Madras Act has been subsequently

amended by Acts VIII of 1914, VII of 1919, I of 1934 and VII of 1936. The Indian Act, VII of 1878 has been replaced by the Indian Forest Act XVI of 1927. The latter Act has been amended by Acts XXVI of 1930 and III of 1933.

Act IV of 1071. Objects and Reasons. "As the Regulation now stands, there is no clear provision for preventing 'fires' in areas *set aside for reservation* till it is settled and declared a Reserve. The necessity for such a provision has been felt, and the proposed addition in Section 7 meets this want.

"Section 7 of Regulation II of 1068 prohibits the making of fresh clearings of land for cultivation or any other purposes in forests which are proposed to be reserved by a proclamation published under Section 6; and Clause (a) of Section 21 provides or rather is intended to provide for the punishment of infringement of the provisions of Section 7. But the insertion of the words 'in a Reserved Forest' in the first line of Section 21 renders the punitive Clause nugatory. The object of the proposed amendment is to remedy the above defect in the wording of Section 21."—*S. O. & R. T. G. G., dated 24-3-1896*.

The Bill was not referred to a Select Committee.

For legislative proceedings see *T. G. G., dated 24-3-1896 and 2-6-1896*. The Act was published in *T. G. G., dated 2-6-1896*.

Act IX of 1085. Objects and Reasons. "The existing Regulation is a Regulation of 1068 and its working for the past 16 years

has brought to light several defects both in its administrative and legal aspects. Consequently efficient administration of Forest Revenue was not often had. With a view, therefore, to remove the existing defects, the present amending Regulation has been drafted."—S. O. & R. T. G. G., dated 19-1-1909.

For Select Committee Report see T. G. G., dated 29-6-1909. For legislative proceedings see T. G. G. dated 16-6-1908; 9-3-1909; 29-6-1909; 28-9-1909 and 22-3-1910. The Act was published in T. G. G. dated 12-4-1910.

Act IV of 1089. Objects and Reasons. This Act amended Section 21. The statement appended to the Bill said :—

"If in violation of Clause (f), of the Section, any crop is raised and a person is convicted for the offence, there is no provision empowering the Magistrate to confiscate crops. A provision similar to the one in Section 22 of the Regulation is therefore found necessary"—S. O. & R. T. G. G. dated 13-5-1913.

For legislative proceedings see T. G. G. dated 17-6-1913 and 30-9-1913. The Act was published in T. G. G. dated 28-10-1913,

Act VIII of 1097. Objects and Reasons. "The Forest Regulation II of 1068, was passed 25 years ago. In spite of three amending Regulations, it has been brought to the notice of Government that there are def-

ects in the existing Regulation, and the object of the Bill is to remove them,"—S. O. & R. T. G. G. dated 11-2-1919,

For Select Committee Report see T. G. G. dated 2-9-1909,

For legislative proceedings see T. G. G. dated 15-4-1919; 25-5-1920 and 20-12-1921, The Act was published in T. G. G., dated 27-12-1921,

Act XII of 1112. Objects and Reasons. "Section 47 A of the Travancore Forest Regulation empowers a Forest Officer to release an arrested person on his executing a bond for his future appearance but it does not empower the Officer to demand any surety for such appearance. It has been found that it is always not safe to release a person on his bond alone. In order to empower Forest Officers to demand sureties for appearance this Bill is proposed." S. O. & R. T. G. G. dated 25-2-1936.

For legislative proceedings see A. P. Vol. IX Pp., 448 and 835; C. P. Vol. IX P. 460. The Act was published in T. G. G. dated 23-3-1937,

Proclamations dated 27-5-1111 and 9-1-1117.

Royalty in trees in certain places in the State has been abolished and Section 31 of the Act deemed repealed in respect of such trees under the above Proclamations,

[See also Notes under Proclamation dated 27-5-1111.]

2. In this Act and in all Rules made hereunder, unless there is something repugnant in the subject or context,—

(a) "Division Peishcar" means the Chief Executive Revenue Officer of a Division :
 "Division Peishcar."

(b) "Forest Officer" means any person appointed by name or as holding an office by or under the orders of Our Government to be a Conservator, Deputy Conservator, Assistant Conservator, [*.*] [Division Forest Officer], Ranger, [Deputy Ranger], Forester, [a Timber Depot Officer], [Forest Guard, Watcher, Watch Pillay], Peon, or to discharge any function of a Forest Officer under this Act or any Rule made hereunder ;

["Divisional Forest Officer" means the Chief Forest Officer of a Division or a portion or portions of one or more Divisions, if in independent charge of such portion or portions, when they are constituted into a Forest Division ;]

[(c) "Forest produce" includes—

(a) the following whether found in, or brought from, a forest or not, that is to say—
 "Forest produce." timber of royalties as defined in Section 31 :

Sec. 2. Clause (b). The following amendments were effected by Section 1 of Act IX of 1085. (a) The word "Superintendent or Assistant Superintendent of the Cardamom Hills" were omitted. (b) The words "Deputy Ranger" were introduced between the words "Ranger" and "Forester". (c) The words "Divisional Forest Officer" were added before the word "Ranger". (d) The words "a Timber Depot Officer" were substituted for the words "Superintendent of a Timber Depot".

(e) The words "Aminadar" and "Vicharippoo" were omitted and "Forest Guard, Watcher, Watch Pillay" substituted, (f) The term "Division Forest Officer" was defined.

Clause (c). The clause as originally enacted read as follows :—"Forest produce" includes, the following things when found in, or brought from, a forest, that is to say, minerals (including limestone and laterite), surface soil, trees, timber plants, grass, peat, canes, creepers, reeds, fibres, leaves, moss,

(b) the following when found in, or brought from, a forest that is to say :—

- (i) trees and leaves, flowers and fruits and all other parts or produce not here-in-before mentioned of trees ;
- (ii) plants not being trees (including grass, creepers, reeds and moss) and all other parts or produce of such plants ;
- (iii) wild animals and skins, tusks, horns, bones, silk cocoons, honey and wax and all other parts or produce of animals ;
- (iv) plat, surface oil, rock and minerals (including limestone and laterite), mineral oils and all produce of mines and minerals.

Explanation.—Timber for the purpose of Sub-clause (a) of Section 2 (c) above, does not include any wood that has been wrought or fashioned such as doors, windows, articles of furniture and boxes.]

(d) "Tree" includes palms, bamboos, stumps, brushwood and canes ;
"Tree."

flowers, fruits, seeds, roots, galls, spices, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal honey and wax, skins, tusks, bones, horns, teeth, and silk." The word "claws" was added to the list of forest produce by Section 2 of Act IX of 1985. The present definition was substituted by Section 1 of Act VIII of 1997. The statement appended to the Bill said :—

"Teak grown even on private lands is a royalty. It has been recently held by the High Court that, if such tree is converted into timber, it will not be a royalty under Section 31. Nor could the person in possession

of the same be convicted for illicit possession of "forest produce", unless such timber was found in or brought from a forest. The presumption under Section 52 will not apply unless it is a "forest produce". The definition in the Bill follows the one in the Government of India Act and is intended to make the meaning clear".—
S. O. & R., T. G. G. dated 11-2-1919.

For discussion in Council regarding this amendment see L. C. P. dated 13-3-1919.

Clause (d). The corresponding clause of the Madras Act does not contain the words "palms and canes".

- (e) "Timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not ;
- "Timber."
- (f) "Forest offence" means an offence punishable under this Act [or any Rule or Rules passed there-under] ;
- "Forest offence."
- (g) "Cattle" includes elephant, camels, buffaloes, [cows, bulls, calves, heifers,] horses, mares, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids ;
- "Cattle."
- (h) "River" includes streams, canals, backwaters, creeks, and other channels, natural or artificial ;
- "River."
- (i) "Land at the disposal of Government" includes all unoccupied land, [all temporarily occupied land and all land occupied without permission,] whether assessed or unassessed; but does not include land, the property of land-holders, such as Jenmies, Devaswoms, or holders of Inam lands; also all [holdings] of land in any way subject to the payment of land-revenue direct to Government, and all other registered [holdings] of land in proprietary right ;
- "Land at the disposal of Government."
- (j) "Magistrate" means a Magistrate of the First or Second Class and includes a Magistrate of the Third Class when he is specially empowered by Government to try Forest offences ; and
- "Magistrate."
- (k) "Imprisonment" means imprisonment of either description as defined in the [Travancore] Penal Code.
- "Imprisonment."

Clause (f). The words bracketed were inserted by Section 3 of Act IX of 1085.

Clause (g). The bracketed words were inserted by Section 4 of Act IX of 1085.

Clause (i). Section 5 of Act IX of 1085 inserted the

bracketed words at the beginning of the clause, and substituted "holdings" for "holders" in the same Clause.

Clause (k). The word "Travancore" was substituted for "Indian" by Section 6 of Act IX of 1085.

CHAPTER II.

RESERVED FORESTS.

3. The Dewan, with Our sanction, may constitute any land at the disposal of Our Government a Reserved Forest in the manner hereinafter provided;

Power to reserve Forests.

4. When it is proposed to constitute any land a Reserved Forest, the Dewan shall publish a Notification in Our Government Gazette—

Notification by Our Government.

(a) 'specifying as nearly as possible, the situation and limits of such land ;

(b) declaring that it is proposed to constitute such land a Reserved Forest ; and

(c) appointing an officer (hereinafter called the Forest Settlement Officer) to enquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person, in or over any land comprised within such limits, or to any forest produce of such land, and to deal with the same as provided in this Act.

The Officer appointed under Clause (c) of this Section shall ordinarily be a person other than a Forest Officer ; but a Forest Officer may be appointed by the Dewan to attend, on behalf of Our Government, at the enquiry prescribed by this Chapter.

5. Except as hereinafter provided, no Civil Court shall, between the dates of the publication of the Notification under Section 4 and of the Notification to be issued under Section 18, entertain any suit against

Suits barred.

Sec. 5. This Section re- of the words "against Govern-
produces Section 5 of the ment" after the words "any
Madras Act with the addition suit".

Government to establish any right in or over any land or to the forest produce of any land included in the Notification published under Section 4.

6. When a Notification has been issued under Section 4, the Forest Settlement Officer shall publish [in English and in Malayalam] in Our Government Gazette and at the Head quarters of each Taluk in which any portion of the land included in such Notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

- (a) specifying, as nearly as possible, the situation and limits of the land proposed to be included within the Reserved Forest,
- [(b) setting forth the substance of Section 7,
- (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest, and
- (d) fixing a period not less than three and not exceeding six months from the date of publishing such proclamation in Our Government Gazette, and requiring every person claiming any right referred to in Section 4, either to present to such officer, within such period, a written notice specifying, or to appear before him within such period and state the nature of such right, and in either case, to produce all documents and other evidence in support thereof.

The Forest Settlement Officer shall also serve a notice to the same effect on every known or reputed owner or occupier of any land included in or adjoining the land proposed to be constituted a Reserved Forest, or on his recognised agent or manager. Such notice may be sent by registered Post or Anchal.]

Sec. 6. The words bracketed in the first para were inserted by Section 2 of Act VIII of 1097.

Clauses (b), (c) and (d) as well as the last para were substituted by Section 7 of Act IX of 1085.

7. During the interval between the publication of such proclamation and the date fixed by the Notification under Section 18,
 Bar of accrual of forest right.

no right shall be acquired, in or over the land included in such proclamation, except under a grant or contract in writing made or entered into by or on behalf of Our Government, or by or on behalf of some person in whom such right or power to create the same was vested when the proclamation was published, or by succession from such person.

and no [*] clearings for cultivation or for any other purpose shall be made on such land, [nor shall any person set fire to such land or kindle or leave burning any fire in such manner as to endanger the same.]
 Prohibition of clearings, etc.

[No Patta shall, without the previous sanction of Our Dewan, be granted on behalf of Our Government for such land or any portion of it, and every Patta granted without such sanction shall be null and void.]

Nothing in this Section shall be deemed to prohibit any act done with the permission in writing of the Forest Settlement Officer.

8. When a claim has been preferred under Clause [(d)] of Section 6, the Forest Settlement Officer shall inquire into such claim, recording all statements and the evidence in the manner prescribed by the Code of Civil Procedure for the time being in force in appealable cases.
 Inquiry by Forest Settlement Officer.

[* * * * *]

Sec. 7. In para 3, the word "fresh" between "no" and "clearings" was deleted by Section 3 of Act VIII of 1097. The statement of Objects and Reasons said:—"It is doubted by some that the Section applies only to a *fresh* clearing and not to subsequent clearings. Hence the amendment."

The bracketed words in the same para were added by Section 1, Act IV of 1071. They

are not in the Madras Act. Para 4 was inserted by Section 8, Act IX of 1085. This was introduced to bring it in line with the Madras Act.

Sec. 8. In the first line in para 1, (d) was substituted for (b) and the 2nd para was deleted by Section 9 of Act IX 1085. The para deleted read as follows:

He shall, at the same time, consider and record any objection which the Forest Officer (if any) appointed under Section 4 may make to any such claim.

He shall also inquire into and record the existence of any rights mentioned in Section 4 and not claimed under Section 6, so far as they are ascertainable from the records of Government and the evidence of any persons likely to be acquainted with the same.

9. For the purpose of such inquiry, the Forest Settlement Officer may exercise the following Powers of Forest Settlement Officer. powers (that is to say):—

(a) power to enter by himself or any officer authorised by him for the purpose upon any land,

“It shall also be competent for the Forest Settlement Officer to entertain a claim presented after the expiry of the time prescribed by Clause (b) of Section 6 and before the submission of his report under Section 14, if he is satisfied that the claimant had sufficient reason for not presenting the claim within the prescribed time.” The Indian Act contains a provision corresponding to the last para of the Section. The Madras Act does not contain a similar provision. This para was included on the motion of a non-official member who said:—

“The retention of that paragraph is very desirable for several reasons, as the foremost of which may be mentioned the interest of Government itself. The sufferer, even though silent before the Special Officer, has the right to sue the Government in the Civil Court as soon as the final Notification is published. If,

by the incompleteness of the enquiry by the special Officer, Government has been trapped into a wrong action and the Civil Court supports the plaintiff, the damage to the reputation and interests of Government will be serious. Another reason is that the proposed notice through the Post or Anchal may by some mischance, fail in reaching the addressee. The good faith of the enquiry and the desire in Government for equity in its actions, may also be mentioned to support my position. Ordinarily, the Special Settlement Officers are Dewan Peishkars, and the ascertainment by them of the existence or otherwise of recorded rights, could not involve any insurmountable difficulty”—

L. C. P. dated 15-9-1909.

Sec. 9. Clause (b). The present clause was substituted by Section 4 of Act VIII of 1097 for the old Clause which was as follows:—

and to survey, demarcate and make a map of the same, and

(b) [the powers of a Civil Court in the trial of suits.]

10. When the inquiry is completed, the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting it wholly or in part.

Order on closing of inquiry.

When the claim admitted relates to any of the following rights:—

- (a) a right of way ;
- (b) a right to a water course, or to a use of water ;
- (c) a right of pasture ;
- (d) a right to forest produce :

[and] if [such] right is for the beneficial enjoyment of any land or building, he shall record the designation, position and area of such land and the designation and position of such building.

[Where the right is a right to forest produce, he shall also record whether the forest produce obtained by the exercise of such right may be sold or bartered.]

“the powers conferred on a Civil Court by the Code of Civil Procedure for the time being in force for compelling the attendance of witnesses and the production of documents.” The Statement appended to the Bill said:— “Section 9 (b) confers upon the Forest Settlement Officer the power of a Civil Court for compelling the attendance of witnesses and the production of documents. The proceeding before a Forest Settlement Officer is a judicial proceeding. It is desirable that the provisions in the Civil

Procedure Code with reference to the trial of suits should be made applicable to proceedings before a Forest Settlement Officer. The Government of India Act is followed in this respect”.—S. O. & R., T. G. G. dated 11-2-1919.

Sec. 10. In the 3rd para the word ‘and’ was inserted before the word “if” and the word ‘such’ was substituted for the word “the” which occurred after the word “if” by Section 10, Act IX of 1085. The same amending Section added the last para.

11. An appeal shall lie from the order referred to in Section 10 to the [District] Court within whose jurisdiction the subject-matter is situated, in cases in which the value of the subject-matter does not exceed [Rs. 1000]. In other cases, the appeal shall lie to the High Court.

Appeals from orders of Settlement Officers.

Provided that no appeal shall lie against an order rejecting a claim on the ground that it was preferred after the period specified in Section 6.

12. The appeal, if any, shall be preferred within 3 months from the date of the order so appealed against.

Period within which appeals are to be preferred.

13. If the order is reversed or modified in appeal or revision, the Forest Settlement Officer shall proceed to deal with it in like manner as if it had been in the first instance made by himself.

Forest Settlement Officer to carry out the Appellate Court's order as his own.

14. When the following events have occurred, viz.:—

(a) The period fixed under Section 6 for preferring claims has elapsed, and no claim has been preferred; (b) all claims made within such period have been disposed of by the Forest Settlement Officer; (c) the period fixed by Section 12 for appealing from the orders passed on such claims has elapsed; and (d) an appeal (if any) presented within such period has been disposed of by the appellate authority; the Forest Settlement Officer shall submit to the Dewan a report stating that no claims have been preferred, or setting forth the claims which have been finally admitted or rejected, as the case may be.

Forest Settlement Officer to report to the Dewan result of inquiry.

Sec. 11. The word "District" was substituted for the word "Zilla" and "Rs. 1000" for Rs. "500" by Section 5, Act VIII of 1097. The amendment was necessitated as the District Court was conferred Jurisdiction to hear appeals from suits up to the value of Rs. 1000 by the Civil Courts Act.

15. When the claim admitted relates to the rights of the kind other than those specified in Clauses (a), (b), (c) and (d) of Section 10, the Dewan in regard to admitted claims. Procedure by the Dewan in regard to admitted claims. shall be deemed to be a Division Land under Land Acquisition Act. shall be deemed to be a Division Land under Land Acquisition Act, XI of 1089 ;

the land from the limits of the proposed reserve, or (3) proceed to acquire such land according to the law for the time being in force for the acquisition of land for public purposes.

[For the purpose of so acquiring such land—

(a) the Forest Settlement Officer shall be deemed to be a Division Land under Land Acquisition Act. Peishkar proceeding under the Land Acquisition Act, XI of 1089 ;

(b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under Section 9 of that Act.

(c) the provisions of the preceding Sections of that Act shall be deemed to have been complied with ; and

(d) the Division Peishkar, with the sanction of Our Government, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money.]

16. When the claim admitted relates to a right of way or to a water-course, or to a use of water, the Dewan shall either come to an agreement with the claimant for the surrender of the right or pass an order admitting such right and providing for the exercise of such right. Claims to rights of way, &c.

Sec. 15. The 2nd para VIII of 1097. was added by Section 6, Act

17. When the claim admitted relates to a right of pasture or to forest produce, the Dewan shall either come to an agreement with the claimant for the surrender of such right or provide for the exercise of such right,

Provision for rights of pasture or to forest produce admitted.

- (a) by altering the limits of the proposed Reserved Forest so as to exclude land of sufficient extent of a suitable kind and in a locality reasonably convenient for the purposes of the claimant,
- (b) by recording an order continuing to the claimant a right of pasture or to the forest produce (as the case may be) subject to such Rules as may be prescribed by the Dewan.

The order passed under Clause (b) shall record, as far as practicable, the number and description of cattle which the claimant is from time to time entitled to graze, the local limits within which and the seasons during which such pasture is permitted, or the quantity of timber or other forest produce which the claimant is authorised to take or receive, the local limits within which, the season during which and the mode in which the taking of such produce is permitted, and such other particulars as may be required in order to define the extent of the right which is continued and the mode in which it may be exercised.

[17-A. Whenever, any right of way or to a watercourse or of pasture or to forest produce admitted under Section 16 or 17 is not provided for in one of the ways prescribed therein, Our Dewan shall, subject to such rules as Our Government may prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of rights in or over land or in such other manner as he thinks fit:

Sec. 17-A. This Section was added by Section 7, Act VIII of 1097. It corresponds to Section 13 of the Madras Act and Section 15 of the Indian Act.

Provided, however, that, if the claimant is not satisfied with the amount of money awarded by Our Dewan, he may, within six months from the date of service of the order of commutation, file a suit in the Civil Court having jurisdiction over the area for having the commutation value of such right determined.]

18. When the proceedings prescribed in the preceding Sections have been taken, Our Dewan may publish a Notification in Our Government Gazette specifying the limits of the Forest which it is intended to reserve and declaring the same to be reserved from a date to be fixed by such Notification.

Copies of the Notification shall also be published at the Headquarters of each Taluk in which any portion of the land included in such Notification is situate and in every town and village in the neighbourhood of such land.

From the date so fixed the Forest shall be deemed to be a "Reserved Forest."

[18-A. Rights in respect of which no claim has been preferred under Section 6, [and of the existence of which no knowledge has been acquired by inquiry under Section 8,] shall thereupon be extinguished, unless, before the publication of such Notification, the person claiming them has satisfied the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under Section 6, in which case, the Forest Settlement Officer shall proceed to dispose of the claim in the manner hereinbefore provided.]

Sec. 18-A. This Section was added by Section 11, Act IX of 1085. This was done to bring about finality in the matter of presentation and disposal of claims. The bracketed words in the Section were inserted by Section 8, Act VIII of 1097.

[18-B. Notwithstanding anything herein contained, no right continued under Section 17 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of Our Dewan : Provided that, when any such right is continued for the beneficial enjoyment of any land or buildings, it may be sold or otherwise alienated with such land or buildings, without such sanction.

Any alienation of right in contravention of this Section shall be null and void.

No. forest produce obtained in exercise of any right continued under Section 17 shall be sold or bartered, except to the extent defined by the order recorded under Section 17.

Any person selling or bartering any forest produce in contravention of this Section shall be punished with fine which may extend to Rs. 200.]

[18-C. The Conservator may, from time to time, with the previous sanction of Our Government, stop any public or private way or water-course in a Reserved Forest, provided that a reasonably convenient substitute for the way or water-course so stopped already exists or has been provided or constructed in lieu thereof.]

[18-D. Our Government may, within five years from the publication of any Notification under Section 18, revise any arrangement made under Section 15, 16, or 17, and may, for this purpose, rescind or modify any order made under Section

Sec. 18-B. This Section was added by Section 12, Act IX of 1085. A similar provision is found in Section 19 of the Madras Act.

Sec. 18-C. This Section was added by Section 13, Act IX of 1085. This was adopted

from Section 20 of the Madras Act.

Sec. 18-D. This Section was added by Section 9, Act VIII of 1097. "There is no provision in the existing Regulation to revise any arrangement made under Sections 15, 16, or 17, which may become

15, 16 or 17, and direct that any one of the proceedings specified in Section 17 be taken in lieu of any other of such proceedings, or that the rights admitted under Section 17 be commuted under Section 17-A.]

19. No right of any description shall be acquired in or over a Reserved Forest except under a grant or contract in writing made by [Our Dewan] [*] on behalf of Government or some person in whom such right or the power to create such right was vested when the Notification under

No right acquired over Reserved Forest except as here provided.

the above Section was issued or by succession from such person :

[Provided that no Patta shall, without Our Dewan's previous sanction, be granted on behalf of Government for any land included in a Reserved Forest, and every Patta granted without such sanction shall be null and void.]

20. The Dewan may, with Our sanction, by Notification in the Gazette, direct that, from a date to be fixed by such Notification, any Forest or any portion thereof reserved under this Act shall cease to be reserved.

Power to declare Forest no longer reserved.

From the date so fixed, such Forest or portion shall cease to be reserved ; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

necessary under altered circumstances coming into existence after the final Notification under Section 18. Hence the amendment."— S. O. & R., T. G. G. dated 11-2-1919.

Sec. 19. The words "Our Dewan" were inserted and the word "or" before "on behalf," was omitted by Section 14 of Act IX of 1085. The proviso was added by the same amending Section.

21. Any person who [.]

Penalties for trespass or damage in Reserved Forests and acts prohibited in such Forests.

(a) makes any [*] clearing prohibited by Section 7; [or]

(b) [sets fire to a Reserved Forest or a Forest proposed to be reserved under Section 6, or kindles or leaves burning any fire in such manner as to endanger the same;

or who, in a Reserved Forest,]

[(b-1) kindles, keeps or carries any fire, except at such seasons and in such manner as the Conservator may, from time to time, notify;]

(c) trespasses or pastures cattle or [*] permits cattle to trespass;

(d) fells, girdles, marks [taps], lops, tops, uproots, [*] burns, [saws or converts] any tree or strips off the bark or leaves from or otherwise damages the same;

Sec. 21. The words "in a Reserved Forest" which occurred after the word "who" in the first line, were omitted by Section 2 of Act IV of 1971. Section 21 of the Madras Act does not also contain these words.

In Clause (a), the word "fresh" which occurred between "any" and "clearing" was omitted by Section 10 of Act VIII of 1997. This was consequential on the amendment made in Section 7. The Madras Act contains the word "fresh".

The word "or" at the end of Clause (a) was added and Clause (b)—"sets fire Reserved Forest"—was substituted by Section 2 of Act IV of 1971. The original Clause (b) was as follows:—"(b) sets fire to the forest or kindles or leaves burning any fire in such

manner as to endanger the same." The corresponding Clause in the Madras Act is:—"(b) sets fire to a reserved forest, or kindles, or leaves burning any fire in such manner as to endanger the same, or who, in a reserved forest."

Clause (b-1) was added by Section 15 of Act IX of 1985. This is Section 21, Clause (c) of the Madras Act.

In Clause (c), the word "wilfully" which occurred before the word "permits" was omitted by Section 15 of Act IX of 1985. The word is not found in the Madras Act.

In Clause (d), the word "taps" was added after the word "marks" by Section 15 of Act IX of 1985. In the same Clause, the word "or" before "burns" was deleted and the words "saws or converts" were

- (e) quarries stone, burns lime or charcoal, or collects or subjects to any manufacturing process or removes any forest produce ;
- (f) clears, cultivates or breaks up any land for cultivation or any other purpose ;
- (g) in contravention of any Rules made by Our Government, hunts, shoots, fishes, poisons water or sets traps or snares ;
- (h) damages, alters or removes any wall, ditch, embankment, fence, hedge or railing ; [*]
- (i) sets fire to jungles or forests other than Reserved Forests without taking precautionary measures to prevent the spread of fire into such Reserved Forests ; [or
- (j) causes any damage by negligence in felling any tree or cutting or dragging any timber;]

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid.

[If any agricultural or other crop is grown in contravention of Clause (f) of this Section and any person is convicted for that offence, such crop shall be liable to confiscation by order of the convicting Magistrate.]

Nothing in this Section shall be deemed to prohibit

- [(a)] any act done in accordance with any Rule made by the Government or with the permission in writing of the Conservator of Forests or of an officer authorised by him to grant such permission ; [or

inserted by Section 10 of Act VIII of 1097. In the corresponding Section of the Madras Act, the following words are not found :—"taps, saws or converts."

The word "or" at the end of Clause (h) was deleted and

Clause (j) was inserted by Section 10 of Act VIII of 1097. This is the same as Clause (e) of Section 25 of the Indian Act.

The para—"If any agricultural or other crop...convicting Magistrate"—was added by Act IV of 1089.

(b) the exercise of any right continued under Section 17 or created by grant or contract in the manner described in Section 19:

Provided that this Section shall not be held to interfere with such working of the forest as may be ordered by the Conservator.]

[Whenever fire is caused wilfully or by negligence in a Reserved Forest, Our Government may, notwithstanding that any penalty has been inflicted under this Section, direct that in such forest or any portion thereof the exercise of all rights of pasture or to forest produce shall be suspended for such period as they think fit.]

[21-A. (1) Every person who exercises any right in a Reserved Forest or who is permitted to take any forest produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every Village Officer or person in any village contiguous to such forest, who is employed by Government, shall be bound to furnish, without unnecessary delay, to the nearest Forest Officer or Police Station-House Officer, any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest offence, and [shall forthwith take steps, whether required by any Forest Officer or Police-Officer or not:—

(a) to extinguish any fire in such forest of which he has knowledge or information ;

Clause (b) with the Proviso was added by Section 15 of Act IX of 1085.

The last para was added by Section 10 of Act VIII of 1097. "This follows Section 25 of the Indian Act and Section 22 of the Madras Act. It enables the Government to suspend any right of pasture or to forest produce, if any fire is caused to a forest either wilfully or by gross negligence."— S. O. & R., T. G. G. dated 11-2-1919.

Sec. 21-A. This Section was added by Section 16, Act IX of 1085. The Section thus added did not contain the present Clause (9). This latter clause was added by Section 11, Act VIII of 1097. The same amending Section substituted the words "shall forthwith..... his aid" in sub-section (1) for the words "shall assist any Forest Officer or Police-Officer demanding his aid—

(a) in extinguishing any fire occurring in such forest,

- (b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest and shall assist any Forest Officer or Police Officer demanding his aid,]
- (c) in preventing the commission in such forest of any forest offence, and,
- (d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.]

[(2) Any person who being bound so to do, without lawful excuse (the burden of proving which shall be upon such person) fails—

- (a) to furnish without unnecessary delay to the nearest Forest Officer or Police-Officer any information required by Sub-section (1) ;
- (b) to take steps as required by Sub-section (1), to extinguish any forest fire in a reserved or protected forest ;
- (c) to prevent as required by Sub-section (1), any fire in the vicinity of such forest from spreading to such forest ; or
- (d) to assist any Forest Officer or Police-Officer demanding his aid in preventing the commission in such forest of any forest offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender;

shall be punishable with fine which may extend to two hundred rupees.]

(b) in preventing any fire which may occur in the vicinity of such forest, from spreading to such forest."

L. C. P. dated 7-4-1920.

The Section so amended corresponds to Section 79 of the Indian Act as amended by Act I of 1928.

For discussion in the Council in regard to the amendment *see*

CHAPTER III.

Protection of land at the disposal of Government not included in Reserved Forests.

22. Subject to all rights now vested in individuals and communities by law or custom or usage having the force of law, Our Government may make Rules to regulate the use of the pasturage or of the natural produce of any land at the disposal of Government and not included in a Reserved Forest. Such Rules may, with respect to such land,—

- (a) regulate or prohibit the clearing or breaking up of land for cultivation or other purposes;
- (b) regulate or prohibit the kindling of fires and prescribe the precautions to be taken to prevent the spreading of fires;
- (c) regulate or prohibit the cutting, sawing, conversion and removal of trees and timber and the collection and removal of natural produce;
- (d) regulate or prohibit the quarrying of stone, the boiling of catechu, the burning of lime or charcoal or the distilling of essential oils;
- (e) regulate or prohibit the cutting of grass and pasturing of cattle and regulate the payments (if any) to be made for such cutting or pasturing; [*].
- (f) regulate or prohibit hunting, shooting, fishing, poisoning water and setting traps or snares [;]
- (g) regulate the sale or free grant of timber or other natural produce; and

Sec. 22. The word "and" and (h) were added by Section 17 of Act 1X of 1085. The omitted, a semicolon was substituted for a fullstop at the end of Clause (f) and Clauses (g) bracketed portion "if any..... Magistrate" was added by the same Section.

- (h) prescribe the fees, royalties or other payments for timber or other natural produce, and the manner in which such fees, royalties or other payments shall be levied.]

And whoever commits an infringement of any of those Rules shall, on conviction before a Magistrate, be liable to imprisonment for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.

[If any agricultural or other crop is grown in contravention of the Rules framed under Clause (a) of this Section and any person is convicted for that offence, such crop shall be liable to confiscation by order of the convicting Magistrate.]

Provided that Our Government may exempt any person or class of persons from the operation of all or any of these Rules.

23. Whenever fire is caused wilfully or negligently in any land to which all or any of the Rules made under Section 22 have been extended, the Dewan may, notwithstanding that a penalty has been inflicted under that Section, direct that such land be closed against pasture for such period as he thinks fit:

Power to close land against pasture.

Provided that an area, sufficient in extent and in a locality reasonably convenient, is left open for the use of persons having rights of pasture in such land.

24. Whoever pastures cattle or permits cattle to trespass in land closed under Section 23 shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Penalties.

CHAPTER IV.

Of the control over Forests and Lands not at the disposal of Government or in which Government have a limited interest.

25. Our Government may, from time to time, by Notification in the Gazette, regulate or prohibit in any forest or waste land not at the disposal of Government—

On certain lands, the breaking up or clearing for cultivation, &c., may be regulated or prohibited.

(a) the breaking up or clearing of land : or

(b) the firing or clearing of vegetation ;

when such regulation or prohibition appears to be necessary for any of the following purposes:—

first—for protection against storms, winds, rolling stones, floods and landslips ;

second—for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of landslips and of the formation of ravines and torrents and the protection of land against erosion or the deposit thereon of sand, stones or gravel ;

third—for the maintenance of a water supply in springs, rivers and tanks ;

fourth—for the protection of roads, bridges, canals and other lines of communication ;

fifth—for the preservation of the public health ;

and may alter or cancel such Notification.

The Government may, for any such purpose, construct, at their own expense, in or upon any such forest or land, such works as they think fit:

Provided that no such Notification shall be made or work begun until after the issue of a notice to the owner of such forest or land, calling upon him to show cause, within a reasonable period to be specified in such notice, why such Notification should not be made or work constructed, and until his objections (if any) and any evidence he may produce in support of the same have been heard by an officer duly appointed in that behalf and have been considered by the Government.

26. Whenever the owner of such forest or land may decline to comply with the regulations or directions contained in the said Notification, it shall be incumbent upon the Government, if they resolve to assume control of the said forest or land, to take the said forest or land or so much of it as they may see fit, on lease from the owner for such term as they may deem it necessary to retain the same under control, and the owner shall be bound either to conclude such lease with the Government or to require that such forest or land shall be acquired for public purposes and, in the latter event, the Government shall acquire such forest or land accordingly. If such lease is agreed upon, the amount of annual rent to be reserved and all other questions arising between the owner or persons claiming to be owners and the Government shall, in case of dispute, be determined [so far as may be in accordance with the provisions of the Land Acquisition Act for the time being in force,] by any officer appointed by Government on that behalf subject to an appeal to the [District Court.]

27. In any case under this Chapter in which the Government consider that, in lieu of taking the forest or land under their control, the same should be acquired for public purposes, the Government may proceed to acquire it in the manner prescribed by the law in force for the acquisition of land for public purposes.

28. The owner of any land or, if there be more than one owner thereof, the owners of shares therein, whether divided or not, amounting in the aggregate to at least two thirds thereof, may, with a view to the formation or conservation of

Sec. 26. The words "so far as may be ...in force" were inserted by Section 18, Act IX of 1085. The Madras Act contains a similar provision. The words 'District Court' were substituted for the words 'Zillah Courts' by Sec-12, Act VIII of 1097.

forests thereon, represent in writing to the Conservator of Forests their desire—

- (a) that such land be managed on their behalf by a Forest Officer, as a Reserved Forest, on such terms as may be agreed upon ;
or
- (b) that such land be managed, subject to the control of the Conservator of Forests, by a person appointed by themselves and approved by the Conservator of Forests ; or
- (c) that all or any of the provisions of this Act or Rules made thereunder be applied to such land.

The Government may, in any such case, by a Notification in the Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants.

Any such Notification may be altered or cancelled by a like Notification.

29. If the Government and any person or persons are jointly interested in any Forest or waste land or in the whole or any part of the produce thereof, the Government may either—

Management of Forests, the joint property of Government & other persons.

- (a) undertake the management of such Forest, waste land or produce, accounting to such person for his interest in the same
or
- (b) issue such Rules for the management of the Forest, waste land or produce by the persons so jointly interested as it deems necessary for the management thereof and the interests of all parties therein.

When the Government undertakes, under Clause (a) of this Section, the management of any Forest, waste land or produce, it may, by Notification in the Gazette declare that any of the provisions contained in Chapters

II and III of this Act shall apply to such Forest, waste land or produce and thereupon such provisions shall apply accordingly.

30. All persons employed under Sections, 26, 28 and 29 to carry out the provisions of this Act shall be deemed to be Forest Officers within the meaning of this Act.

Persons employed to carry out the Act to be deemed Forest Officers.

CHAPTER V.

FOREST PRODUCE.

31. Trees of the following species, that is to say, teak, [**] blackwood, ebony and sandal wood [*] and ivory [and teeth] of wild elephants, whether grown or found on Government land or private property, are royalties and no trade shall be carried on in them unless they have been duly obtained from Our Government.

The trees above named cannot be felled by any person without the written permission of the Conservator of Forests or such other officer as may be authorised by him in writing, but the owner of any private property on which a teak, [*] blackwood, ebony or sandalwood tree is standing, may, after obtaining written permission from the Conservator of Our forests or other officer authorised by him as aforesaid, and on such terms as Our Government may decide, fell any such tree for his private use; and when any such tree is removed from such property on account of Government, the owner shall be entitled to a payment at rates which Our Government may from time to time determine.

Sec. 31. The words "kole-teak" and "and cardamoms" which occurred after "teak" and "sandal wood" respectively, in the first para and the word "kole-teak" which occurred after "teak" in the second para, were omitted by Section 19 of Act IX of 1085. The words "and teeth" were inserted by Section 13, Act VIII of 1097.

32. The Dewan may, from time to time, with Our sanction notify in Our Government Gazette the names of other trees which shall not be felled without the permission in writing of the Conservator of Forests or of an officer authorised by him in writing on that behalf when found standing in forests or on other land at the disposal of Our Government, or on land not permanently assessed to public revenue ; and any tree once reserved may, by Notification in Our Government Gazette, be excluded from that category.

Such trees shall be known as "Reserved Trees."

33. It shall be lawful for Our Dewan to frame and publish with Our sanction Rules—

(1) for regulating or prohibiting the felling, lopping, cutting, maiming or otherwise maltreating of any tree which is a royalty or of any reserved tree, [or any other tree standing on land temporarily or permanently assigned, the right of Government over which has been expressly reserved in the deed of grant or assignment of such land ;]

(2) prescribing the routes by which alone timber and forest produce [**] may be moved within or exported from [or imported into] the State of Travancore ;

(3) prohibiting the import and export or moving within defined local limits, of timber and forest produce [**] without a pass from the land-holder from whose lands it is brought or from an officer duly authorised to issue the same or otherwise than in accordance with the conditions of such pass ;

Royalty in trees in certain places in the State has been abolished and this Section deemed repealed in respect of such trees. See Proclamations dated 27-5-1111 and 9-1-1117.

Sec. 33. The words bracketed in Clause (1) were added by Section 20 of Act IX of 1885. In Clauses (2), (3), (6) and 8), the words "which are

royalties" were omitted by Section 21, Act IX of 1885. The word "and" was omitted at the end of Clause (11) and Clauses (12) and (13) were inserted by Section 22, Act IX of 1885 and the original Clause (12) was numbered (14). In Clause (2), the words "or imported into" were inserted by Section 14, Act VIII of 1897.

(4) prescribing the form of passes and providing for their issue, production and return ;

(5) providing for the stoppage, reporting, examination and marking of timber in transit, within defined local limits or at stations established as hereinafter provided ;

(6) establishing stations to which such timber shall be taken by those in charge of it for examination or marking, and the conditions under which such timber and forest produce [**] shall be brought to, stored at, and removed from, such station ;

(7) providing for management and control of such stations and for regulating the appointment and duties of persons employed thereat ;

(8) authorising the transport of timber and forest produce [**] the property of Government, across any land and providing for the payment of compensation for any damage done by the transport of such articles ;

(9) regulating or prohibiting the collection and transit of any other forest produce ;

(10) fixing or prescribing the prices, fees, seigniorage and other charges to be paid to Our Government on trees, timber or other forest produce ;

(11) prescribing the hours during which the transport of timber and other forest produce may take place from land within forest limits ; [*]

[(12) to regulate the use of property-mark for timber and the registration of such marks, declare the circumstances in which the registration of any property-marks may be refused or cancelled, prescribe the time for which such registration will hold good, limit the number of such marks that may be registered by any one person and provide for the levy of fees for such registration ;

(13) to prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce and the throwing of grass, brushwood, branches and leaves into any such river or any act which may cause such river to be closed or obstructed, provide for the prevention and removal of

any obstruction of the channel or the banks of any such river and for recovering the cost of such prevention or removal from the person or by the sale of any timber causing such obstruction, and provide for the protection of bridges, locks or other public works, by regulating the floating of timber and the storing of timber on river-banks and by authorising the seizure of timber floated or stored in contravention of such Rules or by which any damage to such work may have been caused, and the detention and disposal of such timber until compensation has been made for the damage done; and]

(14) generally for the protection of the revenue from Our Forests.

[33-A. The holder of every pass issued under Rules framed under Section 33 shall, while such timber or forest produce is in transit, be bound to produce the same for inspection on being required to do so by any Magistrate, Forest or Police Officer.]

CHAPTER V-A

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

[33-B. All timber found adrift, beached, stranded or sunk, all timber bearing marks which have not been registered under Section 33, or on which the marks have been obliterated, altered or defaced by fire or otherwise, and in such areas as Our Government direct, all unmarked timber, shall be deemed to be the property of Our

Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.

Sec. 33-A. This Section was added by Section 15, Act VIII of 1097.

Chap. V-A. This Chapter was added by Section 16 of Act VIII of 1097. "In the existing Regulation, there is no provision with reference to the

collection of drift and stranded timber. Chapter V-A has therefore been inserted on the lines of the Indian Act."—
L. C. P., dated 13-3-1919.

This Chapter corresponds to Chapter IX of the Indian Forest Act.

Government unless and until any person establishes his right and title thereto, as provided in this Chapter.

Such timber may be collected by any Forest Officer or other person entitled to collect the same by virtue of any Rule made under Section 33-G, and may be brought to such stations as the Forest Officer may from time to time notify as stations for the reception of drift timber.

Our Government may, by Notification in Our Government Gazette, exempt any class of timber from the provisions of this Section, and withdraw such exemption.

33-C. Public notice shall, from time to time, be given by the Forest Officer of timber collected under Section 33-B. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such Officer, within a period not less than two months from the date of such notice, a written statement of such claim.

Notice to claimants of drift timber.

33-D. When any such statement is presented as aforesaid, the Forest Officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

Procedure on claim preferred to such timber.

If such timber is claimed by more than one person, the Forest Officer may either deliver the same to any such person whom he deems entitled thereto, or may refer the claimants to the Civil Courts, and retain the timber pending the receipt of an order from any such Court for its disposal.

Any person whose claim has been rejected under this Section may, within four months from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation or costs against Our Government, or against any Forest Officer,

On rejection of claim to such timber, claimant may institute suit.

on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this Section.

No such timber shall be subject to process of any Civil, Criminal or Revenue Court until it has been delivered, or a suit has been brought, as provided in this Section.

33-E. If no such statement is presented, as aforesaid, or if the claimant omits to prefer his claim in the manner and within the period prescribed by the notice issued under Section 33-C, or on such claim having been so preferred by him and having been rejected, omits to institute a suit to recover possession of such timber within the further period limited by Section 33-D, the ownership of such timber shall vest in Our Government, or, when such timber has been delivered to another person under Section 33-D, in such other person free from all encumbrances not created by him.

33-F. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the Forest Officer or other person entitled to receive it such sum on account thereof as may be due under any Rule made in pursuance of Section 33-G.

33-G. Our Government may, from time to time, make Rules to regulate the following matters, namely:

Power to make rules and prescribe penalties.

- (a) the salving, collection and disposal of all timber mentioned in Section 33-B;
- (b) the use and registration of boats used in salving and collecting timber;
- (c) the amounts to be paid for salving, collecting, moving, storing and disposing of such timber;
- (d) the use and registration of hammers and other instruments to be used for marking such timber.]

CHAPTER VI.

PENALTIES AND PROCEDURE.

34. Whoever

Punishment for felling etc., trees which are royalties.

(a) fells, [girdles, lops, marks, mutilates or otherwise damages] any tree which is a royalty, against the Rules framed by Our Dewan, or

(b) fells such trees or reserved trees in places other than those for which he has obtained permission from a Forest Officer or in quantities larger than, or different in kind from, those so permitted, or

(c) is found in possession of such trees, or of any forest produce which is a royalty without having honestly obtained it,

shall, on conviction by a Magistrate, be liable to imprisonment which may extend to six months, or fine which may extend to five [hundred rupees, or to both.

In cases where the offence is said to have committed after sunset and before sunrise, or after making preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Magistrate may inflict double the punishment that would ordinarily be inflicted.

35. Whoever commits any infringement of the [provisions of Section 33-A, or the] Rules framed under Section 33 [and Section 33-G] shall be liable to imprisonment which may extend to one month, or fine which may extend to two hundred rupees, or both.

Punishment for infringement of Section 33-A and Rules under Sections 33 and 33-G.

Sec. 34. The words bracketed were inserted by Section 23, Act IX of 1085.

Sec. 35. The words bracketed were inserted by Section 17 of Act VIII of 1097.

36. When there is reason to believe that a forest offence has been committed in respect of any timber or other forest produce, such timber or produce, together with all tools, ropes, chains, boats, carts and cattle used in committing any offence may be seized by any Forest Officer or Police Officer.

Seizure of property liable to confiscation.

Every officer seizing any property under this Section shall place on such property or the receptacle (if any) in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made : [* * *]

Report to Magistrate.

Provided that, when the timber or forest produce with respect to which such offence is believed to have been committed is the property of Government and the offender is unknown, it shall be sufficient if the Forest Officer makes, as soon as may be, a report of the circumstances to his official superior.

[36-A. Any Forest Officer of a rank not inferior to that of a Ranger who or whose subordinate has seized any tools, boats, carts or cattle under the provisions of Section 36 may release the same on the execution by the owner thereof of a bond for the production of the property so released, if and when so required, before the Magistrate having jurisdiction to try the offence on account of which the seizure has been made.]

Power to release property seized under Section 36.

Sec. 36. The words "or to a Police Officer in charge of the nearest Police Station, who shall immediately forward a report to the Magistrate" which occurred within the brackets were omitted by Section 24, Act IX of 1085.

Sec. 36-A. This was added by Section 18 of Act VIII of 1097. "There is no power vested in the Forest-Officer seizing any property under Section 36 to release the same if the owner undertakes to produce the same when required."—S. O. & R., T. G. G. dated 11-2-1919.

37. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

38. When any person is convicted of a forest offence all timber or other forest produce in respect of which such offence has been committed and all tools, ropes, chains, boats, carts and cattle used in committing such offence and being the property of the offender or his abettor shall be liable, by order of the convicting Magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

39. When the trial of any forest offence is concluded, any timber or other forest produce in respect of which such offence has been committed shall, if it is the property of Government or has been confiscated, be taken possession of by or under the authority of a Forest Officer not below the rank of an Assistant Conservator ;

and in any other case it may be disposed of in such manner as the Court may order.

40. When the offender is not known or cannot be found, the Magistrate, if he is of opinion that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed to be confiscated and taken possession of by or under the authority of a Forest Officer not below the rank of an Assistant Conservator, or to be made over to any person whom the Magistrate considers to be entitled to the same :

Provided that no such order shall be made until the expiration of two months from the date of seizing such property or without hearing the person (if any) claiming any right thereto, and the evidence (if any) which he may produce in support of his claim.

The Magistrate shall cause a notice of any application under this Section to be served upon any person who he has reason to believe is interested in the property seized, or shall publish such notice in any way which he thinks fit.

41. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under Section 36 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Procedure as to perishable property seized under Section 36.

42. [The officer who made the seizure under Section 36, or any of his official superiors or] any person claiming to be interested in property seized under Section 36, may within two months from the date of any order passed under Section 38, 39 or 40 present an appeal therefrom, which may be disposed of in the manner provided by Section 398 of the Code of Criminal Procedure.

Appeal from orders under Section 38, 39 or 40.

43. When an order for the confiscation of any property has been passed under Section 38 or 40, and the period limited by Section 42 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when, on such an appeal being presented the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government.

Property when to vest in Government.

44. Nothing hereinbefore contained shall be deemed to prevent a Forest Officer not below the rank of a Deputy Conservator of Forests [or of an Assistant Conservator holding charge of a Forest Division]

Saving of power to release property seized.

Sec. 42. The bracketed words were inserted by Section 19 of Act VIII of 1097. These words are not found in the corresponding Section 47 of the Madras Act.

Sec. 44. The words bracketed were inserted by Section 25 of Act IX of 1085.

from directing at any time the immediate release of any property seized under Section 36 and the withdrawal of any charge made in respect of such property.

45. Whoever, with intent to cause damage or injury to the public or any person or to cause wrongful gain as defined in the [Travancore] Penal Code,
 Penalty for counterfeiting or defacing marks on trees and for altering boundary marks.
 (a) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or some person, or that it may lawfully be cut or removed by some person; or

(b) unlawfully affixes to any timber or standing tree a mark used by Forest Officers; or

(c) alters, defaces or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest Officer; or

(d) alters, moves, destroys or defaces any boundary-mark of any forest or any land to which any provisions of this Act apply;

shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

[46. Whoever, not being authorised thereto under the provisions of Section 46-B, kills, wounds or captures or abets, within the meaning of the Travancore Penal Code, the killing, wounding or capturing of a wild elephant in the territories of the State shall be punished with imprisonment which may extend to three months or with fine

Sec. 45. The word bracketed was substituted for the word "Indian" by Section 26 of Act IX of 1085.

Sec. 46. The Section as originally enacted read as follows:—

"Whoever, unless authorised to do so, kills, wounds or captures a wild elephant within

the territories of the State, shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or both for each animal, and the tusks and teeth of the animals which have been killed or the elephants that have been captured,

which may extend to one thousand rupees or both for each animal. Any person convicted of a second offence under this Section shall be liable to double the punishment mentioned above.

Exception.—It is not an offence under this Section for any person to kill or wound any wild elephant in defence of himself or of any other person or in defence of property :

Provided that the right of defence of person or property in no case extends to the causing of more harm than is necessary for the purpose of defence.

46-A. Any wild elephant captured or the tusks and teeth of any wild elephant killed shall be regarded as the property of Our Government and shall be delivered to the nearest Forest or Police Officer.

Tusks and teeth of animals killed or captured, the property of Government.

shall be regarded as the property of the Sirkar, and shall be delivered to the nearest Forest Officer or Police-Officer :-

Provided (1) that Our Dewan may, from time to time, on an application being made to him, grant general or special permits in writing for the shooting or the capturing of elephants, and those who obtain such permits shall be exempted from the operations of the preceding para so long as they act in accordance with the Rules given in the permits ;

(2) that persons shooting or wounding elephants in self-defence or for the protection of property shall be exempted from punishment."

In the place of Section 46 Section 20 of Act VIII of 1097 substituted the Sections 46, 46-A, 46-B and 46-C. In introducing the Bill, the Member in

charge said :—"Section 46 relating to the killing of elephants has been re-drafted as Sections 46 and 46-A to C with a view to make the meaning of the existing Section clear. Some doubt has been thrown as to the burden of proof of circumstances which necessitated the killing of elephants. There has also been some difficulty in interpreting the words 'killing' and 'wounds' in para 1, and 'shooting' and 'wounding' in para 3. The right which every person has in defence of himself or any other person to kill or wound an elephant is not interfered with by the amendment. So far as property is concerned, the right does not ordinarily extend to the causing of death. But the circumstances under which a wild elephant may be killed in defence of property may be regulated by Rules framed by Government.— L. C. P. dated 13-3-1919.

46-B. Our Dewan may, subject to such Rules as may be framed by Our Government in this behalf, from time to time grant general or special permits in writing to any person for the shooting or capturing of elephants and such person shall be exempted from the operation of Section 46 so long as he acts in accordance with the Rules given in the permit.

Grant of permits for shooting or capturing elephants.

46-C. Our Government may frame Rules regulating the killing or wounding of any wild elephant in defence of person or property.]

47. Any Forest Officer or Police-Officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence, if such person refuses to give his name and residence, or gives his name or residence which there is reason to believe to be false, or if there is reason to believe he will abscond.

Power to frame Rules for killing or wounding wild elephants.

Every officer making an arrest under this Section, shall, without unnecessary delay, take or send the person arrested to the nearest Police-station, and the Officer in charge of such station shall thereupon act according to law.

[47-A. Any Forest Officer of a rank not inferior to that of a Ranger who or whose subordinate has arrested any person under the provisions of Section 47 may release such person [on bail] on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest Police-station.]

Forest Officer may arrest offenders.

Sec. 47-A. This was added by Section 21 of Act VIII of 1097. "The Regulation does not empower any Forest Officer to release a person under Section 47. Hence the amendment."—S. O. & R.

See foot notes to Section 36-A. and L. C. P., dated 8-4-1920.

The words "on bail" were inserted by Section 2, Act XII of 1112.

48. Any Forest Officer or Police-Officer who vexatiously and maliciously seizes any property on pretence of seizing property liable to confiscation under this Act, or who vexatiously and maliciously arrests any person, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

49. Every Forest Officer and Police-Officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest offence.

50. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the Rules made thereunder :

Provided that no person shall be punished twice for the same offence.

51. Any Forest Officer drawing a salary of not less than one hundred rupees a month, if specially empowered in this behalf, may accept from any person, reasonably suspected of having committed any forest offence other than an offence under Section 45 or 48, a sum of money [* * *] by way of compensation for the offence which may have been committed and where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money or such value or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property

Sec. 51. The words "not exceeding fifty Rupees" which occurred within brackets were omitted by Section 27, Act IX of 1085. The Section as it now stands is the same as Section 50 of the Madras Act.

seized shall be released and no further proceedings shall be taken against such person or property.

52. When, in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest produce is the property of the Government, such produce shall be presumed to be the property of the Government until the contrary is proved.

Presumption that timber or forest produce belongs to Government.

CHAPTER VII.

CATTLE TRESPASS.

53. Cattle trespassing in a Reserved Forest or on lands on which the grazing of cattle has been prohibited by Rules made under this Act, or which has been closed under section 23, shall be deemed to be cattle doing damage to a public plantation within the meaning of the eighth Section of the Cattle Trespas Act, No. 1 of $\frac{1056}{1880-1881}$ and may be seized and impounded as such by any Forest Officer or Police-Officer.

Cattle Trespas Act No. I of 1056 to apply.

54. Our Government may, by Notification in the Gazette, direct that, in lieu of the fines fixed by the tenth Section of the Act last aforesaid, there shall be levied, in all or any of the areas to which the Act applies, for each head of cattle impounded under Section 53 of this Act, such fines as it thinks fit, but not exceeding the following :—

Power to alter fines fixed by that Act.

	Rs.	Ch.	C.
For each elephant	10	"	"
For each buffalo or camel	1	"	"
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, calf, or heifer	"	14	"
For each ass, pig, ram, ewe, sheep, lamb, goat or kid	"	7	"

CHAPTER VIII.

MISCELLANEOUS.

55. All Forest Officers shall be deemed to be Public Forest Officers deemed Public Servants within the meaning of the [Travancore] Penal Code.

[5. No suit or other proceeding shall lie against any public servant for any act done, or ordered to be done, in good faith, in pursuance of this Act.]

57. Except with the permission in writing of Our Dewan, no Forest Officer shall, as principal or agent, trade in timber or forest produce, or be or become interested in any lease or mortgage of any forest or in any contract for working any forest whether in Travancore or foreign territory.

58. All trees and timber, [other than royalties,] found on land at the disposal of Government, which may hereafter be granted for permanent cultivation under such Rules as may be in force at the time, shall be held to be the property of Government; such trees shall, on the application of the grantee, be removed by the Forest Department within 18 months from the date of receipt of such application; if not so removed, such trees and timber [* * *] shall become the property of the landowner: Provided that nothing in this section shall affect any right which Our Government may possess in trees or timber found on lands granted for cultivation prior to the enactment of this Act.

Sec. 55. "Travancore" was substituted for "Indian" by Section 28, Act IX of 1085.

Sec. 56. The Section as originally enacted stood as follows:—"No criminal prosecution shall lie against any Public Servant for any thing done or omitted to be done in good faith under this Regulation." The present Section was substituted in its place by Section 22 of Act VIII of 1097.

Sec. 58. The words bracketed were inserted and the same words as those bracketed which occurred between the words "timber" and "shall" were omitted by Section 29, Act IX of 1085.

59. Our Government may invest either temporarily or permanently, any Forest Officer [not inferior in rank to that of an Assistant Conservator] with the following powers, and may withdraw the same :—

Investing Forest Officer with powers.

[(a) power to enter upon any land and to survey, demarcate and make a map of the same] ;

(b) the powers of a Settlement Officer ;

(c) the powers of a Civil Court to compel the attendance of witnesses and the production of documents ;

(d) power to hold enquiries into forest offences and, in the course of such enquiries, to receive and record evidence and to issue search-warrants which may be executed in the manner provided by the Code of Criminal Procedure ;

(e) power to accept compensation for forest offences under Section 51.

[Any evidence recorded under Clause (c) of this Section shall be admissible in any subsequent trial before a Magistrate of the alleged offender, provided that it has been taken in the presence of the accused person and recorded in the manner provided for in the Travancore Criminal Procedure Code.]

60. Our Government may make Rules consistent with this Act.—

Additional power to make Rules.

(a) to declare by what Forest Officer or class of Forest Officers the powers and duties conferred or imposed by or under this Act on a Forest Officer shall be exercised or performed ;

Sec. 59. In the first para, the words bracketed were substituted for the words "drawing a salary of not less than one hundred rupees," by Section 23 of Act VIII of 1097. The same amending Section also inserted Clause (a) in the Section and subsequent Clauses

were re-numbered. The last para was added by Section 30 of Act IX of 1085.

Sec. 60. For the words "which are royalties" the bracketed words were substituted by Section 24, Act VIII of 1097.

(b) to regulate the procedure of Forest Settlement Officers ;

(c) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act or from the Public Treasury ;

(d) for the preservation, re-production and disposal of trees and timber [belonging to Our Government], but grown on lands belonging to, or in the occupation of, private persons ; and

(e) generally to carry out the provisions of this Act.

61. All Rules made by Our Government under this Act shall be published in the Gazette and shall thereupon have the force of law. Such Rules may be cancelled or varied by like Notification.

Rules when to have force of law.

(2. All contractors or persons engaged by the officers of the Forest Department to fell, remove or deliver timber, collect, produce, or to do any work for the Department, and all persons who have permission to collect and remove timber or forest produce on permits, licenses or leases, shall be held responsible for any loss or damage caused by any acts or omission on the part of any of their subordinates, servants or agents infringing any of the provisions of this Act or of the Rules framed thereunder.

Liability of persons engaged by Forest Officers.

63. All money, other than fines, payable to the Government under this Act or any Rule made thereunder, or on account of timber or forest produce, or of expenses incurred in the execution of this Act in respect of timber or forest produce, and all compensation awarded to Government under this Act, may, if not paid when due, be recovered under the law for the time being in force, as if it were an arrear of land-revenue.

Recovery of money due to Government.

64. When any such money is payable for, or in respect of, any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and if such amount be not paid when due, such produce may be taken possession of by or under the authority of a Forest Officer not below the rank of an Assistant Conservator, and may be retained until such amount has been paid, or such Forest Officer may sell such produce by public auction and the proceeds of the sale shall be applied first in discharging such amount.

The surplus (if any), if not claimed by the person entitled thereto within six months from the date of the sale, shall be forfeited to Government.

65. Whenever it appears to Our Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of any law for the time being in force for the acquisition of land for public purposes.

66. The Dewan may, by Notification in the Gazette declare any Forest which has been reserved by order of the Government previous to the day on which this Act comes into force to be a Reserved Forest under this Act:

Provided that if the rights of the Government or of private persons to or over any land or forest produce in such Forest have not been enquired into, settled and recorded in a manner which the Government think sufficient, the same shall be enquired into, settled and recorded in the manner provided by this Act for Reserved Forests, before the date on which the Notification declaring the Forest to be reserved takes effect.

All questions decided, orders issued and records prepared in connection with the reservation of such Forest shall be deemed to have been decided, issued and prepared hereunder, and the provisions of this Act relating to Reserved Forests shall apply to such Forest.

67. Act IV of 1063 is repealed ; but any forest which has been reserved by order of the Government in accordance with it shall be considered to be a Reserve ; and any Rules framed or any action taken under it shall hold good as if it were

still in force.

[68. Any decision or order passed by a Forest Settlement Officer under this Act and any order passed in appeal therefrom shall be enforceable by the District Court within whose jurisdiction the land is situate as if it were a decree passed by such District Court under the Code of Civil Procedure.]

Sec. 68. This Section was of 1097.
added by Section 25, Act VIII

ACT III OF 1068.

SUITS' VALUATION ACT.

CONTENTS.

Preamble.

Sections.

1. Short title	1 & 7
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3. Power to fix value of other suits	9
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The figures on the right side refer to the corresponding Sections of the Indian Act, VII of 1887.

ACT III OF 1068.

An Act to prescribe the mode of valuing suits for the purpose of determining the jurisdiction of Courts and for the purpose of assessing Pleaders' fees for purposes of taxation of costs.

Passed by His Highness the Maha Raja of Travancore on the 19th January 1893, corresponding with the 8th Makarom 1068 under Section 9 of Act II of 1063.

Whereas it is expedient to prescribe the mode of valuing suits for the purpose of determining the jurisdiction of Courts and for the purpose of assessing Pleaders' fees for purposes of taxation of costs; We are hereby pleased to enact as follows:—

1. This Act may be called the "Suits Valuation Act of 1068" and shall come into force on the 1st Chittrai 1068.

Short title, Commencement.

2. Where, in suits referred to in Court Fees' Act of 1062, Section 4, paras I, II, III, V, VI, VII, VIII and IX, Court Fees are payable *ad valorem* under Court Fees Act of 1062, the value as determinable for the computation of Court fees and value for purposes of jurisdiction and taxation of Pleaders' fees, shall be the same.

Value of certain classes of suits for purposes of jurisdiction and taxation of Pleaders' fees.

Objects and Reasons. "The Civil Courts Regulation of 1057 prescribes no rules for the valuation of a suit for purposes of jurisdiction. Legislative sanction is required to apply the principles of valuation recognised by the Court Fees Regulation to valuation of suits for purposes of jurisdiction. To have one principle of valuation for purposes of jurisdiction and another for purposes of revenue, leads to much confusion and uncertainty. The High Court, in their letter to Government, No. 484, dated 4th September

1890, urged the necessity of passing a Regulation to secure uniformity in the valuation of suits. The Vakils Regulation of 1040 is also silent as to the principles to be observed in the valuation of a suit for purposes of taxing Vakils' fees in the decrees. The jurisdiction-value and the value of a suit for Vakils' fee have always been taken to be the same. Section 2 of the Bill enacts that, for these purposes, the Court fee valuation may be adopted. With slight difference, it corresponds with Section 8 of Act No. VII

3. The High Court may, with Our previous sanction, direct that suits of any class other than suits mentioned in Court Fees Act, Section 4, paras I, II, III, V, VI, VII, VIII and IX, shall be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf.

4. Notwithstanding anything in Section 547 of the Civil Procedure Code, no Court of Appeal or Revision shall entertain an objection that, by reason of the over-valuation or under-valuation of a suit, a Court of first instance which had not jurisdiction with respect to the suit, exercised jurisdiction with respect thereto, unless the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded.

of 1887 now in force in British India.

“With reference to the suits incapable of valuation, no fixed rule can be laid down. It is necessary to empower the High Court to determine their value for purposes of jurisdiction with the sanction of Government. Section 3 of the Bill makes the necessary provision following the main principles of Section 9 of Act VII of 1887.

“To remedy the evil arising from a plea of want of jurisdiction being allowed to be taken for the first time in Appellate Courts, a provision to the effect that such plea should be taken at the earliest opportunity ought to be made. Where such plea is not taken at the earliest opportunity, it is nothing but reasonable that the parties must be taken to have *finally* waived all their objection to the jurisdiction of the Court which hears

the case on the merits. The inconvenience, annoyance and heavy expense to which the party who is defeated on such a plea in the Appellate Courts is put, are intolerable. The administration of justice is also brought into ridicule. Section 4 of the Bill makes it compulsory that the plea of ‘no jurisdiction’ should be taken at the earliest opportunity. It reproduces the provisions of Section 11 of Act VII of 1887.” S. O & R., T. G. G. dated 1-3-1892.

For Select Committee Report see T. G. G. dated 1-3-1892; 24-5-1892; 30-8-1892; 29-11-1892; and 24-1-1893.

The Act was published in T. G. G. dated 24-1-1893.

Sec. 4. The provision corresponding to Section 547 of the C. P. C. is Section 78 of the Present Code.

ACT IV OF 1068.

ESTATES RENT RECOVERY ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Commencement.
 2. Rights of holders.
 3. Rates of assessment of rent.
 4. *[Grant of waste lands how regulated.]
 5. Form in which rent-roll and other accounts are to be kept.
 6. Mode of recovery of rents.
 7. Estates liable for charges on account of recovery.
 8. Sale of land to be free from encumbrances.
 9. Saving of the Edapalli Chief's right as Jenmi.
 - [10. Unassessed lands treated as property of Government,
 11. Powers of Peishkar, etc., to be conferred on Chief's agent.
 12. Definition of Chief.]
-

* The repealed Section contained the above marginal note. No. marginal note is given to the substituted Section.

ACT IV OF 1068.

An Act authorising the continuance of the existing practice in regard to recovery of rents due to the Estates of Killimanoor and Edappalli.

Passed by His Highness the Maha-Raja of Travancore on the 19th January 1893 corresponding with the 8th Makarom 1068 under Section 9 of Act II of 1063.

Whereas the arrears of rents due to the Estates of Killimanoor and Edappalli have been hitherto recovered by officers of Our Government as arrears of public revenue, and whereas it is expedient to continue the existing practice and to clearly define the conditions on which these Estates are administered; We are pleased to enact as follows:—

1. This Act shall come into force on the 1st Vaikasi 1068.

Commencement.

Effect of Legislation.

Year.	No.	Short title.	How affected by subsequent legislation.
1068	IV	Estates Rent Recovery Act.	Amended by Acts IV of 1096 and III of 1109.

Act IV of 1068: Objects and Reasons.—“It has hitherto been the practice to apply the procedure whereby the arrears of Public Revenue are recovered to the realization of the rent due to the Estates of Sreepadom, Killimanoor and Edappalli; and now that a Bill for the recovery of the arrears of Public Revenue is before the Council, it has become necessary to affirm the above practice by a legislative enactment. With this object in view, the present Bill is framed and it

specifies the conditions on which these Estates are administered.

“Sections 2, 3 and 4 lay down that the rights of land-holders, the rates at which rent shall be recoverable and the rules regarding the grant of, and the rates of assessment on, waste lands, shall be the same as in the case of Government lands. These sections simply affirm the conditions which appear to have been, in practice, hitherto observed.

SEC. 3.

ESTATES RENT RECOVERY.

2. The holders of land in the Estates of Killimanoor and Edappalli shall have the same Rights of holders. rights in respect of their holdings as the holders of land under Our Government.

3. The rent recoverable from the holders of land in the said Estates shall be at the rates Rates of assess- assessed by Our Government from time ment of rent. to time.

"Section 5 declares that the rent-roll and other accounts bearing on land shall be kept in the same form as in the case of Government lands and that they shall be subject to the supervision of Government. This is necessary in order to ensure and enforce correctness and uniformity in the accounts.

"Section 6 gives legal sanction to the existing practice.

"Section 7 declares the liability of these Estates for all charges and losses that may be incurred in connection with proceedings under Section 6. As the proceedings are taken in behalf of their Estates, it is only just that Government should be indemnified from any damage arising from such proceedings.

"Section 8. This is implied in the previous Section, as the public revenue is the first charge on the land on which it is due.

"Section 9 is intended to guard against its being supposed that the provisions of this Bill may

be applied to the jenmom lands of the Edappally Chief."—S. O. & R., T. G. G. dated 26-7-1892. For legislative proceedings see T. G. G. dated 23-8-1892; 29-11-1892 and 24-1-1893. The Act was published in T. G. G. dated 24-1-1893.

Act IV of 1096. *Objects and Reasons*: "Section 7 of the Regulation IV of 1068 does not specify how charges and losses incurred by Government in connection with any proceedings taken under Section 6 should be recovered from the Estates. It is not desirable that Government should be driven to a Civil suit for the recovery of the same. The amendment is intended to remedy the defect". S. O. & R. T. G. G. dated 11-5-1920. For legislative proceedings see T. G. G. dated, 11-5-1920; 7-9-1920 and 18-1-1921. The Act was published in T. G. G. dated 5-4-1921.

Act III of 1109. This Act substituted Section 4 and added Sections 10 to 12. See *Objects and Reasons* given under Act III of 1109.

4. [It shall be competent to the Chief to make assignment of waste lands but such assignments shall be made in accordance with the law and rules for the time being in force for the assignment of Government lands so far as they are applicable and subject to the right, if any, of third parties. Such assignees shall have in respect of the lands assigned all the rights which similar assignees of Government lands acquire in respect of the Government lands assigned.]

5. The rent-roll and other accounts bearing upon the land shall be kept in the Form in which Our Government accounts are kept, and they shall be subject to the supervision of Our Government.

Form in which rent-roll and other accounts are to be kept.

6. The rents due to these Estates shall be treated as public revenue and all arrears shall be recovered by Our officers in the manner prescribed by Act I of 1068, subject to such Rules as may be prescribed by Our Government from time to time.

Mode of recovery of rents.

7. [All charges and losses that may be incurred by Our Government in connection with any proceedings taken under Section 6 shall be paid by the Estates, and may be recovered by Our Government from such Estates as arrears of revenue under Act I of 1068.]

Estates liable for charges on account of recovery.

Sec. 4. This section was substituted by Section 18, Act III of 1109. The original section read as follows :—

"4. *Grant of waste lands how regulated.* The granting of waste lands shall be regulated, in respect of permanency of occupation and the rates of assessment, by the law and rules for the time being in force for Government waste lands."

Sec. 7. The section as it originally stood read as follows :—

"7. The estates shall be liable to pay all charges and losses that may be incurred in connection with any proceedings taken under Section 6."—
The present Section was substituted by Act IV of 1096.

SEC. 11. ESTATES RENT RECOVERY

8. The sale of land made for arrears of rent, under the authority of this Act, shall be free of encumbrances, if such sale is made to recover the rent due on the land sold.

Sale of land to be free from encumbrances.

9. Nothing in this Act shall be construed to apply to lands held by the Edappalli Chief in his capacity of a Jenmi under the Royal Proclamation of 1042.

Saving of the Edappalli Chief's right as Jenmi.

10. [All unassessed lands within the limits of the Estates of Kilimanoor and Edappalli shall be deemed to be the property of Government for the purposes of the Land Conservancy Act of 1091 (IV of 1091) and such of the provisions of the said Act as may be notified by Our Government in that behalf shall apply thereto subject to such rules as may be prescribed.]

Unassessed lands treated as property of Government.

11. Our Government may, subject to such Rules as may be prescribed confer the powers of a Proverthikar or a Tahsildar under the Revenue Recovery Act, I of 1068 or of a Dewan Peishkar under the Land Conservancy Act of 1091 (IV of 1091) on any agent or servant of the Chief:

Powers of Peishkar, etc., to be conferred on Chief's agent.

Provided that the powers of a Tahsildar or a Dewan Peishkar shall not be conferred on the agent or servant unless he is a Government servant whose services have been lent to the Chief; and

Provided also that the appeals and revisions available to the parties under the said Acts against the orders or actions of a Tahsildar or a Dewan Peishkar shall lie, or shall be provided for by the Rules to lie to an officer of Our Government in Our Government service.

Secs. 10 to 12. These sec. Act III of 1109. tions were added by Sections 18,

ESTATES RENT RECOVERY. SEC. 12.

Explanation :—Any right of civil suit available in respect of the orders or actions under the Revenue Recovery Act, I of 1068, and the Land Conservancy Act of 1091 (IV of 1091) shall also be available to the parties.

12. The word "Chief" used in this Act means the senior male member or other member of the Kilimanoor Kottaram or the Edappalli Swarupam, as the case may be, in whom the management of the family concerned is vested in law for the time being.]

SERVICE INAM PROCLAMATION.

PROCLAMATION.

By His Highness the Maha Raja of Travancore, issued under date the 1st Edavom 1068 corresponding with the 13th May 1893.

Whereas Inams attached to specific services of any description have, from their nature and immemorial usage, been recognised as inseparable from the services for which they are granted, and inalienable; and whereas doubts have arisen as to the effect of paras 6 and 7 of Section 24 of the Royal Proclamation dated 24th February 1886/14th Kumbhom 1061 in respect of such Inams; and whereas it is expedient in the interests of the services concerned to remove such doubts; We are pleased to declare as follows:—

1. The provisions of paras 6 and 7 of Section 24 of the Royal Proclamation dated 24th February 1886/14th Kumbhom 1061 shall not be taken to apply to Service Inams described in para 1 of the same Section.

2. All Alienations of Inam lands attached to specific services of any description which have been or which may hereafter be made, contrary to past usage, shall be treated as null and void. And it shall be competent to Our Government to resume the lands so alienated and re-attach them to the services:

Provided that Our Government may, at its discretion, deal with the resumed lands and the services connected therewith in any other manner it may deem fit.

3. No Civil suit shall lie against Our Government in respect of anything done under the last preceding Section.

The Proclamation was published in *T. G. G. dated 16-5-1893.*

“There are certain specific State services for the due performance of which grants of land have been made by Government free of tax. The institution has been existing from time immemorial. In the interests of these services and as

a safeguard against unauthorised alienations, a Royal Proclamation was issued under date 1st Edavom 1068 rehabilitating the long recognised usage governing these tenures—*A. R. 1068., P. 15.*

See also Mathilakom Service Inam lands Enfranchisement Proclamation dated 31-7-1935 given *infra.*

VIRUTHI SERVICES PROCLAMATION.

PROCLAMATION.

By His Highness the Maha Raja of Travancore issued under date the 24th Karkatakam 1068 corresponding with the 7th August 1893.

Whereas it is Our earnest desire to lighten the burden of the Viruthi service and reduce its scope as far as compatible with the conditions of the Viruthi tenures and to secure substantial benefit to the Viruthicars ; We are pleased to declare :—

1. That, from and after the 1st day of Chingom 1069, corresponding with the 15th August 1893, the Viruthicars shall be completely and permanently exempted from all the obligations now temporarily in abeyance, *viz.* :

(a) Supply of provisions for the Tingal institutions at the Capital ;

(b) Supply of provisions and materials for all mofussil charity and religious institutions ; and

(c) Supplies for camp service on occasions of Our tours and those of members of Our family.

2. The Viruthi service shall from the said date be restricted to

(a) rendering simple personal labour obligatory under the Viruthi system throughout the State, and

(b) the supply of provisions and materials in connection with the five annual festivals, the Sexennial Murajapam and other ceremonies of an occasional or exceptional character, at the Capital, and other demands of a customary nature not falling within the exemption declared in para 1.

3. The revision of the Viruthi service and the redistribution of the service grants contemplated by the Proclamation dated 16th May 1886/4th Edavom 1061 shall be effected with due regard to the measure of relief herein conceded.

The Proclamation was published in *T. G. G. dated 22-8-1893.*

“By a Royal Proclamation issued in the year, a permanent concession was granted to the entire body of Viruthicars con-

siderably reducing the burden and scope of the Viruthi service. The measure is calculated to secure substantial benefit to these ryots.”—*A. R. 1068. P. 14.*

ACT II OF 1070.

An Act to amend the Code of Civil Procedure.

Passed by His Highness the Maha Raja of Travancore on the 3rd June 1895 corresponding with the 22nd Edavam 1070 under Section 9 of Act II of 1063.

Whereas it is expedient to amend the Code of Civil Procedure; We are hereby pleased to enact as follows:—

- 1 } [Repealed by Act III of 1101.]
2 }
3 }
4 } [Repealed by Act VIII of 1100.]
5 }
6 }
7 }
8 } [Repealed by Act III of 1101.]
9 }
10 }

11. If Our Government assign the same local jurisdiction to two Munsiffs, they shall declare which of them shall be deemed the Principal District Munsiff; and the other shall be Additional District Munsiff and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the High Court.

When two Munsiffs are assigned same local jurisdiction, one to be Principal District Munsiff and the other Additional District Munsiff.

tion to two Munsiffs, they shall declare which of them shall be deemed the Principal District Munsiff; and the other shall be Additional District Munsiff and shall take cognizance only of such suits and applications as may, by special or general order in this behalf, be directed by the High Court.

Act II of 1070. For Select Committee Report *See T. G. G. dated 30-10-1894*

For legislative proceedings *See T. G. G. dated; 14-8-1894; 9-10-1894; 4-12-1894; 8-2-1895; 5-3-1895 and 21-5-1895.*

The Act was published in the *T. G. G. dated 4-6-1895.*

Sec. 11. The statement of Objects and Reasons appended to the Bill said:—"The Section seeks to remove the great public inconvenience and evasion of law brought to the notice of Government by the High Court in their letter No- 620, dated 5th November 1890, when the Bill which became law as Regulation III of 1066 was before

ACT II OF 1070.

the Council. The recommendation made by the High Court to confer on the two Munsiffs stationed at Trivandrum concurrent jurisdiction over the tracts now within their separate jurisdictions, did not meet with the approval of the Council, although it was supported by the British Indian Act XXI of 1885. The Town of Trivandrum is divided between two Munsiffs. There are several streets in the Town in which one row of houses is in the jurisdiction of one Munsiff, while the other row is in the jurisdiction of another Munsiff. As the process of one Court could not be executed within the jurisdiction of another Court, the person on whom it is to be served finds it easy, even in the presence of the Court Officer, to avoid service by merely crossing the road that intervenes the rows of houses in a street. The exe-

cutation of decrees upon the person and the movable property of the judgment-debtor is seriously hampered by the inability of the process-server to discharge his duty outside the jurisdiction of the Court issuing the process, although the debtor to be arrested and the property to be attached may be within his view. This state of law brings the administration of justice into ridicule. It is therefore proposed that the two Munsiffs at Trivandrum should be empowered to execute their processes and writs within any part of the Town. The High Court is authorised with the previous sanction of the Government to fix the limits of the Town of Trivandrum for the purposes of this Section.—*S. O. & R., T. G. G. dated 14-8-1894.*

This provision was taken from Act XXI of 1885, Madras Civil Courts Act.

ACT III OF 1070.

An Act to repeal the Police Superannuation
Act III of 1060.

*Passed by His Highness the Maha Raja of Travancore
on the 14th June 1895 corresponding with the 1st
Mithunam 1070, under Section 9 of
Act II of 1063.*

Whereas it is deemed necessary to afford relief to
all grades of Policemen now subject to
a monthly deduction from their pay as
a contribution to the Police Superan-
nuation Fund, under the provisions of Act III of 1060 ;
We are pleased to enact as follows :—

1. Act III of 1060 is hereby repealed.
Repeal of Act III of 1060.

2. From the passing of this Act, no deduction shall
be made from the pay of any Police-
man on account of the Police Superan-
nuation Fund.
No Policeman to contribute to the Fund.

Act III of 1070: Objects and Reasons.—“Regulation III of 1060 provided a Superannuation Fund for the benefit of officers of certain grades of the Police. Under it, a monthly deduction was made from the pay of all Police-officers drawing below Rs. 30, as that was the minimum salary admissible for pensions under the Rules in force at the time. This deduction continued till the end of 1068 when the new Pension and Gratuity Rules were passed, which extended the benefit of a pension to all public servants drawing Rs. 10 and above. The grades of Policemen on salaries ranging from 10 to Rs. 30 were thus exempted from contribution to the Superannuation Fund. But the deduction is still made from the pay of all Policemen who receive less than Rs. 10. This is considered a hardship—as these men, of all others, can least afford the contribution. In fact, the pay of the last grade of constables being so low as 5½ Rs., His Highness the Maha Raja has been pleased to raise their salary to Rs. 6 each with effect from the 15th Thulam 1070. But a further measure of relief is urgently called for in respect of all grades of constables who, it must be admitted, are a very hard worked class of public servants entrusted with considerable responsibilities and powers. It is therefore proposed to relieve them from further contribution to the Superannuation Fund and to give them the benefit of pensions or

ACT III OF 1070.

3. It shall be lawful for Our Government to carry to its credit the amount already realised by such deduction and all and every other sources of addition to the said Fund with all interest accrued or accruing thereon; and no contributor to that Fund, his heirs, executors, administrators or assigns shall have any claim whatever, to any payment from that Fund or any part thereof, by virtue of such contribution or other accretion.

All fines, penalties, stoppages of pay and allowance, and other items of accretion to the Police Superannuation Fund, provided in Section 2 of Act III of 1060, shall hereafter be carried to the credit of Our Government.

All fines and other items of accretion to the Fund to be credited to Government.

4. This Act shall come into force on the passing Commencement thereof.

gratuities under the general Pension Rules with an exception in their favour in so far as the period of service qualifying for full pension or gratuity is concerned.

"Power is taken to credit to Government the amount of contributions already levied from the grades hitherto subject to the deduction.

"As the Superannuation Fund is governed by a Regulation another. Regulation is

necessary to repeal it and to incorporate the accumulated fund with interest accrued and accruing thereon with the general State Funds. Hence the short Bill which I seek permission to introduce."—S. O. & R. ; T. G. G. dated 4-12-1894.

For legislative proceedings see T. G. G. dated 5-3-1895; 2-4-1895, and 18-6-1895.

The Act was published in T. G. G. dated 25-6-1895.

PROCLAMATION.

By His Highness the Maha Raja of Travancore issued under date the 11th of Karkadagom 1070, corresponding with the 25th July 1895.

Whereas it is found to be a source of hardship to keep up certain items of demand recognised in the accounts as loans advanced in remote times by the State and Deva-swoms and to levy the interests thereon, known as Arthapalisa, Paduthalapalisa, Nerpalisa, Ubhayampalisa, Polikadapalisa, Muripalisa, Kudipalisa, Anapalisa, Acheetupalisa, Palkudapalisa, Mampattapalisa, Namaskarapalisa, Valipadupalisa, and Nallamulakupalisa and whereas it is Our earnest desire to relieve the ryots of these burdens We are pleased to declare :

That from and after the 1st of Chingom 1071, no demand shall be made in respect of the principals as well as interests abovementioned and of all arrears of interests which may remain unpaid after the 32nd day of Karkadagom 1070 corresponding with the 15th of August 1895 ; and all such principals, interests and arrears shall be written off the accounts.

That all sums already realised (but not yet credited in the accounts) on account of any such principals or interests or which may be realised till the 32nd day of Karkadagom 1070 (inclusive) shall be credited to Government.

The Proclamation was published in T. G. G. dated 30-7-1895 ; P. 1242.

PROCLAMATION.

By His Highness the Maha Raja of Travancore issued under date the 15th of Karkadagom 1070, corresponding with the 29th July 1895.

Whereas it is found to be a source of hardship to keep up the extra cess known as Rekshabhogam and whereas it is Our earnest desire to relieve the ryots concerned of the burden, we are pleased to declare :

That from and after 1st Chingom 1071 the cess known as Rekshabhogam is abolished and no demand shall be made in respect thereof or of arrears on that account which may remain unpaid after the 32nd day of Karkadagom 1070 corresponding with the 15th August 1895 and that such cess and arrears shall be written off the accounts from the 1st day of Chingom 1071 ;

That all sums already realised (but not yet credited in the accounts) on account of such cess or which may be realised till the 32nd day of Karkadagom 1070 (inclusive) shall be credited to Government.

The Proclamation was published in T. G. G. dated 30-7-1895 ; P. 1242.

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PRISONS ACT.

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ACT I OF 1071.

An Act to provide for the Management of Prisons.

Passed by His Highness the Maha Raja of Travancore on the 9th November 1895 corresponding with the 25th Thulam 1071, under Section 9 of Act II of 1063.

Whereas it is expedient to regulate the Management of Prisons in Travancore, and to provide Rules for the regulation of such Prisons; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the "Prisons Act of 1071".
Title, extent and commencement.

(2) It extends to the whole of Travancore.

(3) It shall come into force on the first day of Chitrai 1071.

2. All Rules and appointments made, directions and orders issued, which are in force on the day this Act comes into force, shall so far as they are consistent with this Act, be deemed to have been respectively made, given and issued under this Act.
Savings of Rules etc., in force.

Act I of 1071. Objects and Reasons. "We have as yet no law to regulate the management of the Jails in this country. There is a set of Rules sanctioned in 1882, but these are very imperfect and are applicable only to the Central Jail at the Capital. I have drafted a Bill based on the lines of the recent British Indian Prisons Act with such slight modifications as local circumstances render necessary. It deals more comprehensively than has yet been attempted with the management

and discipline of State Prisons; regulates the appointments, duties, powers and responsibilities of Jail Officers, provides for the kind of accommodation and food to be supplied to the healthy and the sick among the convict population and for medical attendance, prescribes penalties for breaches of discipline, and deals with other matters which enter into a sound administration of the Jail System."—S. O. & R., T. G. G. dated 4-12-1894.

Definitions.

3. In this Act—

(1) "Prison" means any jail or place used permanently or temporarily under the general or special orders of Our Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include—

(a) any place for the confinement of prisoners who are exclusively in the custody of the Police;

(b) any place specially appointed by Our Government under Section 418 of the Code of Criminal Procedure (Act V of 1067); or

(c) any place which has been declared by Our Government, by general or special order, to be a subsidiary jail:

(2) "Central Prison" means the Prison in Trivandrum:

(3) "Criminal prisoner" means any prisoner duly committed to custody under the warrant or order of any Court or authority exercising Criminal jurisdiction, or by order of a Court-Martial:

(4) "Convicted Criminal prisoner" means any Criminal prisoner under sentence of a Court or Court-Martial and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure (Act V of 1067):

(5) "Civil prisoner" means any prisoner who is not a Criminal prisoner:

In moving the Bill in the Legislative Council the Official Member in charge said:—" * * There are in Travancore the following classes of prisons... the Central Prison at the Capital, the District Prisons at Quilon and Alleppey, the Court Jails at Nagercoil, Quilon and Parur; and the lockups attached to the Police-stations. As in British India, the lockups are excluded from the operation of the Bill. I have defined the words 'Central Prison' as the

one at the Capital, since that Institution requires exceptional treatment in some respects; compared with the smaller Prisons in the Districts. In the British Act, an Officer called the Inspector-General is appointed to inspect and control all the Prisons in each Presidency and certain powers are conferred on him by the Act. Considering the very small number of Prisons here, I have made it optional with Government to appoint a separate Officer or to

(6) "Remission system" means the Rules which may be made by Our Government regulating the award of marks to, and the consequent shortening of sentences of, prisoners :

(7) "History-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the Rules thereunder;

(8) "Medical subordinate" means a Sub-Assistant Surgeon, Apothecary or Assistant Apothecary: and

(9) "Prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any Rule under this Act.

CHAPTER II.

MAINTENANCE AND OFFICERS OF PRISONS.

4. Our Government shall provide, for the prisoners in Our territory, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

5. For the Central Prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as Our Government thinks necessary.

devolve the duties on an Officer holding some other appointment. There is another change which I have made. The Indian Act provides a Medical Officer and a Medical Subordinate for each Prison. As this is not possible in Travancore, I have provided only a Medical Subordinate for Stations where a Medical Officer is not posted. The other alterations are not material. * * * L. C. P. dated 22-9-1894.

For Select Committee Report see T. G. G. dated 4-12-1894. For

legislative proceedings see T. G. G. dated 24-7-1894; 9-10-1894; 4-12-1894; 5-3-1895; and 12-11-1895. The Act was published in T. G. G. dated 12-11-1895.

Sec. 5. The corresponding Section 5 of the Indian Act provides for the appointment of an Inspector-General. The original Bill contained a similar provision. This was omitted by the Select Committee as the limited number of Prisons in Travancore did not, in their view, require such an Officer.

The Superintendent of the Central Prison may also be invested by Our Government, by Notification in the Government Gazette, with power to inspect and report upon, or exercise such supervision over, all or any of the other prisons as the Government may prescribe from time to time, and such power may also be withdrawn by a like Notification.

6. For every other prison there may be appointed a Superintendent, a Medical Officer (who may also be the Superintendent) or a Medical Subordinate, a Jailer and such other officers as Our Government thinks necessary.

Officers of other prisons.

7. Whenever it appears to Our Dewan that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison, or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

Temporary accommodations for prisoners.

provision shall be made by Our Dewan for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III.

DUTIES OF OFFICERS GENERALLY.

8. All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by Rules under Section 59.

Control and duties of officers of prisons.

The Committee added the second para to the Section empowering Government to authorise the Superintendent of the Central Prison to inspect, etc., the other Prisons. S. C. R.

Sec. 6. This Section was put in by the Select Committee. The Indian Act does not contain a provision corresponding to this.

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him, sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business-dealings directly or indirectly with any prisoner.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison: nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

11. No officer of a prison shall, without the sanction of Our Dewan in writing, be concerned in any other employment.

Superintendent.

12. Subject to the orders of Our Dewan, so far as they are not inconsistent with the provisions of this Act, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

Sec. 11. The Indian Act does not contain a corresponding provision.

Sec. 12. The corresponding Section 11 of the Indian Act contains a sub-section which is as follows:—“(2) Subject to such general or special directions as may be given by the Provincial Government, the Superintendent of a prison other than a Central Prison or a Prison situated in a Presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder

which may be given respecting the Prison by the District Magistrate, and shall report to the Inspector-General all such orders and the action taken thereon.”

The Select Committee omitted it as they considered it likely to result in conflict of the authority between Superintendent and Magistrate. “Whatever power the Magistrate may exercise over convicts in Prisons will be under the Criminal Procedure Code or other law in force.” S. C. R.

13. The Superintendent shall keep, or cause to be kept, the following records :—
 Records to be kept by Superintendent.

- (1) a register of prisoners admitted ;
- (2) a book showing when each prisoner is to be released ;
- (3) a punishment-book for the entry of the punishments inflicted on prisoners for prison offences ;
- (4) a Visitors' book for the entry of any observations made by the Visitors touching any matters connected with the administration of the prison ;
- (5) a record of the money and other articles taken from prisoners ; and

all such other records as may be prescribed by Rules under Section 59.

Medical Officer.

14. Subject to the control of the Superintendent, the Medical Officer or Medical Subordinate shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by Rules made by Our Government under Section 59.

15. Whenever the Medical Officer or, where there is no Medical Officer, the Medical Subordinate, has reason to believe that the mind of a prisoner is, or likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer or Medical Subordinate, as the case may be, shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon, shall forthwith be sent to Our Dewan for information.

16. On the death of any prisoner, the Medical Officer or Medical Subordinate, as the case may be, shall forthwith record in a register, the following particulars, so far as they can be ascertained, namely:—

(1) the day on which the deceased first complained of illness or was observed to be ill,

(2) the labour, if any, on which he was engaged on that day,

(3) the scale of his diet on that day,

(4) the day on which he was admitted to hospital,

(5) the day on which the Medical Officer or Medical Subordinate was first informed of the illness,

(6) the nature of the disease,

(7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,

(8) when the prisoner died, and

(9) (in cases where a *post-mortem* examination is made) an account of the appearances after death,

together with any special remarks that appear to the Medical Officer or Medical Subordinate to be required.

Jailer.

17. The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

18. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Officer or Subordinate.

19. The Jailer shall be responsible for the safe custody of the records to be kept under Section 13, for the commitment-warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

20. The Jailer of the Central Prison shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

In prisons where the Jailer is permitted to reside elsewhere, the Superintendent shall arrange for the Jailer and the subordinate next in grade remaining by turns in the prison at night.

21. When a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any Rule thereunder.

Subordinate Officers.

22. The officer acting as gate-keeper, or any other officer of the prison, may examine any thing carried in or out of the prison and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

23. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer.

24. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Penal Code (Act. II of 1056).

CHAPTER IV.

ADMISSION, REMOVAL AND DISCHARGE
OF PRISONERS.

25. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Prisoners to be examined on admission.

(2) Every Criminal prisoner shall also, as soon as possible after admission, be examined by the Medical Officer or subordinate, who shall enter or cause to be entered in a book to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer or Subordinate thinks fit to add.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron or a female warder under the general or special orders of the Superintendent, the Medical Officer or Subordinate.

26. All money or other articles in respect whereof no order of a competent Court has been made, and which may, with proper authority, be brought into the prison by any Criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer.

Effects of prisoners.

27. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer or Subordinate.

Removal and discharge of prisoners.

Sec. 27. Sec. 26 (2) of the Indian Act which corresponds to S. 27 (2) of this Act is as follows:—"No prisoner..... certifies that the prisoner is free from any illness rendering him unfit for removal." A prisoner might be found unfit for

removal for reasons other than "illness" e. g., a female prisoner in an advanced stage of pregnancy and so forth. The change in Section 27 (2) was introduced to meet such contingencies *L. C. P. dated 2-11-1895.*

(2) No prisoner shall be removed from one prison to another, unless the Medical Officer or Subordinate certifies that the prisoner is in a condition fit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, unless, in the opinion of the [Medical Officer or Subordinate, such discharge is safe.

CHAPTER V.

DISCIPLINE OF PRISONERS.

28. The requisitions of this Act with respect to Separation of the separation of prisoners are as follows :—

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners ;

(2) in a prison where male prisoners under the age of eighteen are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not ;

(3) unconvicted Criminal prisoners shall be kept apart from convicted Criminal prisoners ; and

(4) Civil prisoners shall be kept apart from Criminal prisoners.

29. Subject to the requirements of the last foregoing Section, convicted Criminal prisoners may be confined either in association or individually in cells, or partly in one way and partly in the other.

Association and segregation of prisoners.

Sec. 28. In the corresponding Section of the Indian Act, the word "eighteen" in sub-section (2) was substituted by word "twenty-one" by Act VI of 1930.

30. No cell shall be used for solitary confinement, unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Subordinate.

31. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer, and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.

CHAPTER VI.

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS.

32. A Civil prisoner or an unconvicted Criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such Rules as may be approved by Our Dewan.

33. No part of any food, clothing, bedding or other necessaries belonging to any Civil or unconvicted Criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this Section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

34. (1) Every Civil prisoner and unconvicted Criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Supply of clothing and bedding to Civil and unconvicted Criminal prisoners.

(2) When any Civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within 7 days after the receipt by him of a demand in writing, served through the Court under whose warrant he is detained, pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and, in default of such payment, the prisoner may be released.

CHAPTER VII.

EMPLOYMENT OF PRISONERS.

35. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Sec. 34. The time limited for payment of cost of bedding etc. under the corresponding Section 33 of the Indian Act is forty-eight hours. The Select Committee in extending the period to 7 days said "Occasions may arise when the judgment creditor may be at a considerable distance from the Jail and two days may not be sufficient to enable him to make a

remittance to the Superintendent. It should be borne in mind that this is not the subsistence money for the prisoner, but the cost of bedding already supplied and where only a recovery has to be made." The words "served through the Court.....he is detained" were also added by the Select Committee.

36. (1) No Criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer or Subordinate shall, from time to time, examine the labouring prisoners, and shall, at least once in every fortnight, cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time of examination.

(3) When the Medical Officer or Subordinate is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour, but shall be placed on such other kind or class of labour as the Medical Officer or Subordinate may consider suited for him.

37. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all Criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work, excepting by such alteration in the scale of diet as may be established by the Rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII.

HEALTH OF PRISONERS.

38. (1) The names of prisoners desiring to see the Medical Officer or Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer.

Sec. 36. The words "while they are employed" occurring after the words "labouring prisoners" in the corresponding Section 35 (2) of the Indian Act were omitted as "the existing conditions of labour provided for our convicts will not admit of it. In British prisons where the bulk of labour is intramural, the proposed provision can easily be carried out. Here the case is the reverse." *L. C. P.*; dated 2-11-1895.

(2) The Jailer shall, without delay, call the attention of the Medical Officer or Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Subordinate respecting alterations of the discipline or treatment of any such prisoner.

39. All directions given by the Medical Officer or Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as Our Government may by Rule direct, and the Jailer shall make an entry in its proper place stating, in respect of each direction, the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.

40. In every prison, a hospital or proper place for the reception of sick prisoners shall be provided.

CHAPTER IX.

VISITS TO PRISONERS.

41. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom Civil or unconvicted Criminal prisoners may desire to communicate, care being taken that, so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

42. (1) The Jailer may demand the name and address of any Visitor to a prisoner, and, when the Jailer has any ground for suspicion, may search any Visitor, or cause him

Sec. 42. The second para of sub-section (1) was added by the Select Committee. The corresponding sub-section (1) of Section 41 of the Indian Act does

not contain this provision. This is merely an extension of the principle recognised in Section 25 (3). See *L. C. P. dated 2-11-1895.*

to be searched, but the search shall not be made in the presence of any prisoner or of any Visitor.

In the case of female Visitors, the search shall be made by the matron or a female warder.

(2) In case of any such Visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceeding, with the particulars thereof, shall be entered in such record as Our Dewan may direct.

CHAPTER X.

OFFENCES IN RELATION TO PRISONS.

43. Whoever, contrary to any Rule under Section 59 introduces or removes, or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.

and every officer of a prison who, contrary to any such Rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such Rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this Section,

shall, on conviction before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

44. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing Section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him and shall, without unnecessary delay, make him over to a Police-Officer, and thereupon such Police-Officer shall proceed as if the offence committed is a cognizable offence under Section 4 (k) of the Code of Criminal Procedure.

45. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and in the Vernacular setting forth the acts prohibited under Section 43 and the penalties incurred by their commission.

CHAPTER XI.

PRISON-OFFENCES.

46. The following acts are declared to be prison-offences when committed by a prisoner :—

Prison offences.

(1) such wilful disobedience to any regulation of the prison as shall have been declared by Rules made under Section 59 to be a prison-offence ;

(2) any assault or use of criminal force ;

(3) the use of insulting or threatening language ;

(4) immoral or indecent or disorderly behaviour ;

(5) wilfully disabling himself from labour ;

(6) contumaciously refusing to work ;

Sec. 44. In the corresponding Section 43 of the Indian Act, the words at the end are, — “as if the offence had been committed in his presence.” The words in the Section were substituted by the Select Committee as the wording in the In-

dian Act “is not as comprehensive and definite as it should be.”—S. C. R.

Section 4 (k) of the Criminal Procedure Code, Act V of 1067 corresponds to Section 4 (c) of the Code of 1117, Act VIII of 1117.

(7) filing, cutting, altering or removing hand-cuffs, fetters or bars, without due authority ;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment ;

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment :

(10) wilful damage to prison-property ;

(11) tampering with or defacing history-tickets, records or documents ;

(12) receiving, possessing or transferring any prohibited article ;

(13) feigning illness ;

(14) wilfully bringing a false accusation against any officer or prisoner ;

(15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison official ; and

(16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

47. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(1) a formal warning :

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket ;

(2) change of labour to some more irksome or severe form ;

Sec. 47. This Section corresponds to the original Section 46 of the Indian Act. After the words "severe form" in Clause (2) the words "for such period as may be prescribed by Rules, made by the Governor-General-in-Council" were added

by Act XVII of 1925. The same Amending Act substituted the word "three" for the word "six" in Clause 8, repealed Clause (11) and substituted the words "cellular confinement" for the words "solitary confinement....." in Clause (12).

(3) hard labour for a period not exceeding seven days in the case of convicted Criminal prisoners not sentenced to rigorous imprisonment ;

(4) such loss of privileges admissible under the Remission system for the time being in force as may be prescribed by Rules made by Our Government ;

(5) the substitution of gunny or other coarse fabric, for clothing of other material, not being woollen, for a period which shall not exceed three months ;

(6) imposition of hand-cuffs of such pattern and weight, in such manner and for such period, as may be prescribed by Rules made by Our Government ;

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by Rules made by Our Government ;

(8) separate confinement for any period not exceeding six months :

Explanation :—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise *per diem* and to have his meals in association with one or more other prisoners ;

(9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by Our Government :

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week ;

(10) cellular confinement for any period not exceeding fourteen days :

Provided that after each period of cellular confinement, an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement ;

Explanation.—Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners ;

(11) solitary confinement for any period not exceeding seven days :

Provided that, after each period of solitary confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to solitary or cellular confinement.

Explanation.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

(12) penal diet as defined in Clause (9), combined with solitary confinement as defined in Clause (11) ;

(13) whipping, provided that the number of stripes shall not exceed thirty :

Provided that nothing in this Section shall render any female or Civil prisoner liable to the imposition of any form of hand-cuffs or fetters, or to whipping.

48. Any two of the punishments enumerated in the last foregoing Section may be awarded for any such offence in combination, subject to the following exceptions, namely :—

Plurality of punishments under Section 47.

(1) formal warning shall not be combined with any other punishment except loss of privileges under Clause (4) of that Section ;

Sec. 48. This Section corresponds to the original Section 47 of the Indian Act. The word "cellular" has been substituted for the word "solitary" which occurred in Clause (2) by Act XVII of 1925. Clause (3) was also amended by the same Act. That clause now reads as follows :—"Cellular confinement shall not be combined with separate confinement so as to prolong the total period of seclusion to which the prisoner shall be liable." The words "and loss of privileges" occurring in Clause (4) were substituted by the words "or loss of privileges....." by Act

X of 1913. A new clause *viz.*, Clause (5) was added by Act XVII of 1925. The new clause reads as follows :—" (5) No punishment shall be combined with any other punishment in contravention of Rules made by the Governor-General in Council." The same Amending Act added the following sub-section: "No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence."

(2) penal diet shall not be combined with change of labour under Clause (2) of that Section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with solitary confinement ;

(3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable ;

(4) whipping shall not be combined with any other form of punishment except cellular or separate confinement and loss of privileges admissible under the Remission system.

49. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing Sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of Our Dewan.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

50. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing Sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those Sections.

51. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under Section 47, Clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer or Subordinate who, if he considers

Sec. 51. The corresponding son for its introduction was stated as follows :—“In view of possible differences of opinion that may exist between a Superintendent and a Medical Offi-

the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in Section 13.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case, he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

(4) In cases referred to in Clause (2) and (3), the Superintendent shall, if there is a difference of opinion between himself and the Medical Officer or Subordinate, refer the same for the orders of the superior authority.

52. (1) In the punishment-book prescribed in Section 13, there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

(3) Against the entries relating to each punishment, the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

cer, this amendment provides a safeguard which is especially in mofussil prisons where the Medical Officers may not always be of sufficient status".—*L. C. P. dated 2-11-1895.*

53. If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offence, or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the First Class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction, may sentence him to imprisonment of either description which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in Section 47 :

Provided that the District Magistrate may transfer the case for inquiry and trial to any Magistrate of the First Class : and

Provided also that no person shall be punished twice for the same offence.

54. (1) No punishment of whipping shall be inflicted in instalments or except in the presence of the Superintendent and Medical Officer or Subordinate.

(2) Whipping shall be inflicted with a light ratan, not less than half an inch in diameter, on the buttocks, and in case of prisoners under the age of sixteen, it shall be inflicted, in the way of school-discipline, with a lighter ratan.

55. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any Rule or Regulation or lawful order made by competent authority, or who shall

Offences by prison subordinates.

Sec. 53. In the corresponding Section 52 of the Indian Act the words "or Presidency Magistrate" were inserted after the words "Magistrate of the

First Class" and the words "having jurisdiction" by Act XIII of 1910. The first proviso was also suitably substituted by the same Amending Act.

withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention, for a period of two months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment of either description for a period not exceeding three months, or to both.

(2) No person shall under this Section be punished twice for the same offence.

CHAPTER XII.

MISCELLANEOUS.

56. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison, and shall be subject to all the same incidents as if he were actually in prison.

Extramural custody, control and employment of prisoners.

57. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners, that they should be confined in irons, he may, subject to such Rules and instructions as may be laid down by Our Government, so confine them.

Confinement in irons.

58. No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

Prisoners not to be ironed by Jailer except under necessity.

59. Our Government may make Rules consistent with this Act—

Power to make
Rules.

(1) defining the acts which shall constitute prison-offences ;

(2) determining the classification of prison-offences into serious and minor offences ;

(3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;

(4) declaring the circumstances in which act constituting both a prison-offence and an offence under the Penal Code may or may not be dealt with as a prison-offence ;

(5) for the award of marks and the shortening of sentences ;

(6) regulating the use of arms against any prisoner or body of prisoners in the case of an out-break or attempt to escape ;

(7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;

(8) regulating the transfer from one prison to another of prisoners whose term of imprisonment is about to expire ;

(9) for the classification of prisons, and description and construction of wards, cells and other places of detention ;

(10) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;

(11) for the government of prisons and for the appointment, and the guidance, control, punishment and dismissal of all officers appointed under this Act ;

(12) as to the food, bedding and clothing of Criminal prisoners and of Civil prisoners maintained otherwise than at their own cost ;

Sec. 59. The corresponding does not contain a clause similar to Clause (27) of this Act.

(13) for the employment, instruction and control of convicts within or without prisons ;

(14) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;

(15) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;

(16) for regulating the disposal of the proceeds of the employment of prisoners ;

(17) for the classification and separation of prisoners ;

(18) for regulating the confinement of convicted Criminal prisoners under Section 29 ;

(19) for the preparation and maintenance of history tickets ;

(20) for the selection and appointment of prisoners as officers of prisons ;

(21) for rewards for good conduct ;

(22) for regulating the transfer of prisoners whose term of imprisonment is about to expire ;

(23) for the treatment, transfer and disposal of Criminal lunatics or recovered Criminal lunatics confined in prisons ;

(24) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;

(25) for the appointment and guidance of Visitors of prisons ;

(26) for extending any or all of the provisions of this Act and of the Rules thereunder to subsidiary Jails or special places of confinement appointed under Section 418 of the Criminal Procedure Code and to the officers employed and prisoners confined therein ;

(27) for regulating the service of judicial processes on prisoners, for their appearance in Courts and for obtaining their evidence ;

(28) generally in regard to the admission, custody, employment, dieting, treatment and the release of prisoners, and for other purposes consistent with this Act.

60. Copies of Rules under Section 59 so far as they affect the government of prisons, shall be exhibited, both in English and in the Vernacular, in some place to which all persons employed within a prison have access.

61. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may be exercised and performed by such other officer as Our Government may appoint in this behalf either by name or by his official designation.

Sec. 61. In the corresponding Section 62 of the Indian Act the words "in his absence" occur between the words "Medical Officer may" and "be exercised." The omission was made in view of the fact that under Section 6, the appointment of a Superintendent in Jails other than the Central Prison is only permissive.

ACT II OF 1071.

JUDICIAL OFFICERS PROTECTION ACT.

An Act to extend greater protection to Judges,
Magistrates, and others acting Judicially.

*Passed by His Highness the Maha Raja of Travancore
on the 23rd March 1896 corresponding with the
12th Panguy 1071, under Section 9 of
Act II of 1063.*

Whereas it is expedient to extend greater protection
to Judges, Magistrates, and others acting
judicially; We are hereby pleased
to enact as follows:—

Preamble.

1. This Act shall come into force from the date of
Commencement. passing thereof.

Act II of 1071: I. Objects and Reasons.—“It is a general rule of very great antiquity that no action will lie against a Judge of record for any act done by him in the exercise of his judicial functions, provided such acts, though done mistakenly, were within the scope of his jurisdiction. This freedom from action and question at the suit of an individual is given by our law to the Judges, not so much for their own sake as for the sake of the public, and for the advancement of justice’. (Broom’s Legal Maxims, Pp. 87-88). A series of English decisions have uniformly recognised this wholesome principle. In British India, there is an enactment for the protection of

Judges and others acting judicially (Act XVIII of 1850); and a subsequent Act (XXXVIII of 1850) extends the same protection to Commissioners holding enquiries into the behaviour of public servants

In Travancore, the principle of these enactments so far as the Judges are concerned has been upheld and acted upon by the High Court, in Appeal Suit No. 248 of 1058. But there is no Regulation in this State laying down the law in ample and express terms; and in the light of recent events it seems high time we had such a law. The object of the present short Bill is to supply this defect in our Statute Book.”—S. O & R., T. G. G. dated 4-12-1894.

SEC. 2. JUDICIAL OFFICERS PROTECTION ACT.

2. No Judge, Magistrate, Dewan Peishkar, or other person acting judicially shall be liable to be sued in any Civil Court, for any act done or ordered to be done by him in the discharge of his judicial duty, whether or not within the limits of his jurisdiction: Provided that he, at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of; and no officer of any Court, or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Dewan Peishkar or other person acting judicially, shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

The Bill was not referred to a Select Committee. 27-8-1895 and 24-3-1896.

For legislative proceedings see-T. G. G. dated 4-12-1894,

The Act was published in T. G. G. dated 24-3-1896.

ACT III OF 1071.

PUBLIC GAMBLING ACT.

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PUBLIC GAMBLING ACT.

ACT III OF 1071.

**An Act to provide for the punishment of public gambling
and the keeping of common gaming houses in
Travancore.**

*Passed by His Highness the Maha Raja of Travancore
on the 23rd March 1896 corresponding with the
12th Panguny 1071, under Section 9 of
Act II of 1063.*

Preamble. Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming houses in Travancore; It is hereby enacted as follows :—

Year.	No.	Short title.	How affected by subsequent legislation.
1071	III	Public Gambling Act	Amended by Act IV of 1085.

Act III of 1071. Objects and Reasons.—"As the Penal Code does not provide for the punishment of gambling, it is advisable to legislate upon the subject by a separate Regulation as is done in other countries." S. O & R.; T. G. G. dated 4-12-1894.

The Bill is based on the British Indian Act III of 1867.

For Select Committee Report see T. G. G. dated 15-10-1895.

For Legislative Proceedings see T. G. G. dated 4-12-1894; 5-3-1895; 12-11-1895 and 24-3-1896. The Act was pub-

lished in T. G. G. dated 24-3-1896.

Act IV of 1085. Objects and Reasons. "In view of the ruling of the High Court in Criminal Appeal No. 33 of 1081, the Public Gambling Regulation as it now stands is 'unworkable and practically useless; and it has therefore to be brought into line with the more comprehensive British Indian models', by the addition of a set of provisions which create certain helpful presumptions in favour of the prosecution in cases falling under the Regulation."--S. O & R., T. G. G. dated 3-11-1908.

1. This Act may be called the "Travancore Public Short title and Gambling Act." extent.

This Section, Section 9, para I of Section 10, and Section 13 of this Act shall extend to the whole of Travancore and come into force on the 1st day of Vaikausy 1071.

Our Government may extend, by Notification in the Gazette, all or any of the remaining Sections of this Act to any Town, or part of a Town, and may define for the purposes of this Act the limits of such Town or part of a Town, and may, from time to time, cancel or modify any such Notification or alter the limits so defined.

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

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

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

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

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

shall be liable to a fine not exceeding two hundred rupees or to imprisonment of either description for any term not exceeding three months.

For Select Committee Report see T. G. G. dated 16-2-1909. 22-11-1908, 15-6-1909 and 7-12-1909.

For legislative proceedings see T. G. G. dated 22-9-1908, The Act was published in T. G. G. dated 28-12-1909.

3. Whoever is found in any such house, walled enclosure, room or place, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there [present] for the purpose of gaming, whether playing for any money, wager, [*] stake [or otherwise] shall be liable to a fine not exceeding one hundred rupees or to imprisonment of either description for any term not exceeding one month.

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

4. If a Magistrate [* *] or the Superintendent of Police or the Assistant Superintendent of Police of a Division, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, walled enclosure, room or place is used as a common gaming house,

he may, after recording his reasons for such belief, either himself enter, or by his warrant authorise any Officer of Police not below the rank of a Head Constable to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, walled enclosure, room or place,

Sec. 3. The words bracketed in the three places were introduced by Sec. 2, Act IV of 1085. The amended Section exactly corresponds to Sec. 4 of the Indian Act. The same amending section omitted the word 'or' which occurred between the words 'wager' and 'stake'.

Sec. 4. The words "of a District or a Magistrate of the First Class" were omitted by Sec. 3, Act IV of 1085. The corresponding Sec. 5 of the Indian Act runs thus :—

"If the District Magistrate or Magistrate of the First Class or the District Superintendent of Police, upon credible information.....gaming-house, he may either himself enter....of Police, not below such rank as the Lieutenant-Governor or Chief Commissioner shall appoint in this behalf to enter..... room or place.

and may either himself. ... finds therein whether or not then actually gaming;.....found upon such search."

and may either himself take into custody or authorise such officer to take into custody, all persons whom he or such officer finds therein, whether then actually gaming or reasonably suspected to have been present for purposes of gaming,

and may seize or authorise such officer to seize all instruments of gaming, and all moneys and securities for money and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein ;

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

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

[4-A. When any cards, dice, gaming-tables, cloths, boards or other instruments of gaming are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding Section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming house and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-Officer, or any of his Assistants.]

Sec. 4-A. This was added corresponds to Sec. 8 of the by Sec. 4, Act IV of 1085. This Indian Act.

[4-B. If any person, found in any common gaming

Penalty for refusing to give name or address and for giving false name or address.

house entered by any Magistrate or Officer of the Police under the provisions of this Act, before being arrested by such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding rupees five hundred, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.]

5. On conviction of any person for keeping or using

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

any such common gaming house or being present therein for the purpose of gaming; the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

[5-A. It shall not be necessary, in order to convict

Proof of playing for money not required for conviction.

any person of keeping a common gaming house, or of being concerned in the management of any common gaming house, to prove that any person found playing at game was playing for money, wager or stake.]

Sec. 4-B. This was also introduced by Sec. 4, Act IV of 1085. This Section differs from the corresponding Section 7 of the Indian Act in that for the words 'before being

arrested' occurring in this Section the words 'upon being arrested' occur in Sec. 7 of the Indian Act.

Sec. 5-A. This was added by Sec. 5, Act IV of 1085.

6. It shall be lawful for the Magistrate before whom any persons shall be brought, who have been found in any house, walled enclosure, room or place entered under the provisions of this Act to require any such persons to be examined on oath or solemn affirmation and give evidence touching any unlawful gaming in such house, walled enclosure, room or place. No person so required to be examined as a witness shall be excused from being so examined when brought before such Magistrate as aforesaid, or from being so examined at any subsequent time by or before the same or any other Magistrate, or by or before any Court in any proceeding or trial in any ways relating to such unlawful gaming, or from answering any question put to him touching the matter aforesaid, on the ground that his evidence will tend to criminate himself. Any such person so required to be examined as a witness, who refuses to make oath or take affirmation accordingly or to answer any such question as aforesaid, shall be subject to be dealt with in all respects as any person committing the offence described in Section 178 or Section 179 (as the case may be) of the Penal Code.

7. Any person, who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act, relating to gaming and who, upon such examination, shall, in the opinion of the Magistrate, make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, shall thereupon receive from the said Magistrate a certificate in

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

Witnesses indemnified.

Sec. 6. The corresponding Sec. 10 of the Indian Act runs as follows :—

“It shall be lawful...house, walled enclosure, room or place, or touching any act done for the purpose of preventing, obstructing, or delaying the entry into such house, walled enclosure, room or place or any part there-

of, of any Magistrate or officer authorised as aforesaid. No person so required.....in any way relating to such unlawful gaming or any such acts as aforesaid, or from answering any question.....Penal Code.” The original Bill contained the words in italics. But they were omitted by the Select Committee.

writing to that effect and shall be free from all prosecutions under this Act for any thing done before that time in respect of such gaming.

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

9. Any Police-Officer may apprehend without warrant any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming, any game not being a game of mere skill, in any public street, place or thoroughfare, or any person setting any birds or animals to fight in any public street, place or thoroughfare, or any person there present aiding or abetting such public fighting of birds or animals. Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees or to imprisonment of either description for any term not exceeding one month; and such Police-Officer may seize all instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed.

Gaming and setting birds and animals to fight in public streets.
Destruction of instruments of gaming found on public streets.

10. (1) Offences punishable under Section 9 of this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed. But such Magistrate shall not exceed his powers under the Code of Criminal Procedure, as to the amount of fine or imprisonment he may inflict.

Sec. 9. This Section corresponds to Sec. 13 of the Indian Act with the difference that this Section does not contain the words "used in playing" between the words "instruments of gaming" and "any game" found there.

Sec. 10. The corresponding Section 14 of the Indian Act

runs thus:—"Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed. But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure, 1882, as to the amount of fine or imprisonment he may inflict."

(2) All other offences under this Act shall be tried by a Magistrate of the First Class.

11. Whoever, having been convicted of an offence punishable under Section 2 or Section 3 of this Act, shall again be guilty of any offence punishable under either of such Sections, shall be subject for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description: Provided that he shall not be liable in any case to a fine exceeding five hundred rupees or to imprisonment for a term exceeding one year.

[11-A. The Magistrate trying the case may direct any portion of any fine which shall be levied under Sections 2 and 3 of this Act, or any part of the moneys or proceeds of articles seized or ordered to be forfeited under this Act, to be paid to an informer.]

12. Anything made punishable by this Act shall be deemed to be an 'offence' within the meaning of the Penal Code.

13. All offences under this Act are bailable.

14. In this Act, "Common gaming-house" means any house, walled enclosure, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, enclosure, room or place, by way of charge for the use of the instruments of gaming, or of the house, enclosure, room or place.

Sec. 11-A. This section was added by Sec. 6, Act IV of 1985 and corresponds to Sec. 15 of the Indian Act.

Sec. 13. There is no corresponding provision in the Indian Act.

Sec. 14. This corresponds to Sec. 1 of the Indian Act which contains in addition the words "or otherwise however" after the words 'room or place' where it occurs a second time.

ACT IV OF 1071.

An Act to amend the Forest Act.

Passed by His Highness the Maha Raja of Travancore on the 29th May 1896 corresponding with the 17th Edavom 1071, under Section 9 of Act II of 1063.

Whereas it is expedient to amend Act II of 1068 ;
It is hereby enacted as follows :—

Preamble.

1. In Section 7 after the words “and no fresh clear-
ings.....made on such land,” insert
Section 7. the words “nor shall any person set
fire to such land or kindle or leave
burning any fire in such manner as to endanger the
same.”

2. In Section 21 omit the words “in a Reserved
Forest” in the first line ; insert the
Section 21. word “or” at the end of clause (a) ;
and for clause (b) substitute “sets fire
to a Reserved Forest, or a Forest proposed to be reserved
under Section 6, or kindles or leaves burning any fire in
such manner as to endanger the same ; or who, in a
Reserved Forest”.

ACT V OF 1071.

THE JENMI AND KUDIYAN ACT.

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ACT V OF 1071.

An Act to define clearly the relative rights of Jenmis and Kudiyans and to make provision for the speedy realisation of [the Jenmis'] dues from the Tenants.

Passed by His Highness the Maha Raja of Travancore on the 3rd July 1896 corresponding with the 21st Mithunam 1071, under Section 9 of Act II of 1063.

Whereas it is expedient for better carrying out the intention of the Royal Proclamation of the 25th Karkatakam 1042, to define clearly the relative rights of Jenmis and Kudiyans in Travancore, to make further provision for the speedy realisation of [Jenmis'] dues, and to invest the District Munsiffs and Zillah Judges with summary jurisdiction in petty claims for [Jenmis'] dues;

We are, in supersession of the Royal Proclamation above referred to hereby pleased to enact as follows:—

Year.	No.	Short Title.	How affected by subsequent Legislation.
1071	V	Jenmi and Kudiyan Act.	Repealed in part by Act XII of 1108. Amended by Acts XII of 1108, VII of 1110, XXVI of 1115 and II of 1123.

The objects and reasons and the history of Act V of 1071 and of the Amending Acts are summarised below.

Act V of 1071: Objects and Reasons.—“The object of this Bill is (as recited in the Preamble) to carry out in its entirety the intention of the Royal Proclamation of 25th Adi 1042—the existing statute law governing the relation between certain classes of landlords (Jenmis) and their (Kanappattom) tenants. That Proclamation was the outcome of a careful consideration of the views put forward by the responsible advisers of Government on a controversy which

was long pending in regard to the rights of Jenmis to oust their Kudiyans; and it chiefly aimed at conferring on the (Kanappattom) tenants fixity of tenure by checking capricious evictions and restricting the demand for exorbitant rents and renewal fees on the part of the Jenmis and securing to the latter punctual payment of rent and other customary dues and their customary right to re-adjust rent at the periodical renewals. The wisdom and expediency of this measure has been fully admitted even by those who question the authenticity and validity of the facts and arguments on which it was

ACT V OF 1071.

based. It is noteworthy that the enlightened policy—*viz.*, to secure to the tenant fixity of tenure, freedom from arbitrary eviction and fair (that is, freedom from arbitrary and unfair enhancement of) rent—which was adopted in the Royal Proclamation underlies all modern legislation on this important subject in all civilized and progressive countries. Witness the recent Acts of the Government of India relating to Landlords and Tenants in Bengal, North-West Provinces and Punjab.

“While then the principle of the Proclamation is unquestionable, there is nevertheless a widespread complaint that, what with the ambiguity in the wording of certain Sections and the conflicting decisions of the Courts consequent thereon and the absence of a statutory provision for the easy collection of the Jenmis’ dues, the absence of which, so long as they were allowed to hold the power of summary ejection *in ter rorum* over their recalcitrant tenants, they did not feel, the Jenmis are subjected to hardship under the operation of the Proclamation; and their complaints have been found to be not altogether unfounded. In a Memo which the British Resident Mr. Fisher, who had carefully studied the question of how to equitably adjust the relative rights of Jenmis and Tenants, addressed the Sadr Court in 1864, he wrote: “All, therefore, that seems to be wanting now is, first, to recognize the Kanom tenure as

renewable periodically, but not *revocable* so long as the holder pays the Michavarom and other fees demandable on renewal by the Jenmis, *secondly to simplify as much as possible the means of recovering the Michavarom and fees* and to provide for the periodical renewal of deeds and payment of fees by such arrangements as will make the Tenant’s title depend on punctuality and ensure for him equal punctuality of renewal of his title, by withholding the fees payable thereon until the title is renewed.....” The Italics are mine.

“In the concluding paragraph of the able Memo which contains the Objects and Reasons of the Royal Proclamation above referred to, Rajah Sir T. Madhava Row proposed *inter alia* “that another enactment be also framed as very properly recommended by the late Resident (Mr. Fisher) in the interest of the Jenmis in view to facilitate the recovery of rent and dues from the Tenants.” This proposal, however, has not been carried out; but, be the cause of this omission what it may, there is no doubt that the evil is one which calls for prompt remedy. “It is enough for our present purpose”, to quote the words of the late Mr. Ramiengar, “to state (that that measure) the Royal Proclamation, is professedly incomplete and that the result has been such as to point to the necessity of repairing the omission without further delay.”

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"In 1060 M. E., a roving Commission (with Mr. Justice Kunhi Raman Nair as President and one official and two non-official members) was appointed to enquire into the nature of the relations between Jenmis and their Tenants, and to record evidence with a view to obtaining reliable data upon which to base any further legislation that might be deemed necessary. The Commission have collected a vast deal of information on the subject; and after a careful and patient investigation of the relations between Jenmis and Tenants, they have arrived at the conclusion that the leading principles of the existing law should be left untouched, but that the latter should be re-enacted with such alterations and additions as the experience of its working for the last quarter of a century has suggested.

"This Bill which is in substance what has been drawn up and submitted by the Commission, while steadily keeping in view the principle of the Royal Proclamation of 1042 and of the customary law which it affirmed, seeks to place the whole law on a more satisfactory footing by defining the relative rights of Jenmis and Kudiyans as affirmed by the Royal Proclamation, and to supplement it by provisions necessary for the speedy realization of the rents and other customary fees due to the Jenmis."—S. O. & R.; T. G. G. dated 6-5-1890.

For Select Committee Report see T. G. G. dated 6-2-1894.

For legislative proceedings see T. G. G. dated 30-10-1888; 22-4-1890; 6-10-1891; 24-7-1894; 14-8-1894; 8-2-1895 and 23-6-1896.

The Act was 'Published in T. G. G. dated 7-7-1896.

The Proclamation of 1042 referred to above is as follows:—

Proclamation issued by His Highness the Maha Raja under date the 25th Karkadagom, 1042 corresponding to the 8th August, 1867.

"Whereas, in reference to communications dated respectively the 25th Vrischikom 1005 and 14th Thulam 1007, issued to the Appeal Court under order of the then Maha Raja, on Petitions addressed to the Palace by Jenmis and Tenants on the subject of their reciprocal relations, it has been found expedient to re-affirm and render clear the sentiments expressed in those communications, and to give them effect in a way equitable to both parties; It is hereby notified:—

"1. While Tenants hold lands of Jenmis for a consideration under such tenures as Kanapattom—Ottee—Marayapattom—Olavoopattom—Kodalikani, etc., and so long as they pay the stipulated rent and other customary dues, they shall not be liable to action for ouster by the Jenmis nor shall the Courts give Judgment in favour of such action.

"2. The Jenmi shall be at liberty to exercise according to the Rules and usage appertaining thereto, the right of re-adjusting the rent at the renewal of the lease, where such re-adjustment is allowed by custom.

"3. The Jenmi may sue the Tenant for the recovery of rent and other dues with interest thereon, where such dues have fallen into arrears. The Jenmi may seek recovery of land also, where, notwithstanding express demand, the Tenant has withheld payment of the rent due for a whole period of twelve years. In cases of such suits the Courts may award payment of rent and other dues; and where it is proved that payment of rent for a whole period of twelve years has been so withheld by the Tenant, in such case alone, the Courts shall be competent to order restoration of land also, such restoration being subject to payment of compensation for improvements, etc., which may be due to the Tenant according to local usage.

"4. Where the Jenmi refuses to receive the rent, renewal fees, etc., the Tenant shall be at liberty to deposit the same in the proper Munsiff Court with a written Declaration or Variola in detail setting forth the Jenmi's refusal. Where rents, etc., are due in kind, the payment to be deposited shall be the price thereof calculated at the Niruk or Market rate. Payments hitherto justly due to the Jenmi shall be deposited as above, in one sum, and in regard to future rent, etc., they may be deposited as they fall due, at the end of each Malabar year.

"5. The Variola accompanying the deposit shall be filed in the Munsiff Court free of Institution fee; and a Notice

shall be issued to the Jenmi requiring him to receive the payment deposited, and grant an acquittance to the Tenant.

"6. If the Jenmi fail to appear, or, appearing, refuse to receive the amount deposited by the Tenant, the Munsiff shall pass judgment recording the fact of refusal by the Jenmi. The said judgment shall also contain statements in reference to the particular items of dues deposited, the property in respect to which the rents, etc., were due, the periods for which they were stated to be due and so forth.

"7. The Judgment so passed shall be a bar to any action by the Jenmi for ejecting the Tenant on the ground of non-payment of the rent, etc., to which such judgment refers.

"8. Where, in future, the Jenmi grants leases on receipt of a consideration, if he should desire to secure the right of revocation, in respect to any lease so granted, he shall clearly express the same in the lease deed to the following effect. 'It is hereby declared that at any time after such a day, of such a month, of such a year, the Jenmi shall have the right to redeem the land (forming the subject of the lease) from the Tenant, and the Tenant shall in no way demur to the exercise of such right.' And the Jenmi shall be at liberty to seek ejection of the Tenant holding such lease and the Courts may order ejection, in accordance with the terms of the lease."

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[For the communications referred to in the Proclamation See Dewan T. Madhava Row's memo dated 11-6-1867, on the Kanapattom tenure of Travancore, Pp., 24—26.]

The above is the english rendering of the Proclamation as given in the Administration report of the year 1042. Pp. 35-37. The accuracy of the translation is not accepted. (See *Jenmi Kudiyan Committee report P. 114.*) The Proclamation in Malayalam as published in the Gazette is given below.

തിരുവെഴുത്തുവിളംബരം.

ജന്മിമാരും കൊഴുവന്മാരും തമ്മിൽ വസ്തുക്കൾ എഴുതികൊടുക്കയും വാങ്ങിക്കയും ചെയ്യുന്ന ക്രമങ്ങളിപ്പറ്റി ഉള്ള തിരുവെഴുത്തു വിളംബരം.

പ ന്യ വ്യാപാര രായസം.

ഈ രാജ്യത്തുള്ള ഓരോ ജന്മിമാരും ടെ പകുതിയോ പൂർത്തിയോ കൂടിയോ എഴുതിവാങ്ങിച്ചു ഏറ്റുപോയവരായിട്ടു അനുഭവിച്ചു അവകാശങ്ങളും കൊടുത്തുവരുന്നവരും കീഴ് മയ്യോളം വിരോധമായിട്ടു ജന്മികൾ സിദ്ധാന്തം പ്രമാണിച്ചു വസ്തു ഒഴിപ്പിക്കുന്നതിനു തുടങ്ങുകയും അതിനു അനുകൂലമായി കോർട്ടുകളിൽ ചില തീർപ്പുകൾ എഴുതുകയും ചെയ്തിരിക്കുന്നതിനെക്കുറിച്ചു കഴിയാതാവന്മാരും ജന്മികൾക്കു മിച്ചവാരം മുതലായതു കഴിയാതെ കൊടുക്കാനുണ്ടാകും വരുത്തിവരുന്ന എന്നും മറ്റും കാരണങ്ങൾ കണ്ടിട്ടു ജന്മിമാരും ആവശ്യം അറിയിച്ചു അതിനെപ്പറ്റി ൧൯൦൨-മാണ്ടു വൃശ്ചികമാസം ൨൨-നാൾ ൧൦൪൭-മാണ്ടു ഓഗസ്തം ൧൪-നാൾ തീയതിയും കല്പനപ്രകാരം അപ്പീൽ കോർട്ടിലേക്കു എഴുതി

അയച്ചിട്ടുള്ള സംയന്തങ്ങളിലെ താല്പര്യങ്ങളെ ആവർത്തിച്ചും സ്പെഷ്യലാക്കിയും ഇരുഭാഗക്കാരും മോക്ഷംകൂടാതെ ഇതിനെക്കുറിച്ചു വ്യവസ്ഥ പ്രകാരം തിരുവെഴുത്തുവിളംബരം കൊണ്ടു പ്രസിദ്ധപ്പെടുത്തുന്നതു എന്തെന്നാൽ,

൧. കുടിയാനവന്മാർ ജന്മികൾക്കു അർത്ഥകൊടുത്തു ഒറ്റി, മാരായം, കണപ്പാട്ടം, ഉഴുവുപാട്ടം, മോടം, കിഴി, ഇങ്ങനെയെ ഓരോ ഇനങ്ങളായിട്ടു വസ്തുക്കൾ എഴുതിവാങ്ങിച്ചു ആയാർത്തും പ്രകാരമുള്ള മിച്ചവാരവും കീഴ് മയ്യോളംപോലെ മറ്റുള്ള അവകാശങ്ങളും കൊടുത്തു അനുഭവിച്ചുവരുന്നവരും അർത്ഥം പററി വസ്തു ഒഴിയണമെന്നു തീർക്കുക ആവശ്യമായിപ്പെടുവാനും അതു അനുസരിച്ചുകൊടുപ്പാനും ഇടയില്ലാത്തതാകുന്നു.

൨. പൊലീസുവൃത്തു സമയങ്ങളിൽ പാട്ടംകണ്ടു മുൻപാട്ടത്തിൽ കൂടുതൽ കുറവായി നിശ്ചയിക്കുന്ന മയ്യോളം ഉള്ള വകയ്ക്കു ആയു കീഴ് നടപ്പുപോലെയും ചട്ടത്തു പ്രകാരവും ജന്മികൾ നടത്തിക്കൊണ്ടുള്ളതാകുന്നു.

൩. മിച്ചവാരം അടുക്കവെ അവകാശം മുതലായതു കൊടുക്കാനെ കഴിയാതാവന്മാർ കഴിയില്ലാത്ത വരുത്തിയോൽ ആവകയ്ക്കു പലിൽ കൂട്ടിക്കൊടുപ്പിക്കണമെന്നും എന്നാൽ ജന്മികൾ മോലിച്ചുവാനും ശേഷവും ൧൨ വർഷത്തെ മിച്ചവാരം കഴിയാതാവന്മാർ കൊടുക്കാനുണ്ടാകും വരുത്തുന്നു എങ്കിൽ അങ്ങനെയുള്ള വകയ്ക്കു വസ്തുക്കൾ ഒഴിഞ്ഞു കിട്ടേണമെന്നും ജന്മിമാരും കോർട്ടുകളിൽ ആവശ്യപ്പെടാവുന്നതും അതിനുള്ളിൽ ബോധിപ്പിക്കുന്ന കാര്യങ്ങൾ റിഗുലേഷൻ പ്രകാരം വിസ്തരിച്ചു മിച്ചവാരം മുതലായവകയില്ലാത്ത മുതൽ കൊടുക്കുന്നതിനും മേൽ എഴുതിയപ്രകാരം കഴിയാതെ ൧൨ വർഷത്തെ മിച്ചവാരം

ACT V OF 1971.

ശേഷമായിട്ടു മുടക്കാവരുത്തിയിരിക്കുന്നതായി തെളിവുകാണുന്നതിനു മാത്രം ഭേദഗതപ്പെടുത്താൻ പൊന്നൂർ വിധി മുതലായ പറ്റി വസ്തുവും ഒഴിഞ്ഞുകൊടുത്തുകൊള്ളത്തക്കവണ്ണവും രീതിപ്പെടുത്താനുള്ളതും ആകുന്നു.

൪. മിച്ചവാരം പൊളിച്ചെടുത്തു അവകാശം മുതലായതു കടിയായവന്മാരുടെ അടുക്കൽ നിന്നും ജന്മികൾ വാങ്ങിക്കൊണ്ടിരുന്നതും ആ വകയിൽ ഇതുവരെ നിലയുമായി ചെയ്യുവാനുള്ള പണവും നെല്ലായിരുന്നതും ആയതിനു നിരക്കുവിയന്തിക്കു പണവും ഒന്നായിട്ടും മേഖൽ ആ നൂതനം ഉള്ളതു അതായി ആണു ആദിമാസം ൩൦ - ൧൯൧൯ കപ്പം വിവരം കണ്ടു ആവശ്യമായിട്ടുള്ളവയോടു കൂടി കടികൾ അതായത് മുൻസിപ്പൽ കളിൽ കെട്ടിവെച്ചുകൊള്ളാവുന്നതാകുന്നു.

൫. മേൽപറഞ്ഞ വയ്പ്പായ മുൻസിപ്പൽകോർട്ടുകളിൽ ഫീസുകൾക്കുതക്ക അംഗീകരിച്ച ഫയവക്കുകയും വയ്പ്പായയോടു കൂടി ഒഴുകിയിട്ടുള്ള പണം ജന്മികൾ കൈപ്പറ്റി കടിയായവനു രസീതു കൊടുക്കണമെന്ന വകയ്ക്കു മുൻസിപ്പൽ നോട്ടീസു അയയ്ക്കുകയും ചെയ്യാനുള്ളതാകുന്നു.

൬. ജന്മികളു നോട്ടീസു അയച്ചതിന്റെ ശേഷം ഹാജരാകാതെയോ ഹാജരായതിൽ പിന്നെ പണം പറ്റാതെയോ ഇരിക്കുന്നതായാൽ ആ വകയ്ക്കു വിവരംകണ്ടു മുൻസിപ്പൽ യാദാസ്തു ഏഴുതി റിക്കാർട്ടിൽ ചേർത്തുകൊള്ളുകയും വേണം. ആ യാദാസ്തീൽ ഇന്നു വസ്തുവിനു ഇത്ര കടലത്തേക്കു ഇന്നുപിന്നു വകയിൽ ചെയ്യുവാനുള്ള പണമെന്നും മറ്റും വിവരങ്ങൾകൂടി സ്പെഷ്യൽ മെമ്പർമാർക്കു നൽകുന്നതാകുന്നു.

൭. മേൽപ്രതിപ്രകാരം യാദാസ്തു ഉണ്ടാകുന്ന വകയ്ക്കു യാദാസ്തീൽ പറ്റ

യുന്ന മിച്ചവാരം മുതലായതു കടിയായവന്മാരുടെയെന്നുള്ള കാരണത്താലേ പറ്റ വസ്തു ഒഴിയണമെന്ന ജന്മി ആവശ്യമായിട്ടു വാൻ ഇടയില്ല.

൮. മേൽപ്രതിപ്രകാരം ജന്മിമാരു വസ്തുക്കൾ അതംപറ്റി ഏഴുതികൊടുക്കുന്നതിൽ ഏതെങ്കിലും തിരിയെ ഒഴിപ്പിക്കേണ്ട വിധത്തിൽ ഇരിക്കണമെന്ന അവരു വിചാരിക്കുന്നതായാൽ അങ്ങിനെ ഉള്ളതിനു ആവക വസ്തു ഇന്നു ആണു ഇന്നു മാത്രം ഇത്രം തീയതിക്കു മേൽ എപ്പോൾ ഏകിലും കടിയായവനെ വിട്ടു ഒഴിപ്പിക്കുന്നതിനു പറ്റയ്ക്കു അവകാശം ഉണ്ടെന്നും അതിനേക്കു കടിയായവൻ തക്കം പറ്റവൻ ഇടയില്ലെന്നും ഉള്ള വചനം സ്പെഷ്യൽ മെമ്പർമാർ ആധാരം ഏഴുതി കൊടുവാനുള്ളതാകുന്നു. അപ്രകാരം ആധാരം എഴുതി കൊടുത്തു നടന്നുപരുന്ന വസ്തുക്കൾ കടിയായവന്മാരുടെ പക്കൽനിന്നും ഒഴിപ്പിച്ചുകൊടുക്കണമെന്ന ജന്മികൾ അന്വായപ്പെടുകയും ആധാരം അനുസരിച്ചു മുൻപോലെ ഒഴിപ്പിച്ചുകൊടുക്കുകയും ചെയ്യുന്നതിൽ വച്ചു വിരോധം ഇല്ലാ.

എസ്, ൧൪൨൧൦൧൧൧ ക്കൽ
കമാസം ൨൫.൧൦൧൧

(T. G. G. dated 13-8-1867.)

Act XII of 1108. *Objects and Reasons*—"The question of amending the Jenmi and Kudiyyan Regulation of 1971 (V of 1971) has been engaging the consideration of Government for some considerable time, and an Amending Bill was in fact published in the Gazette dated the 25th March 1924 with a view to its introduction in the Legislative Council. But it was soon noticed that the Bill did not satisfy either the Jenmis or the Kudiyans and that at all

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events sharp differences existed between the two parties. The Government therefore took time to devise means to compose the differences if possible. A free and informal discussion at a Round Table Conference in which all interests would be represented was considered the most expedient course to adopt and such a conference was accordingly decided upon, and it was held under the presidency of the Dewan. Government are glad to say that it has been possible to reach unanimous conclusions at the Conference. With a view to give effect to those conclusions this Amending Bill has been prepared. The substantial changes proposed by the Bill are noted below:—

(1) The right which in certain circumstances a Jenmi has to evict a Kudiyan from the Kanom holding and the right of a Kudiyan to surrender the holding to the Jenmi are proposed to be taken away, and there is to be no eviction and no surrender hereafter for any reason or in any circumstances. (See new Section 5 proposed by Clause IV of the Bill).

(2) The Jenmi's right to evict is however one weapon to enforce payment of his dues. As that is now taken away, the Jenmi is proposed to be given, as a *quid pro quo*, the right to claim besides the lawful interest, a penalty also if any of his dues is left in arrears for more than three years. The penalty proposed is a payment of 12½ per cent. of the arrears to the Jenmi for each year that they

remain unpaid after the first three years, (See new Section 17 (7) (b) proposed by Clause VII). The maximum penalty that a Kudiyan may have to pay is 37½ per cent. as it is proposed to reduce the period of limitation to six years as regards suits for Jenmi dues.

(3) The Kudiyan's right to use the Kanom holding, and whatever is on the holding in any manner that pleases him is expressly laid down, and, as part of this right, is given also the right to cut down and appropriate all trees (including timber trees) standing or growing on the holdings. This is made subject only to one exception, namely, in the case of timber trees of not less than 36 inches' girth standing on holdings at the commencement of this proposed Amendment Regulation. In regard to such trees, it is provided that though the Kudiyan may cut them, he has to do so with the consent of the Jenmi or after giving him notice and that when the trees are cut down the Jenmi must be given three-fourths of their value, the Kudiyan taking the balance one-fourth. (See new Sec. 7 and 8 proposed by Clause IV). As the right of the Jenmi in regard to other timber trees is entirely taken away, it is proposed to give him, as *quid pro quo*, a right to impose a fixed Pattom assessment on each of such trees if and when they attain a girth of not less than 36 inches, in the same manner as fruit bearing trees are assessed to Pattom, (See new Section 22 (2) (b) proposed by Clause IX).

(4) It is proposed that, on the Jenmi's interests or the Kudiyar's interests in any Kanom holding becoming split up by partition, alienation or otherwise, it should be the right of the Jenmi or the Kudiyar to apportion his rights or liabilities in a fair and equitable manner. (See new Section 12 proposed by Clause IV).

(5) The periodical renewal (ordinarily once in 12 years) which every Kanom holding is subject to is proposed to be abolished (New Section 13 proposed by Clause IV), and the renewal fees which are payable in a lump, at the renewal are proposed to be spread over and converted into annual payments at their present worth. The same is proposed also in regard to the customary dues payable by a Kudiyar. (See new Section 17 (3) proposed by Clause VII).

(6) It is also proposed to enact that renewal fees shall on no account be liable to enhancement and that wherever it is at present more than 25 per cent. of the Kanom money it should be reduced to 25 per cent. of the Kanom money. (See new Section 17 (2) proposed by Clause VII).

(7) As regards the payment of the Jenmi dues payable in paddy, it is proposed to enact that the Jenmi should provide a place of payment in the Pakuthi in which the holding is situated. In the absence of that, the value of the paddy may be remitted by money order, and so may other dues

in every case. (See new Section 18 proposed by Clause VII).

(8) The revision of the terms of a Kanapattom, by enhancing or reducing the Michavaram payable is permitted every twelve years by the existing Regulation, (See Sections 11, 14, 20 and 24). It is proposed to lay down that such revisions should be allowed hereafter only once in twenty years. (See new Section 20 proposed by Clause IX).

(9) Detailed rules for enhancement and reduction of the Michavaram are laid down in the new Sections 21, 22, 23, 26 and 26-A proposed by Clause IX and X. Some of the important changes effected by these rules are that the Jenmipattom is limited to one-third of the net produce in the case of paddy lands and one-fourth of the net produce in the case of other lands and that, as noted above, Jenmipattom is allowed to be charged in respect of timber trees that hereafter attain a girth of 36 inches. Also, no enhancement of Michavaram will be allowed if the productive powers of any land comprised in a holding increased by reason alone of the Kudiyar's labour or improvements or on the ground that the rate of the current Pattom is below the prevailing rate for similar lands in the same locality or, in any case, in such a manner as to reduce the Kudiyar's margin of profit (New Section 25), the Kudiyar's margin of profit being fixed at 55 per cent. of the average annual net produce

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in the case of paddy lands and 60 per cent. of such produce in the case of other lands. (See the definition of "margin of profit" proposed by Clause III).

(10) Tea and rubber lands are not now assessable to Jenmipattom, because tea plants and rubber trees are not assessable trees. It is therefore proposed to charge a special Michavaram of Bh. Rs. 2 per acre of such lands payable by the Kudiyan to the Jenmi. (See new Section 24 proposed by Clause X).

(11) As an expeditious method of recovering Jenmi dues, it is proposed to allow such dues to be recovered through the Tahsildar by Revenue Recovery processes if such dues are not more than a year old. (See new Section 25-C proposed by Clause XII).

(12) Revised rules are proposed for allowing a Kudiyan to deposit Jenmi dues in the Munsiff's Court to the credit of the Jenmi. If such deposit is *prima facie* justifiable, the deposit will be accepted and the Kudiyan given a full acquittance. (See new Section 27 proposed by Clause XIII and new Sections 30 and 31 proposed by Clause XVI).

(13) Rules for apportioning as between the Jenmi and the Kudiyan, the compensation money awarded on the acquisition of any land comprised in a holding by Government under the Land Acquisition Regulation, are laid down by the new Section 45 proposed by Clause XXII. According to

these rules, the value due to any buildings or improvements not liable to be assessed to Jenmipattom will go entirely to the Kudiyan. From the balance, the Jenmi will be given the capitalised value of his dues chargeable on the land and the Kudiyan the amount of the Kanom money charged on the land. If any is still left that also will go to the Kudiyan. If however the balance referred to is not sufficient to meet the payment of the capitalised value of the Jenmi dues and the Kanom money, it will be divided between the Jenmi and the Kudiyan in the proportion of the benefit derivable by each from the land. The capitalised value is fixed at twenty five times the dues to be capitalised.

(14) It is provided that when the interest of a Jenmi or Kudiyan is transferred to, or otherwise devolves on, the Government, the Government may, on paying compensation, acquire the interest of the other party or may, without prejudice to the rights of the party, convert the land into Pandaravaka tenure. (See new Section 46 proposed by Clause XXII).

(15) Power is proposed to be taken for Government to fix the commutation price of paddy, etc., payable by any Kudiyan to the Jenmi. (See new Section 47 proposed by Clause XXII).

(16) And lastly, the period of limitation for Jenmi suits, which at present is 12 years, is proposed to be reduced to 6

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years. (See new Section 48 proposed by Clause XXII).—S. O. & R., T. G. G. dated 14-1-1930.

The following are extracts from the speech of the official Member:—“**The Regulation which is more than a quarter of a century old was standing in need of some amendments and the Government had the matter under consideration for some time. As a matter of fact an amending Bill was prepared and published in the Gazette in 1924 with a view to its introduction in the Council. But it was soon noticed that both the Jenmis and the Kudiyans had complaints against that Bill and the Government were taking some time to consider whether it was not possible to arrive at an agreement. For the Government feel that it is very imperative that they should proceed with the co-operation of both the parties. Consequently Government thought of holding a Round Table Conference to settle the matter at which all interests will be represented.

“The constitution of the conference was finally settled upon and the non-official members of the House were asked to elect two members to the conference. The Jenmi constituency was also asked to elect two members to the conference. The conference was held and sat for long hours over a period of seven days and has reached certain unanimous conclusions, copies of which, I believe, are in the hands of the members to-day. My attempt

in preparing the Bill and placing it before the House has been to faithfully carry out the decision of the conference and I have introduced nothing in this Bill which is not borne out by the decisions unless it be for giving effect to certain consequential changes or some verbal amendments. This Bill although it is an amending Bill, introduces various changes.

“One of the most important changes introduced by the Bill is this. Under the existing law, it is open to a Jenmi to evict a Kudiyar for certain reasons and it is open to the Kudiyar to surrender his holding in certain circumstances. These two rights, the right of eviction by the Jenmi and the right of surrender by the Kudiyar, are taken away entirely. This is one of the chief changes introduced by the Bill. But it has been felt that the right of the Jenmi to evict a Kudiyar has been a strong weapon to enforce sure payment of his dues, as a *quid pro quo*, therefore, the Jenmi has been given the right to claim as damages a small percentage of the arrears of his dues as penalty.”

Another important change which has been introduced by this Bill is that the tenant is given absolute freedom in the user of his land. He can convert garden land into paddy land and paddy land into garden land and do anything that may please him on the land. As part of this absolute freedom to use the land, he is also given the right to cut the trees. In

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regard to the existing trees, the Kudiyan are allowed the right to cut the trees, but in regard to the value of the timber, which under the existing law belong to the Jenmis, the jenmis are to be given $\frac{2}{3}$ of the timber value and the Kudiyan $\frac{1}{3}$, which will represent the cost of rearing and looking after the trees.

"In regard to the trees that may grow on the land in future, the Kudiyan is given the right to cut them and appropriate them unconditionally. But as, under the existing law, the Jenmis have got the right over the trees, it is proposed by this Bill to impose a small assessment on each timber tree in the same way as assessment is imposed on fruit bearing trees.

"These are the most important changes that have been proposed to be introduced by this Bill in regard to the user of the land. In regard to the Jenmi dues, *i. e.*, the dues that are payable to the Jenmi, the most important change that has been introduced is in respect of the payment of the renewal fees and the customary dues. Under the existing law, renewal fees are payable in a lump, once in 12 years. It is now proposed to spread out that payment into annual payments, and to apportion the renewal fees to each year payable along with the Michavaram. Equally so with the customary fees which are proposed to be commuted into annual payments to be paid along with the Michavaram in the future. The Kudiyan need pay only a

fixed portion of his dues every year and he will not be called upon to make any lump payments either at the end of twelve years or at the end of any fixed periods.

"Almost as a consequence of this, it has been necessary to consider the question of the period after which a revision of the terms of the tenant's holding may be allowed. It used to be the rule and in fact, it is the law at present that the revision of the Michavaram either by enhancing it or by reducing it may be permitted once in twelve years. It is proposed by this Bill to extend the period and to enact that it shall be allowed only once in 20 years; so that the Jenmi can claim an enhancement and the Kudiyan a reduction only after a period of 20 years.

"Another material change that has been introduced is in respect of tea and rubber lands. The tea plant and the rubber trees are not subject to any assessment under the existing law. But as considerable portion of the land are now under tea and rubber, it has been proposed by this measure to give the Jenmi a small assessment in respect of each acre of such lands. In regard to the method of collection, for facilitating speedy and prompt means of recovering dues, it has been proposed to allow the dues to be collected under the Revenue Recovery process, if the dues are not more than one year old, *i. e.*, to say practically, if the dues are current arrears. In case of arrears, more than a

year old, the Jenmi has to recover them by a suit in a Court of Law. It has also been proposed to reduce the period of limitation which has been till now 12 years to 6 years, so that there may be an incentive to the Jenmi to recover them soon and not allow them to accumulate.

"There are two points of procedure on which, again, some changes are proposed by this Bill. When any holding is partitioned, as it often happens after the Nayar and Ezhava Regulations, the question arises how the Michavaram and the Kana Arthom chargeable on the property has to be divided. Under the existing law, it is not possible to compel the Jenmi or the Kudiyan to divide the Jenmi dues or the Kana Arthom. It is proposed by the new measure that it should be possible, if necessary by a suit in a Court of Law, to compel a division or apportionment of the Michavaram as well as the Kana Arthom due on the holdings.

"In regard to compensation money payable on the acquisition of land by the Government under the Land Acquisition Regulation, there is already some provision in a ruling of the High Court as to how the money should be apportioned. The principle of that has been given a statutory basis in this amending Bill.*" L. C. P. dated 21-1-1930.

When the Select Committee to which the Bill was referred submitted their report, the Council decided to recommit

the Bill to another Select Committee. The following are extracts from the Second Select Committee's report:—

"The reference made to the Committee by the Council is the following:—

"Whether in respect of Kana-pattom lands, an arrangement can reasonably be made that the pattom of such lands be taken to be the same as the pattom fixed for Land Revenue purposes and out of that pattom, whatever is left after deducting the Sirkar tax, be taken to be the Jenmis' due in lieu of all and every one of their claims, and if any such arrangement can reasonably be made, to draft and submit the necessary legislative provisions for the same."

"The pattom fixed for Land Revenue purposes is the Settlement pattom which may be seen from the Settlement Registers of the last general Revenue Settlement. The amount arrived at by deducting the Sirkar tax from the Settlement pattom may be designated the "Settlement pattamicham" and it is by this name that we refer to it hereinafter. The annual michavaram payable to the Jenmi plus the fractional fee (*i. e.* the annual payment proposed by the Bill to be made in substitution of the renewal fees payable periodically) plus the commuted cess (*i. e.* the commuted money value payable yearly in substitution of the customary dues) may for convenience sake be designated the "Jenmivaram", and what is fixed by law for actual yearly

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payment to the Jenmi may be designated the "Jenmikaram." When the "Jenmivaram" referred to is also the annual payment fixed by law to be made to the Jenmi, that would be the Jenmikaram also. (Under the Bill, both the original Bill and the Bill as revised by the previous Select Committee, the Jenmivaram and the Jenmikaram would be the same.) The meaning of the terms, Settlement Pattamicham, Jenmivaram and Jenmikaram being understood as above indicated, the reference made to the Select Committee is in brief whether the Settlement Pattamicham can be fixed as the Jenmikaram, or some such arrangement made, in lieu of all and every one of the Jenmi's dues."

"The Committee felt that, in order to come to any satisfactory opinion on the point it was necessary to get some evidence of the variation, if any, as also of the extent of the variation, between the Jenmivaram and the Settlement pattamicham. The members of the Committee therefore decided to examine as many kanom documents relating to kanapattom lands in different parts of the State as could conveniently be done and ascertain the Jenmivaram and compare it with the Settlement pattamicham. For this purpose, the members of the Committee divided themselves into three parties, to tour round each of the three Revenue Divisions of Trivandrum, Quilon and Kottayam. Each party camped at convenient centres and met the

Jenmis and Kudiyans who appeared before them and examined the documents produced and compared the Jenmivaram with the Settlement pattamicham. Statements made to the Committee by the three parties as to the result of their investigations are appended hereto, the statement of the Trivandrum party as Appendix A, that of the Quilon party as Appendix B and that of the Kottayam party as Appendix C."

"In all, 1273 Kanom documents were examined and the Jenmivaram ascertained and the Settlement pattamicham as also certain other particulars in respect of the lands comprised in the documents noted. It has been found that the Jenmivaram and the Settlement pattamicham vary in every case. Taking it that a variation, either way, to the extent of ten per cent. of the Jenmivaram or less is only an insignificant or negligible variation, and that larger variations are substantial variations, it has been found that only in a comparatively small number of cases, the variation is negligible and that in other cases (*i. e.* in the bulk of the cases examined) the variation has been substantial. As may be seen from Appendix B, only 12½ per cent. of the documents examined in the Quilon Division exhibited negligible variations, and as may be seen from Appendix C, only 21 per cent. of the documents examined in the Kottayam Division exhibited negligible variations. Thus,

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if the Settlement pattamicham is fixed as the Jenmikaram, it would be seen that in most cases, either the Kudiyans would have to pay much more than what they have to pay now or the Jenmis would get only much less than what they get now. In some cases the Kudiyans would have to pay more than double and in some cases the Jenmi would get only less than half, and in some even *nil*. In the majority of the cases of substantial variations, as indeed in the majority of all the cases of variations, the Settlement pattamicham has been found to be larger than the Jenmivaram. It would appear therefore that though the fixing of the Jenmikaram at the amount of Settlement pattamicham may be an easy solution in theory, such an arrangement would cause hardship to a very large number of individuals, in fact to the bulk of the individuals of the community of Jenmis and Kudiyans, and that, as between the Jenmis and Kudiyans, the Kudiyans would suffer more. The Committee, therefore, have come to the conclusion that it is not right to fix the Settlement pattamicham as the Jenmikaram uniformly in all cases; and they feel that it is not advisable to make any large departures from the amount of the Jenmivaram or the Jenmikaram under the Amendment Bill. After anxious consideration, they have arrived at the following formula as a rule of workable arrangement, namely:—

- (a) That wherever the amount of the difference between the Jenmivaram and the Settlement pattamicham is not larger than ten per cent. of the Jenmivaram the Settlement pattamicham be fixed as the Jenmikaram:
- (b) That when the amount of the Settlement pattamicham is larger than the amount of the Jenmivaram by more than ten per cent. of the latter, the Jenmivaram *plus* ten per cent. thereof be fixed as the Jenmikaram; and
- (c) That when the amount of the Settlement pattamicham is less than the amount of the Jenmivaram by more than ten per cent. of the latter, the Jenmivaram *minus* ten per cent. thereof be fixed as the Jenmikaram:
- (d) That the Jenmikaram so fixed should of course be, in every case, in lieu of all and every one of the rights of the Jenmi in respect of the land; and
- (e) That the Jenmikaram so fixed should not be liable to any variation until a general Revenue Settlement by Government after which, however, the Jenmikaram may be enhanced or reduced in proportion as the Settlement pattamicham becomes larger or smaller by the fresh Revenue Settlement.

It will be noticed that the characteristic feature of this

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formula is that in no case will the amount of the Jenmikaram arrived at be larger or smaller than the amount of the Jenmivaram, or the Jenmikaram under the Amendment Bill, by more than ten per cent. and that, as in the majority of cases the Settlement pattamicham is larger in amount than the Jenmivaram, or the Jenmikaram under the Amendment Bill, the Jenmis' dues will straightway be enhanced in the majority of cases."

"In regard to the immediate acceptance and carrying out of the formula there has been a difference of opinion. The minority (the Jenmi members) are of opinion that this formula can be accepted and carried out only if the Government would undertake to collect the Jenmikaram just like, and along with, the Sirkar tax and pay it to the Jenmi without any application being made by the Jenmi for the purpose in each and every case as is provided for in the Bill before the Council. What they want is that the Government should undertake full responsibility for collecting the Jenmikaram and paying it over to the Jenmi. In fact their position is that the formula itself can be deemed reasonable only if the Government would undertake the responsibility as indicated above. The majority of the Committee are agreeable to the demand of the Jenmi members being accepted, and the Committee hereby make a recommendation to Government to accept the request of the Jenmi members and they entertain the hope

that it will be acceptable to Government. But the majority cannot make it a condition precedent of the formula arrived at being accepted or carried out. For one thing, to tack on a condition relating to the collection of the Jenmikaram to the formula relating to the fixing of the Jenmikaram is, the majority feel, beyond the scope of the reference to the Committee. They feel also that it is primarily for the Government to say whether they could and would accept the responsibility involved in the collection of the Jenmikaram as desired by the Jenmi members. The majority are therefore of opinion that the formula referred to above may be accepted, and implemented at once, and that, as required by the reference made to the committee, the necessary legislative provisions may be drafted and submitted to the Council."

"The Committee feel that it is expedient to draft the legislative provisions as amendments to the Bill as introduced in the Council. In the formula as well as in the legislative provisions, what the amount of the Jenmivaram should be is a material factor. The Committee have accepted the provisions of the Government Bill, and not of the Bill as revised by the previous Select Committee, for arriving at the amount of the Jenmivaram. The former would yield a slightly larger amount than the latter."

For reports of the Select Committees see *T. G. G. dated 14-4-1931 and 12-4-1932.*

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For legislative proceedings see *L. C. P. Vol. XVI, Pp., 23-86, 107-153; Vol. XX, Pp., 59-81, 100-130, 351-395; Vol. XXI Pp. 23-42, 107-182, 203-268, 322-357, 1419-1450; Vol. XXII, Pp. 5-62, 389-450, 471-525, 692-707.*

The Act was published in *T. G. G. dated 3-1-1933.*

Act VII of 1110. Objects and Reasons. "The Travancore Jenmi and Kudiyan law as recently amended has been found in the actual working to require some amendments. Hence this Bill is proposed" *S. O. & R.; T. G. G. dated 13-11-1934.*

In introducing the Bill, the Official Member in charge said:—"I shall now briefly explain the principles of the Bill. As Honourable Members are aware the Jenmi Kudiyan Regulation recently underwent many detailed and elaborate amendments and it has been put into working. In the actual working it has been found that there are certain deficiencies in the law as passed then. The object of the Bill is to make provision for removing these deficiencies." *A. P. Vol. IV, p. 328.*

For Select Committee Report see *T. G. G. dated 14-5-1935.*

For legislative proceedings see *A. P. Vol. IV, Pp. 328-332; Vol. V, Pp. 66, 67; C. P. Vol. V, Pp. 65-67.*

The Act was published in *T. G. G. dated 23-7-1935.*

See also Notes to Sections 3 (15), 3 (17) and 9.

Act XXVI of 1115. Objects and Reasons. "Under Section 40-A of the Jenmi and Kudiyan Act, Government are empowered to assume collection of Jenmikarams only in respect of all the Jenmom lands in the State together. This tends to postponement of collection work and results in loss and inconvenience to both Jenmis and Kudiyan. Section 40-A is therefore proposed to be amended so as to remove this difficulty. The amendments proposed to Section 40-E are only consequential." *S. O. & R.; T. G. G. dated 2-7-1940.*

For legislative proceedings see *A. P. Vol. XVI, Pp. 710-712 and C. P. Vol. XVI, P. 57.*

The Act was published in *T. G. G. dated 13-8-1940.*

Act II of 1123. This Act was passed direct by the Sovereign and was published in *T. G. G. dated 23-12-1947.*

Title. The bracketed words were substituted for the words "Michavaram and other proprietary" by Section XXIII of Act XII of 1108.

Preamble. The word "Jenmis" occurring between the words "realisation of" and "dues" was substituted by Section XXIV (a) of Act XII of 1108 and the word "Jenmis" occurring between the words "claims for" and "dues" was substituted by Section XXIV (b) of Act XII of 1108.

CHAPTER I.

Preliminary.

1. (1) This Act may be called the "Travancore Jenmi and Kudiyan Act of 1071." Short title.

(2) It shall come into force throughout Travancore Commencement. on the first day of Makarom 1072.

Provided that [* *] the first para of Section 44 shall come into force on the first day of Chingom 1074.

2. [No custom or customary right as between the Jenmi and the Kudiyan shall prevail unless provided for in this Act expressly or by necessary implication.]
No right between Jenmi and Kudiyan unless expressly provided for.

3. The following expressions shall have the meanings hereby assigned to them unless there is something repugnant in the subject or context:—
Interpretation clause.

Sec. 1. The Proviso to the Section was put in by the Council, the object being "to grant to the parties concerned the obviously equitable privilege usually accorded when a law prescribing a period of limitation is first sprung on the public, so as to allow sufficient time to adjust vested rights." *L. C. P. dated 20-6-1896.* The words and figures "para 2 of Section 5 and" were deleted by Section II of Act XII of 1108.

Sec. 2. The Section as originally enacted read as follows:—"2. *Saving of custom and customary right.* Nothing in this Regulation shall affect any custom or customary right not inconsistent with, or not expressly or by necessary implication, modified or abolished

by, its provisions." The present Section was substituted by Section II-A of Act XII of 1108. The reason for the amendment is stated thus by the Second Select Committee—"Under the proposed scheme of things, the Jenmi is to get the Jenmikaram in lieu of all and every one of his rights. It should follow, therefore, that no right other than what is expressly provided for by this Regulation could enure in favour of the Jenmi or the Kudiyan." *S. C. R. Para VIII, 1, T. G. G. dated 12-4-1932.*

Sec. 3. *Clause (1)* The words which occurred within square brackets, *viz.*, "periodical renewal of the right on" were deleted and *Explanation (2)* was added by Section III of Act XII of 1108. The

(1) "Jenmom land" means land (other than Pandaravagay, Sree Pandaravagay Kandukrishi or Sirkar Devaswom land, recognised as such in the Sirkar accounts) which is either entirely exempt from Government tax or, if assessed to public revenue, is subject to Rajabhogam only, [or to basic tax in lieu thereof] and the occupancy right in which is created for a money consideration (Kanom) and is also subject to the payment of Michavaram or customary dues and the [* * *] payment of renewal fees.

Explanation [(1)].—Rajabhogam includes Rajabhogam paid to a Chief within whose free-hold estate the land is situate.

[*Explanation (2).*—For the purposes of this definition, the payment of Jenmikaram shall be deemed to be the payment of Michavaram or customary dues and the payment of renewal fees.]

(2) "Jenmi" means a person in whom the [Jenmom] right over Jenmom lands is vested and includes, in the case of Devaswoms owning Jenmom [right], the managing Trustee or Trustees of the Institution for the time being.

Second Select Committee in proposing the addition of the *Explanation* said:—"under the proposed scheme of things, there will be no payment of Michavaram or customary dues or renewal fees as such, but there will be only the payment of Jenmikaram. In order that the definition of Jenmom land may be operative even when Jenmikaram alone is paid, the *Explanation* referred to is proposed to be added." S. C. R. Para VIII, 3, T. G. G. dated 12-4-1932.

The words "or to basic tax in lieu thereof" were inserted by Sec. 2, Act II of 1123.

Clause (2) Section III, Act XII of 1108 substituted the word "Jenmom" for the word "proprietary" and the word "right" for the word "lands." The reason for the amendment was explained as follows by the Second Select Committee:—"Again in the new scheme of things, the ownership of the land practically vests in the Kudiyan and what the Jenmi has is only the right to Jenmikaram, which we propose to call the Jenmom right. To bring about this idea in the definition of the word "Jenmi" the amendment is proposed." S. C. R. Para VIII, 3, T. G. G. dated 12-4-1932.

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- (3) "Kudiyān" means a person who holds lands on Kanapattom tenure.
- "Kudiyān."
- (4) "Kanapattom" means a demise of Jenmom land made or renewed by the Jenmi by whatever name such demise is designated.
- "Kanapattom."
- (5) "Kanom" means the Arthom or consideration (in money or in kind) paid for the Kanapattom and shall also include the value of improvements made by Kudiyāns and treated as Arthom or consideration.
- "Kanom."
- (6) A person is said "to hold land" whether he retains it in his actual possession or whether he mortgages or sublets it; and a person shall be deemed to have held land if it has been held by himself or by a predecessor in interest or title through whom he claims.
- "To hold land."
- (7) "Holding" means a parcel of land or parcels of land held under one Kanapattom instrument and one set of conditions.
- "Holding."
- "sub-tenant." (8) "Sub-tenant" means any person who holds land under a Kudiyān.
- (9) "Pattom" means the assessed [annual] rent of the holding prior to the deduction of interest due to the Kudiyān on the Kanom in order to determine the Michavaram due to the Jenmi.
- "Pattom."
- (10) "Michavaram" means the [annual] residual rent which is payable or deliverable [*] under a Kanapattom by the Kudiyān to the Jenmi, whether in money or in kind, and includes services due in lieu of rent.

Clause (3) "The term Kudiyān has been restricted to the holders, on Kanom tenure, of Jenmom lands. Other tenures are not intended to be brought within the purview of this law and no necessity for any special legislation on the subject of other tenures has hitherto been felt."—S. O. & R. T. G. G. dated 6-5-1890.

Clause (9) The word bracketed was inserted by the amending Sec. above referred to.

Clause (10) The word "annual" before the word "residual" was inserted and the word "annually" which occurred after the word "deliverable" was deleted by the amending Sec. above referred to.

[(11) 'Renewal fees,' means such fees as Atukkuvatu, Sakshi, Opputusi or the like agreed to be paid by the Kudiyan to the Jenmi periodically on occasions when the Kanapattom is renewable, and includes the 'fractional fee' :

and 'Fractional fee' means the fee fixed as claimable (in substitution of the renewal fees) in annual instalments at the rate of seven per cent. of the aggregate value or amount of the renewal fees due on the expiry of twelve years, or in annual instalments proportionately lower in percentage when renewal on the expiry of any longer period is provided for by the Kanapattom.

Explanation.—When a Kanapattom provides for Purushantra Polichezhuttu (renewal on the death of the Jenmi or Kudiyan) or for renewal when a temple may be renovated, or when the language of the instrument raises a reasonable doubt as to the length of the period on the expiry of which renewal is enforceable, it shall be deemed that renewal on the expiry of every thirty-six years was intended and agreed upon by the parties.]

[(12) 'Customary dues' means cesses or prerequisites consisting of (i) Onakkazhcha, Panchaphalam, Utsavakoppu or the like due annually or periodically on specific dates, and (ii) Arukazhcha, Kalasavari or the like due at periodical intervals, which though

Clause (11) This definition as originally enacted was as follows :—“(ix). 'Renewal fees' means the fee or fees payable on renewal of Kanapattom, under such denominations as Adukkuvathu, Avakasom, Sakshi, Opputusi, Olappanam, Thirunal-kaleha, and the like.” The present definition was substituted by the amending Sec. referred to above.

Clause (12) The definition as originally enacted read thus :—

“(12) Customary dues” means the cesses or contributions such as Onakalcha, Allakkada-Thirunal-chumadu, Purannal-chumadu, Vara-koppu, Oolsavakoppu and the like which are payable to the Jenmi by the Kudiyan on account of his holding according to contract or custom.”

The present definition was substituted by the amending Sec. referred to above.

specific, are not previously ascertainable, whenever such cesses or perquisites are payable by the Kudiyan to the Jenmi in accordance with the terms of a Kanapattom ; and

'Commuted cess' means the commuted money value of customary dues, if any, ascertained as claimable by the Jenmi every year after the commencement of the Amendment Act according to the calculation made in the manner specified hereunder ; that is to say :—

(i) When Kalasavari is claimable by a Jenmi, it shall be assumed that he is entitled to five per cent. of one Kalasavari cess every year ;

(ii) when Arukazhcha is claimable by a Jenmi, it shall be assumed that he is entitled to sixteen per cent. of one Arukazhcha cess every year ;

(iii) when other customary dues are claimable by a Jenmi, the annual value of such shall be ascertained by calculation ;

(iv) in valuing any customary dues payable in kind, the commutation price specified in the contract of Kanapattom or understood to be the one conformable to the local customary rate, whichever is the lower, shall be the guide ;

(v) the sum total of the value or amounts of the customary dues ascertained as annually payable to the Jenmi in accordance with the calculation made under clauses (i) to (iv) shall be deemed to be the 'commuted cess' in any given case.]

(13) "Duly registered" means registered in accordance with the law for the time being in force
Duly registered. relating to the Registration of Assurances.

[(14) Jenmivaram in respect of a Jenmom land or holding means the total of the amounts of the annual Michavaram, the fractional fee and the commuted cess in respect thereof.

Clause (14) The term 'improvement' was defined by Act V of 1071. That definition ran as follows :—

"(14) "Improvement" means, with reference to a holding, any work including its product which is suitable to the

(15) Settlement pattom in respect of a Jenmom land means the pattom fixed by Our Government for the Land Revenue purposes at a general Revenue Settlement and includes also the proportionate pattom chargeable on each portion of a land wherever the land is divided for any reason.]

[*Explanation* :—Wherever at a general land Revenue Settlement brought into force by Our Government a pattom has not been fixed in respect of any Jenmom land, the settlement pattom in respect of that land shall

holding and consistent with the conditions on which it is based, by which the value of the holding has been and continues to be increased, and which, if not executed on the holding, is either executed directly for its benefit or is after execution, made directly beneficial to it.

Explanation I.—It includes among other things—

- (a) the construction of wells and other works for the storage or supply of water for agricultural or domestic purposes;
- (b) the construction of works for drainage and for protection against floods;
- (c) the planting of trees;
- (d) the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;
- (e) the erection in Purayadoms or plantations of farm buildings and of dwelling-houses, cattle-sheds or other structures, permanent walls or strong fences which are not of a temporary nature; and

(f) the renewal or reconstruction of any of the foregoing works or such alterations or additions thereto as are not of the nature of mere repair and as durably increase their value.

But it does not include such clearances, embankments, levelings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry.

Explanation II.—A work executed by a Kudiyan is not an "improvement" if it substantially diminishes the value of any other part of Jenmi's property."

This definition was omitted by Sec. III of Act XII of 1108 as the definition in the manner in which it appeared was not found necessary. Definition of the term 'Jenmivaram' was substituted in its place.

Clause (15) This was added by Sec. III of Act XII of 1108. The *Explanation* to this Clause was added by Sec. 2 of Act VII

so long as the said Land Revenue Settlement remains in force, be the pattom that would have been fixed if land had been assessed to pattom at the said Land Revenue Settlement.]

(16) Settlement pattamicham in respect of a Jenmom land means its Settlement pattom *minus* the tax due thereon to Our Government.

Explanation.—Wherever the Settlement pattom is fixed in kind, 'tax' means the tax in kind fixed with reference to the Settlement pattom although the tax may be payable to Our Government in money.

of 1110. The reason for adding the explanation is thus stated:—

"It has been found that in respect of some Jenmom Lands a settlement pattom has not actually been fixed at the last General Revenue Settlement. To meet such cases, this clause is proposed." S. O. & R.

In moving the Bill the Official Member in charge said:—"The first amendment now proposed is in respect of Section 3 Clause (15) of the Regulation which defines what a settlement pattom is for purposes of the Regulation. The settlement pattom is defined in Section 3 Clause (15) as follows:—

(15) "Settlement pattom" in respect of a Jenmom land means the pattom fixed by Our Government for the Land Revenue purposes at a General Revenue Settlement and includes also the proportionate pattom chargeable on each portion of a land wherever the land

is divided for any reason".

It will be noticed that according to the definition given in the Regulation as amended a settlement pattom is one that has *actually* been fixed by Government. But it has been found that there are some very rare cases where Government did not, as a matter of fact, assess a settlement pattom. That gave some difficulty because we cannot find out what the settlement pattom in respect of the land is, because Government themselves did not assess any pattom. To meet this difficulty the present amendment is proposed in Clause 2. The principle of that amendment is that what Government would have fixed as the settlement pattom if the land had been assessed to pattom at the said settlement should be taken as the settlement pattom." A. P. Vol. IV, P. 329.

Clause (16) This was added by Sec. III of Act XII of 1108.

(17) Jenmikaram in respect of a Jenmom land or holding means the amount payable in respect of that land or holding under the provisions of this Act by the Kudiyar to the Jenmi every year in lieu of all and every one of the Jenmi's claims in respect of the land or holding, such Jenmikaram being fixed as follows :—

(a) so long as the last general Land Revenue Settlement made by Our Government remains in force, the Jenmivaram shall, except in the case of cherikkal lands, be the Jenmikaram, and, in the case of cherikkal lands [either] the Settlement pattamicham with reference to the said last Revenue Settlement *minus* the interest on the kanom amount [or the jenmivaram whichever is greater] shall be the Jenmikaram ; and

(b) if the Jenmikaram as under clause (a) is altered or revised at or after any future general Land Revenue Settlement under the provisions of this Act, such altered or revised Jenmikaram shall thenceforward be the Jenmikaram and, if it is not so altered or revised, the then existing Jenmikaram shall continue to be the Jenmikaram.

Clause (17) This was also added by Sec. III of Act XII of 1108.

In the Clause so added the following amendments were made by Sec. 3 of Act VII of 1110 :—(1) The word "either" was inserted after the words "Cherikkal lands" where they occurred for the second time. (2) The words "or Jenmikaram whichever is greater" were inserted after the word "amount". (3) A proviso to Sub-clause (b) was added and (4) *Explanation* (4) was added.

The reason for the above amendment is stated thus in the Statement of Objects and

Reasons appended to the Bill :—

"The provision for Jenmikaram in respect of cherikkal lands, as it now finds a place in the Regulation, was introduced at the instance of the Jenmis ; and it was expected that this differential provision in regard to cherikkal lands would yield a larger amount as the Jenmikaram than the provision in regard to the ordinary Jenmom lands. But in the actual working it has been found that, in many cases, the Jenmikaram in regard to the cherikkal lands, worked out in accordance with

[Provided that wherever in the case of such cherikkal lands the michavaram is not specified in the Kanapattom or the Jenmivaram is not definitely ascertainable having regard to the terms of the Kanapattom, the said settlement pattamicham *minus* the interest on the Kanom amount shall be the Jenmikaram.]

the rule now laid down, results in zero, or a minus quantity. To remedy this defect, this clause is proposed." S. O. & R.

In moving the Bill, the Official Member said:—

"The next amendment and that is the chief amendment in the Bill, is in respect of cherikkal lands and in relation to Jenmikaram of cherikkal lands. In respect of ordinary lands the Jenmivaram is fixed as the Jenmikaram. In the case of cherikkal lands a different provision was made in the Regulation as it now stands and that can be seen in Sub-clause (a) Clause (17) of Section 3 which says:—

(17) "Jenmikaram" in respect of a Jenmom land or holding means the amount payable in respect of that land or holding under the provisions of this Regulation, by the Kudiyan to the Jenmi every year in lieu of all and every one of the Jenmi's claims in respect of the land or holding, such Jenmikaram being fixed as follows:—

(a) so long as the last General Land Revenue Settlement made by Our Government remains in force, the Jenmivaram shall except in the case of cherikkal lands, be the Jenmikaram, and in the case of cherikkal lands the settlement pattamicham with reference to

the said last Revenue Settlement *minus* the interest on the kanom amount shall be the Jenmikaram."

Settlement pattom *minus* the Sirkar tax *i. e.*, the settlement pattamicham is assumed to be the maximum lawful rent due to the Jenmi in the case of cherikkal lands and the Jenmikaram was fixed as the settlement pattamicham *minus* the interest on the kanom amount. It was so done because the kudiyan was entitled to get interest on the kanom amount and that interest is due on the kanom amount to the kudiyan and since interest is due on the kanom amount to the kudiyan it is assumed that he must get credit for that and so the settlement pattamicham *minus* the interest on kanom amount is fixed as Jenmikaram in the case of cherikkal lands.

Now it will be noticed that in the case of ordinary lands the rent due as per the contract of kanom was fixed as the statutory rent due to Jenmi but in the case of cherikkal lands a different provision was made and this was made for a particular reason. It was made at the instance of the Jenmis in the late Council. They contended that if Jenmivaram is fixed as in the case of ordinary lands there will be great hardship. Their contention was that cherikkal lands as originally

Explanation 1.—Payment of or the liability to pay the Jenmikaram is equivalent to paying or the liability to pay the Michavaram, renewal fees and customary dues.

Explanation 2.—When any Jenmom land or holding is divided for any reason the Jenmivaram and the Jenmikaram chargeable proportionately on each part shall respectively be the Jenmivaram and the Jenmikaram due on that part.

Explanation 3.—The term 'cherikkal land' means all land recognised as such in the Sirkar accounts in which paddy or other cultivation is or has been carried on in recurring periods and on which, until the last Revenue Settlement, *malavaram* or *vilameladi* tax alone has either been levied or was leviable by Our Government when such land was cultivated.

[*Explanation 4.*—If, in determining whichever of the Jenmivaram or the Settlement pattamicham *minus* the interest on the Kanom amount is greater, or in deducting the said interest from the Settlement pattamicham, it becomes necessary to commute commodities into money

demised were not improved or fully planted up and were not yielding any substantial yield. So ordinarily the demise on cherikkal lands was for a nominal or low rent. But subsequently those lands were planted up and they became very productive, and the kanom was scarcely ever revised having regard to this increased yield.

The point urged was that in respect of the cherikkal lands the Jenmis did not, as a matter of fact, get any reasonable rent, although the Kudiya's were making large profits. And, the Amendment Regulation contemplated that after the date of that Regulation there shall not be any revision or renewal till the next Settlement. Therefore the Jenmis would be put

to a difficult situation. They are not now getting anything like reasonable rent, and until the next Settlement, revision or renewal is also absolutely denied. Having regard to this it was proposed that, in respect of the cherikkal lands, there should be a special provision as in the Regulation. In the actual settlement of the Jenmikaram, however, it has been found that the interest on the Kanom amount is even higher than the settlement pattamicham and that means that the Jenmi will get zero or a minus quantity as Jenmikaram, and they are denied even existing rent. It is proposed therefore to give Jenmi either the jenmivaram or the settlement pattamicham *minus* interest on Kanom amount whichever is greater." *A. P. Vol. IV, P. 330.*

or money into commodities, such commutation shall be made in accordance with such rates as may be fixed by Our Government.

(18) 'Prescribed' means prescribed from time to time by Our Government by Rules or by Notification in Our Government Gazette.

(19) 'The Amendment Act' means the Travancore Jenmi and Kudiyan (Amendment) Act 1108.]

CHAPTER II.

Of the Rights and Liabilities of Jenmis and Kudiyans.

4. When a Jenmi transfers by sale, gift or otherwise, the Jenmom right in the whole or any part of [*] Jenmom lands and the Sirkar imposes or enhances the tax on the Jenmom lands transferred, such tax shall be borne by the transferee.

Tax on Jenmom lands transferred by sale, etc., to be borne by transferee.

[5. From and after the commencement of the Amendment Act, the Jenmi shall not have any right, claim or interest in any land in a holding except the right to receive the Jenmikaram thereon and the Kudiyan shall be deemed to be the owner of the land subject only to the payment of the Jenmikaram.

Kudiyan owner of land subject only to payment of Jenmikaram.

Explanation 1.—The Jenmi's right as well as the Kudiyan's right is heritable as well as transferable by sale, gift or otherwise.

Explanation 2.—Notwithstanding any usage or contract to the contrary, no Kudiyan has the right to relinquish or apply for permission to relinquish his holding or

Clauses (18) and (19). These were also added by Sec. III of Act XII of 1108.

Sec. 4. The word "his" which occurred before the words "Jenmom lands" was omitted by Sec. III-A of Act XII of 1108.

Secs. 5 to 14. These Sections were substituted by Sec. IV of Act XII of 1108. The Sections as originally enacted were as follows:—

5. "Right of Kudiyan to permanent occupancy.—Subject to the provisions of this Regula-

any portion thereof and no Jenmi has the right to evict or sue for the eviction of a Kudiyan from his holding or any portion thereof. This prohibition shall apply also in the case of all applications made and suits instituted even before the commencement of the Amendment Act if such applications or suits are pending disposal on the date of commencement of the Amendment Act and were made or instituted, as the case may be, after the 19th Meenom 1105. The term 'suit' hereiu includes also applications for the execution of decrees passed in suits.

Explanation 3.—Notwithstanding any usage or contract to the contrary, every Kudiyan has the right to make any use of the land in his holding, to change its character either by converting wet land into garden land or by converting garden land into cultivable wet land, or in any other manner, to cut down and appropriate any trees standing thereon, to alter the course of cultivation in respect thereof and, in short, to do or suffer any thing to be done on the land without reference to, or interference from the Jenmi.

Explanation 4.—Notwithstanding any usage or contract to the contrary, every Kudiyan has the right to make any improvement in respect of his holding without reference to, or interference from the Jenmi, and no Kudiyan shall thereby become liable to pay any higher Jenmikaram on account of any increase of production or any change in the nature of the crop raised in consequence of such improvement.

Explanation 5.—The Jenmi's right to the Jenmikaram shall be deemed to be immovable property.

tion, every Kudiyan shall have a right of permanent occupancy in his holding and shall be exempt from liability to eviction save as laid down in Section 7.

In the absence of an express contract, nothing in this Section shall be taken to confer the right of permanent occu-

pancy on the Kudiyan of a non-Malayalee-Brahmin Jenmi, unless he or his predecessors in interest or both have uninterruptedly held the holding for a period of not less than twenty-five years.

The provisions of para 2 do not apply to assignees of Malayalee-Brahmin Jenmis.

6. (1) If in a holding there are more parcels of land than one, each having Settlement pattom assessed separately, the Jenmikaram of the entire holding shall be ascertained in accordance with the provisions of this Act and distributed in respect of each parcel of land in the proportion of the Settlement patta-micham bearing on such parcel of land.

(2) The Jenmikaram so distributed in respect of each parcel of land shall be the Jenmikaram due thereon.

7. If any Jenmom land is divided for any reason, the Jenmikaram on each portion of the land shall be fixed in the proportion of the Sirkar tax that will be fixed on such portion of land and the Jenmikaram so fixed shall be the Jenmikaram due thereon.

6. *Right of Kudiyan heritable and transferable.*—The right of a Kudiyan in his holding shall be heritable and transferable; but every transfer shall be in writing, and no transfer of a portion of the holding, without the consent, in writing of the Jenmi, shall affect the liability of the entire holding for Michavaram and other dues leviable by the Jenmi.

7. *Eviction of Kudiyan.*—(1) No Kudiyan shall be evicted from his holding or any portion of his holding except in execution of a decree of Court; and no Court shall make a decree for such eviction except for—

(a) non-payment of Michavaram for 12 years consecutively, not withstanding an express demand in writing made at any time after the first year's arrears shall have accrued;

(b) neglect or refusal to pay renewal fees and take a renewal within one year from the date on which such fees fall due and six months after the service upon him of a notice of demand in writing :

Provided that when such neglect or refusal has taken place before this Regulation comes into force, it shall not confer on the Jenmi the right of eviction unless he proves that such neglect or refusal has been continued for a period of one year after this Regulation comes into force and six months after the service upon him of a notice of demand in writing under this Regulation.

Explanation.—Failure to pay renewal fees or take a renewal, due to *bona fide* differences between the Jenmi and the Kudiyan as to the amount of the renewal fees or as to the terms of the renewal, shall not be

8. Notwithstanding any usage or contract to the contrary, it shall not be lawful hereafter to

Renewal fees not to exceed 30 per cent. of Kanom.

take into account in any case as renewal fees any amount exceeding thirty per cent. of the kanom.

deemed to be neglect or refusal within the meaning of Clause (b);

(c) wilful denial of Jenmi's title and persistence in such denial even at the time of the first hearing of a suit for eviction;

Explanation.—A denial of the Jenmi's title under a mistake of fact or of law is not wilful within the meaning of Clause (c).

(d) intentional and wilful commission of such acts of waste as are calculated to materially and permanently impair the value and utility of the holding so as to injure the interests of the Jenmi.

(2) The written demand or notice mentioned in this Section shall be presented to the Court of the District Munsiff in whose local jurisdiction the holding is situated, and it shall be served by such Court on payment by the Jenmi of the prescribed process fees in the manner provided for the service of summons in the Code of Civil Procedure. But no Court fees shall be levied on the application presented to the Court by the Jenmi requesting the service of such demand or notice.

(3) A suit for ejectment on the ground stated in Clause (d) shall not be entertained unless the Jenmi has served a notice on the Kudiyan specifying the particular act of waste complained of, and, when the waste

is capable of remedy, requiring the Kudiyan to remedy the same and in any case to pay reasonable compensation for the waste, and the Tenant has failed to comply within a reasonable time with that request.

(4) In case of eviction, the Kudiyan shall, in addition to a refund of the Kanom money, be entitled to be compensated for improvements made by him or by his predecessors in interest for which compensation has not already been paid and his subtenants, if any, shall also be entitled to such compensation in respect of improvements made by them.

Explanation.—Nothing in this Section shall be construed to bar the right of the Jenmi to recover the arrears of Michavaram and customary dues at the date of eviction.

8. *Compensation for improvements how estimated.*—(1) The compensation to be awarded for items of improvement (a), (b), (d), (e) and (f) in Clause 14 of Section 3 shall be the estimated full cost of such improvements *minus* any deduction for wear and tear; and the compensation for item (c) shall be three-fourths of the capitalized value of the product of the trees other than wild trees of spontaneous growth, unless the Jenmi proves that, by local usage in respect of Jenmom lands, the compensation to be awarded to the Tenant for trees is less than three-fourths,

9. The Jenmikaram of a holding together with the interest, if any, due thereon, when it becomes an arrear, shall be claimable by the Jenmi and shall, subject to the priority of the rights of Our Government [for arrears of tax,] be a first charge on the holding.

Jenmikaram first charge on land.

10. No Kudiyan shall, when, without his consent, the Jenmi's right in any Jenmom land is transferred by sale, gift or otherwise, be liable to the transferee for the Jenmikaram which became due after the transfer and was paid to the Jenmi

Kudiyan's liability on Jenmi's right being transferred.

(2) In awarding compensation for improvements, any reduction or remission of rent or any other advantage given by the Jenmi to the Kudiyan in consideration of the improvement shall be taken into consideration; and no compensation for an improvement shall be claimable when the Kudiyan has made the improvement in pursuance of a contract in writing binding him, in consideration of some substantial advantage to be obtained by him, to make the improvement without compensation, and he has obtained that advantage.

9. *Court to cancel forfeiture on payment of arrears into Court:*—When the Kudiyan has incurred forfeiture for non-payment of Michavaram or renewal fees and the Jenmi sues to eject the Kudiyan—if, at the first hearing of the suit, which shall not take place within three months from the date of the service of the original summons in the suit, the Kudiyan pays into the Court the Michavaram and other dues in arrears together with the interest thereon and the Jenmi's cost of the suit, the Court shall pass an

order relieving the Kudiyan against forfeiture; and thereupon the Kudiyan shall hold the land as if the forfeiture had not occurred.

10. *Decree to declare amount of compensation in suit for ejectment of Kudiyan for waste.*—A decree passed in favour of the Jenmi in any suit for ejectment of a Kudiyan on the ground that he has committed intentional and wilful acts of waste, shall declare the amount of compensation which would reasonably be payable to the Jenmi for the waste, and whether in the opinion of the Court the waste is capable of remedy and shall fix a period during which it shall be open to the defendant to pay the amount to the plaintiff and, where the waste is declared to be capable of remedy, to remedy the same.

If the Defendant, within the period fixed by the Court under this Section, pays the compensation mentioned in the decree and, where the misuse or breach is declared by the Court to be capable of remedy, remedies the misuse or breach to the satisfaction of the Court, the decree shall not be executed.

whose right was so transferred unless the transferor or transferee has, before the payment, given notice of the transfer to the Kudiyan by registered Anchal or Post.

11. When a Jenmom land or holding is divided or is transferred by sale, gift or otherwise by the Kudiyan without the consent of the Jenmi, the Kudiyan shall continue liable for the Jenmikaram accruing due after such division or transfer unless and until notice by registered Anchal or Post of the division or transfer is given to the Jenmi by any sharer or by the transferor or transferee, as the case may be, and until pokkuvaravu is effected in the Land Revenue records in accordance with the division or transfer.

Explanation.—This provision does not affect any liability of any sharer or transferee as between such person and other sharers or the transferor, as the case may be, to pay the Jenmikaram.

12. No division of the Jenmi's right in any Jenmom land shall be binding on the Kudiyan thereof, unless it is made with the consent of the Kudiyan or notice thereof is given to the Kudiyan by registered Anchal or Post informing him of the prescribed particulars of the division, and the Jenmikaram

11. *Renewal of Kanapattom every twelve years.*—In the absence of an express written contract to the contrary, on the expiry of a period of twelve years from the date of every Kanapattom, and thenceforward at the end of every successive period of twelve years, it shall be obligatory on the Jenmi to give and on the Kudiyan to accept a renewal of the Kanapattom, save and except in the cases mentioned in the next following Section.

of a Kanapattom or of its last renewal, surrender in writing his holding to the Jenmi after six months' notice in writing, and claim refund of the Kanom. In such cases, the Jenmi shall not be liable to pay to the Kudiyan the value of the improvements and he shall not be bound to accept the surrender, unless the whole of the arrears of Michavaram and other dues, if any, are also tendered at the time of surrender.

12. *Kudiyan may surrender his holding at the end of twelve years.*—A Kudiyan may, at the end of twelve years from date

Notice under this Section shall be served through the Munsiff's Court in the manner provided in Section 7.

which may become due subsequent to such division made without such consent may until the receipt of the notice be paid to the Jenmi entitled thereto before such division.

13. Notwithstanding any usage or contract to the contrary, it shall not be obligatory on the Renewals not obligatory. Jenmi to renew, or on the Kudiyan to accept the renewal of, a contract of Kanapattom.

14. (1) Notwithstanding any usage or contract to the contrary, the Jenmikaram of any land Revision of Jenmikaram. shall not be liable to alteration or revision at any time except after any future general Land Revenue Settlement by Our Government.

(2) Whenever Our Government make any general Land Revenue Settlement in the future and the amount of the Settlement pattamicham at that Settlement and the amount of the then existing Jenmikaram in respect of any Jenmom land are found to differ, the Jenmikaram shall be liable to be enhanced or reduced as the case may be in the proportion that the Settlement pattamicham bears to the Jenmikaram :

Provided that in no case shall any Jenmikaram be enhanced by more than ten per cent. thereof :

Provided also that in the case of the Land Revenue Settlement next following that now in force no Jenmikaram of any land shall be enhanced if within twelve years preceding the date of the commencement of the operations

13. *Arrears of Michavaram and renewal fees to have priority over other charges.*—Arrears of Michavaram and renewal fees due to the Jenmi shall be a charge on the holding of a Kudiyan and shall have priority over all other charges on the same, save arrears of tax due to Government.

14. *Enhancement of Michavaram.*—Subject to the limitations and conditions prescribed

in Chapter III, every Jenmi may, at the time of periodical renewals of Kanapattom, enhance the Michavaram payable by a Kudiyan—

- (1) (a) by increasing the Pattom assessment on the land.
- (b) by reducing the rate of interest allowed to the Kudiyan on the Kanom money, if such rate is in

for such Settlement there has been an enhancement of Michavaram in respect of that land.

Explanation 1.—If there is no difference between the amount of the Settlement pattamicham at any future Revenue Settlement and the amount of the then existing Jenmikaram, 'such Jenmikaram shall continue to be the Jenmikaram during the currency of such Settlement also.

Explanation 2.—When the Settlement pattamicham or the Jenmikaram or both consist of paddy or other commodity and money such commodity portion shall, for the purposes of comparison, be commuted into money at the average commutation rate, the average being taken on the rates of the three years immediately preceding the date of such comparison. This average rate is intended only for the purposes of comparison, and when the Jenmikaram has

excess of the rate usually allowed to Kudiyaans holding on Kanapatom in the same Proverthi.

(c) by both the modes (a) and (b); or

(2) Where the Jenmi has hitherto been levying additional Kanom (or Ettartham) in lieu of enhancing the Michavaram, he may continue to do so at the customary period.

Provided that no Jenmi shall without the consent of the Kudiyan be entitled to enhance the Michavaram and levy Ettartham at one and the same time."

Sec. 9. thus substituted was amended by Sec. 4 of Act VIII of 1110 by inserting the words "for arrears of tax" after the word "Government." The reason for the amendment is stated as follows in the statement of Objects and Reasons appended to the Bill:—

"As Section 9 of the Regulation stands now, all the Government claims have priority over the Jenmikaram. In order to restrict this priority to the land-tax alone, this clause is proposed." S. O. & R.

In moving the Bill the Official Member in Charge said:—

"There is also one other amendment proposed by this Bill. It is more or less a formal amendment to Section 9 of the Amended Regulation which runs as follows:

"The Jenmikaram of a holding together with the interest, if any, due thereon when it becomes an arrear, shall be claimable by the Jenmi and shall, subject to the priority of the rights of Our Government, be a first charge on the holding."

The House will notice that, *in every instance*, the Government's claim is made a prior charge to the Jenmi's. In the

to be enhanced or reduced in any proportion the commodity portion and the money portion shall each be enhanced or reduced, as the case may be, in that proportion.

(3) From and after the 1st day of Chingom 1108 no enhancement or reduction of the Jenmi's dues, whether Jenmikaram or Michavaram, shall be made otherwise than in accordance with the provisions of this Act; and even if a Court has decreed contrariwise on or after the said 1st day of Chingom 1108, the Court shall review that decision and pass a decision in accordance with the provisions of this Act on application being made for the purpose by any aggrieved party within six months of the commencement of the Amendment Act.

Explanation.—Nothing in the Travancore Limitation Act (VI of 1100) or the Code of Civil Procedure, 1100, shall be deemed to bar such applications for review.

(4) The enhanced Jenmikaram or the reduced Jenmikaram due on a land, as the case may be, shall be payable from the 1st day of Chingom in the year next following that in which the Revenue Settlement comes into operation in respect of that land, and with effect from that day the enhanced Jenmikaram or the reduced Jenmikaram, as the case may be, shall (in case there be enhancement or reduction) be the Jenmikaram due thereon.]

original Regulation, Government was given priority only in respect of land tax. Somehow, that fact was overlooked when the Amendment Regulation was passed and, thus, in respect of all amounts due to Government, they have been given priority over the Jenmis' dues. Therefore even in respect of agricultural loans or

land mortgage loans, for instance, Government get priority over the Jenmis' dues. That was not, certainly, the intention at the time the Amended Regulation was enacted. The amendment now proposed seeks to make it clear that Government will get priority only in respect of land tax." A. P. Vol. IV, P. 337.

CHAPTER III.

Part A—[Jenmikaram and its recovery.]

15. (1) [Every contract of Kanapattom made or renewed after the commencement of the Amendment Act shall, in addition to other particulars, specify.—

Particulars of Kanapattom contract.

- (a) the name, if any, the description and the extent of the holding, and
 - (b) the settlement pattom, the Settlement patta-micham, the Jenmivaram and the Jenmikaram in respect of the land or each of the several parcels of land comprised in the holding.]
- (2) (a) If the [Jenmikaram or any portion thereof is] made payable in kind, it shall be specified according to the standard measure or Parah prescribed by Our Government or which may be agreed upon between the parties.
- (b) If any local Parah or measure is used by the parties, the difference between it and the Government standard Parah must be set forth in the Kanapattom.

Chapter III, Part A. Heading. The heading assigned to this Part in Act V of 1071 was "Of Michavaram and Customary dues". The present heading was substituted by Sec. V, Act XII of 1108.

Sec. 15 Sub-Sec. (1). The subsection as originally enacted read as follows:—

"15 (1) *Particulars of Kanapattom contract.* In every contract of Kanapattom granted or renewed after this Regulation comes into force.

(a) the name, description and extent of the holding,

(b) the Pattom assessed on the holding,

(c) the deductions therefrom on account of interest on the Kanom money,

(d) the amount of Michavaram agreed upon,

(e) the renewal fees and customary dues intended to be levied from the Kudiyan, and the rate at which and the occasions on which they are to be levied, and

(f) if customary dues are commuted under Section 26, the amount so commuted, shall be distinctly specified."

This was substituted by sec. VI, Act XII of 1108.

Sec. 15 (2), In sub-section (2), clause (a) for the words "Michavaram or other dues are", the bracketed words were substituted by section VI-A of Act XII of 1108.

(3) Registering officers shall refuse to accept for registration any Kanapattom instrument unless it shall contain the particulars above set forth. The order of the Registrar shall be subject to appeal according to the provisions of the Registration Act for the time being in force.

[16. No summary suit or claim for enforcing payment of any Jenmikaram shall be entertained by the Courts under this Act unless either the Jenmikaram or the renewal fees and customary dues, with reference to which the Jenmikaram has to be ascertained, are specified in the Kanapattom or its counterpart duly registered or in a decree of a Civil Court obtained in a regular suit between the Jenmi and the Kudiyan.

17. (1) Subject to the provisions of this Act every Jenmi shall be entitled to receive and every Kudiyan shall be bound to pay in respect of all land in the latter's holding the Jenmikaram due thereon, and notwithstanding any contract or usage to the contrary the Jenmi shall not be entitled to receive and the Kudiyan shall not be bound to pay anything else in respect of the land.

Secs. 16-18. These Sections were substituted by Sec. VII of Act XII of 1108. The sections as originally enacted ran as follows:—

"16. *When suit or claim for renewal fees or customary dues to be entertained.*—No summary suit or claim for enforcing payment of renewal fees or customary dues shall be entertained by the Courts under this Regulation, unless such fees or dues, as the case may be, are specified in the Kanapattom or its counterpart duly registered.

Exception.—Nothing in this Section shall affect the Jenmi's right to recover summarily the renewal fees or customary dues under the existing Kanapattom though not expressly specified in the instrument of Kanapattom.

"17. *Payment of Michavaram, renewal fees. etc.*—Every Kudiyan shall pay his Jenmi the Michavaram, renewal fees and customary dues at such time and place as may be agreed upon between them in writing, and, in the absence of such written agreement, in the manner following, namely—

(2) The Jenmikaram shall be payable in such instalments and on such dates, as Our Government may, by Rules made under this Act, prescribe, or, in the absence of such Rules, at or before the close of each Malabar year.

(3) The Jenmikaram or any instalment of Jenmikaram payable on any date, if it is not paid on or before that date, shall become an arrear on the first day after that date.

(4) An arrear shall bear simple interest at the rate of nine per cent. per annum when it is payable in money or in paddy, and at the rate of six per cent. per annum if it is collected or recovered by Our Government under the provisions of Chapter IV.

(5) When according to the terms of any contract of Kanapattom renewal fees are payable on the expiry of a specified period and part only of such period has expired before the commencement of the Amendment Act, an amount which bears to the aggregate amount or value of such renewal fees the same proportion as the expired part of the period bears to the whole period specified in the contract shall be payable by the Kudiyar to the Jenmi without interest within three years from the commencement of the Amendment Act or with interest at six per cent. per annum thereafter within a further period of three years.

Renewal fees for expired period how payable.

(a) the annual Michavaram shall be paid on or before the thirtieth day of Audi of each Malabar year at the residence or at the granary (Sekarippoo) of the Jenmi, provided, that such residence or Sekarippoo is within the Proverthi in which the holding is situated;

(b) customary dues, after demand—except in cases where they become due on recognised dates, such as Onakalcha;

(c) renewal fees, on or before the last day of the year following the period when the renewal of the Kanapattom ought to take place under Section 11.

Rate of interest in default of payment:—In default of such payment, interest shall be charged on the arrears from the date they become due, at the rate of 12 per cent. per annum when the arrears are payable in money, and of 18 per cent. per annum when the arrears are payable in kind.

SEC. 18. THE JENMI AND KUDIYAN ACT. CHAP. III.

18. Where the Jenmikaram or any portion of it consists of paddy or other commodity the Jenmikaram payable only in money. Kudiyan shall be entitled to pay in money the value of such paddy or other commodity at the commutation rates fixed under the provisions of Section 46.]

19. Every Kudiyan paying [any Jenmikaram] shall be entitled to a receipt specifying—
Contents of receipt for Jenmikaram. (a) the date of payment,

- (b) the amount paid,
- (c) the period for which it is paid,
- (d) the holding in respect of which it is paid, and
- (e) such other particulars as may be necessary to elucidate the transaction.

20—26. [Omitted by Section 9, Act XII of 1108.]

"18. *Jenmi to renew Kanapattom on payment of renewal fees.*—On payment by the Kudiyan of the renewal fees, together with any arrears of Michavaram which may remain unpaid for the whole or any portions of the expired period of 12 years, the Jenmi shall renew the Kanapattom and the Kudiyan shall thereupon execute a counterpart of such Kanapattom.

Provided that when a Kanapattom and its counterpart containing the particulars specified in Section 15 and duly registered shall have been once before exchanged between a Jenmi and his Kudiyan, the parties may, by mutual agreement, dispense with the execution of a fresh Kanapattom and counterpart. In such cases, a receipt for payment of renewal fees shall, if duly registered, be deemed to operate to all intents and purposes as a renewal of the Kanapattom.

Sec. 19. The words within brackets were substituted for the words "Michavaram or customary dues" by Section VIII of Act XII of 1108.

Secs. 20-26. These Sections were omitted by Section IX of Act XII of 1108.

Sections 20 to 26 of Act V of 1071 were as follows:—

"20. *Revision of terms on renewal of Kanapattom.*—(1) Every revision or re-adjustment of the terms of a Kanapattom at the end of 12 years shall be made by a contract in writing duly registered.

(2) If the parties cannot agree as to the terms of such revision or re-adjustment or as to the amount of additional Kanom or Ettarthom, the Jenmi or the Kudiyan, as the case may be, may institute a regular suit in a Civil Court of competent jurisdiction for the purpose of compelling the other

party to accept the terms proposed by him, or such other terms as to the Court may seem fit.

(3) Notwithstanding anything contained in the Stamp Regulation, no such contract of Kanapattom executed in renewal of a prior contract of Kanapattom shall be subject to stamp duty when the annual Michavaram reserved in such renewed Kanapattom does not exceed Rs. 50 in value.

(4) In the absence of an express contract to the contrary the cost of stamp and registration of Kanom deeds shall be borne by the Kudiyan, and the cost of stamp and registration of counterparts or Kychits by the Jenmi.

"21. When Jenmi entitled to claim enhancement of Pattom. The Jenmi of a holding shall not be entitled to claim an enhancement of the Pattom assessment fixed under any existing Kanapattom except on one or more of the following grounds viz:—

(a) in the case of paddy lands,

(1) that the area of the holding actually under cultivation is in excess of the area on which the Pattom was previously fixed,

(2) that the rate of current Pattom is below the prevailing rate for lands of a similar descriptions and quality, with similar advantages in the same Elai or Muri, and that there is no reason for the holding being assessed at so low a rate,

(3) that the productive powers of the land comprised in the holding, as compared with those powers at the time when the current Pattom was fixed have increased from causes not merely temporary or casual.

(b) In the case of other lands in addition to the foregoing grounds,

(4) that the number of trees in the holding on which Pattom is assessable has increased.

(5) that there has been a substantial rise in the average local prices of the produce of those trees during the currency of the previous Kanapattom.

(c) In the case of either description of land,

(6) that, after this Regulation comes into force, the Kudiyan erects factories, shops or other buildings, not being erections referred to in (e) of Explanation I to Clause 14 of Section 3, and the annual rental value of the holding has thereby increased.

When the excess to the area under cultivation or the increase in the productive powers of the land is due to reclamation or other works of permanent improvement effected at the expense of the Kudiyan, the cost of such reclamation or other works of improvement shall be estimated and interest on the capital outlay so estimated shall be deducted from the difference between the old and new assessment and allowed to the Kudiyan at the same rate at which the interest on the Kanom money is allowed to the Kudiyan under the Kanapattom.

Where an enhancement is allowed on gardenlands, Nadavukoor or deduction on account of the cost of planting and rearing the trees sought to be assessed with the Pattom, shall be allowed to the Kudiyan at such rate as may have been agreed upon between him and the Jenmi, and, in the absence of such agreement, at the usual rate prevailing in the Proverthi in which the land is situated.

Where enhancement is allowed on the ground mentioned in Clause (8), the rental value shall be the annual rental of the building according to the rates prevailing in the neighbourhood less interest at 6 per cent. per annum on the value of such building and the cost of maintenance.

"22. Rate of assessment of pattom.—

(a) The Pattom on paddy lands shall not exceed one-fourth of the gross produce.

(b) The Pattom on other land shall, in like manner, not exceed one-fourth of the estimated average annual yield of the trees growing thereon, commuted into money at the average market rate, the average being based upon the market price of the different kinds of staple produce for 12 years preceding. If no such trees exist, the Pattom shall be taken to be equal to the Payattupattom prevailing in the Proverthi.

(c) The Pattom on buildings shall be one-half of the rental value fixed under the last para of the preceding Section.

(d) The Pattom so assessed shall be subject to deduction on account of interest on the Kanom money, but not on account of existing Sirkar tax or customary dues and renewal fees which shall be paid by the Kudiyan out of his share of the produce.

Provided that the existing Pattom shall not be disturbed for the reason only of its being above or below the proportion fixed under this Section.

"23. Amount of Ettartham leviable on renewal of Kanapattom. The amount of additional Kanom or Ettarthom leviable by the Jenmi at the time of renewal of Kanapattom, when such is leviable under the provisions of this Regulation, shall not, without the consent of the Kudiyan, exceed six times the amount of the enhanced Michavaram which would have been payable by the Kudiyan, had the Jenmi claimed such enhancement under the provisions of Sections 20 and 21.

*"24. Kudiyan may claim reduction of Pattom in certain cases.—*A Kudiyan may, at the time of renewal, claim reduction of Pattom on the grounds,

(a) that the area of his holding has been diminished, not by his neglect, but by the action of sea, river or lake, or like causes,

Part B—[Summary recovery and deposit of Jenmikaram.]

[26-A. (1) It shall be competent to the Jenmi of any holding, without prejudice to any other right of action that he may have, to make an application to the Tahsildar of the Taluk in which the holding is situated to recover the arrears of any Jenmikaram in respect of that holding :

Jenmi may apply to Tahsildar to recover Jenmikaram under Revenue Recovery processes.

Provided that the arrears are not more than one year old on the date of the application.

(2) The application shall be in such form and shall contain such particulars as may be prescribed by Our Government and shall be signed and verified by the Jenmi in the manner prescribed by the Code of Civil Procedure, 1100, for the signing and verification of plaints.

(b) that the soil of the holding has, without the fault or neglect of the Kudiyan become permanently deteriorated,

(c) that, in the case of gardens, there has been a fall in the average local prices of the produce of the trees in the holding during the currency of the current Kanapattom,

(d) that the number of assessable trees in the holding has substantially diminished by causes not preventable by the Kudiyan,

(e) that the rate of the current Pattom of his holding is above the prevailing rate for similar lands in the village in which it is situated.

"25. Courts not to decree unfair enhancement or abatement. Notwithstanding anything in the foregoing Sections, the Court shall not in any case de-

eree any enhancement or abatement which is, under the circumstances of the case, unfair or inequitable.

"26. On transfer of Jenmom right Kudiyan entitled to have customary dues commuted into fixed annual payment.—In the case of a transfer of Jenmom right, it shall be competent to the Kudiyan to call upon the transferee to commute customary dues into fixed annual payment. The transferee shall comply with such demand. If they disagree as to the rate of commutation, the Court shall decide what shall be the fair and equitable rate."

Chapter III, Part B. The heading of Part B in Act V of 1071 was "Deposit of Rent and Customary dues in Court." The present heading was substituted by Section X, Act XII of 1108.

Sec. 26 A. This Section was inserted by Section XI, Act XII of 1108.

(3) The applicant shall from time to time pay to the Tahsildar such fees as may be prescribed by Our Government for the several processes that may be necessary for realising the arrears. The applicant shall be entitled to a refund of any portion of such fees that may remain unexpended at the termination of the proceedings.

(4) If the Tahsildar is satisfied that the application has been duly presented, that the arrears are due from the Kudiyan, that the applicant is entitled to recover them and that they are not more than one year old on the date of the application, he shall proceed to recover the amount of the arrears and interest and the fees paid under Sub-section (3) by the applicant as if they were an arrear of public revenue due to Our Government and the provisions of the Revenue Recovery Act, I of 1068, (as amended by Acts III of 1087, VIII of 1094, X of 1097 and II of 1099) shall *mutatis mutandis*, apply to all the proceedings.

(5) (a) The amount that is recovered shall be paid by the Tahsildar to the applicant on taking a receipt from him in a form as near as may be to that contemplated by Section 19.

(b) A copy of the receipt with the attestation of the Tahsildar shall be given free of cost to the Kudiyan if he applies for it.

Explanation -- Nothing in this Section shall be deemed to bar the right of civil suit which any aggrieved party may have in law.]

27. [(a) When a Jenmi refuses to accept Jenmikaram tendered by the Kudiyan, or

Jenmikaram may be deposited by Kudiyan. (b) When the Kudiyan in any case is doubtful as to the person entitled to receive the Jenmikaram,

Sec. 27. Section XII of Act XII of 1108 substituted the present Section in place of Section 27 of Act V of 1071 which ran as follows :—

“27. *Kudiyan may apply to Munsiff's Court for leave to deposit Michavaram on Jenmi's failure to accept tender.*—If any Kudiyan tenders to the Jenmi full payment of Michavaram or renewal fees or other dues as they fall due, and if the Jenmi is not ready or willing to accept the tender and grant a receipt forthwith, or if the Kudiyan

the Kudiyan may make an application to the Court of the District Munsiff having jurisdiction over the place where the holding or any part of it is situated for permission to deposit in such Court the entire amount of the Jenmikaram due in respect of the holding till then together with the interest due thereon under this Act.]

Contents of the application. 28. The application shall specify, as far as possible,—

- (a) the name of the Jenmi and his description when known and, in case of doubt, the name and description of all the rival claimants,
- (b) the local name, description and extent of the holding,
- (c) the particulars of the tenure on which the holding is held by the Kudiyan,
- [(d) the entire amount of the Jenmikaram and the interest due thereon up to date and the value, at the commutation rates, of such portion of it as is in kind,]
- (e) the circumstances under which the application is made, and shall be verified in the manner prescribed by the Code of Civil Procedure for the verification of plaints.

29. The amount of [Jenmikaram] [* *] specified in Clause (d) of Section 28 shall be paid into Court at the time of the application, the price of grain or other commodities payable as [Jenmikaram] [and the interest, if any, due thereon] being commuted into money. [* *]

Jenmikaram due up to date of application to be paid into Court.

entertain a *bona fide* doubt as to the party entitled to receive the Michavaram and other dues, the Kudiyan may apply to the Munsiff's Court within whose jurisdiction the holding is situated, for leave to deposit such amount in Court to the credit of the Jenmi."

Sec. 28. Section XIII of Act XII of 1108 substituted Clause (d) for the old Clause (d)

which was—“(d) the full amount of Michavaram or customary dues due up to date and.”

Sec. 29. Section XIV of Act XII of 1108 made the following amendments in Section 29, Act, V of 1071. (1) For the word “Michavaram” the word “Jenmikaram” was substituted in both the places where it occurred. (2) The words

[30. (1) When such application as is aforesaid is made the Court shall grant the permission applied for and accept the deposit unless it appears on an examination of the applicant that the application has been made without justifying grounds or unless he has failed to pay the fee, if any, chargeable for the issue of the notice hereinafter referred to.

(2) The applicant shall be entitled to a receipt from the Court accepting the deposit, and the deposit, shall be deemed to be a payment made by the Kudiyan to the Jenmi in respect of the Jenmikaram or arrear due.

31. (1) The Court accepting the deposit shall give notice of the same to every person who is reasonably believed to claim or to be entitled to the deposit, and may, after hearing such of them as may appear in Court, pay the amount thereof or remit the same less the Hundi or Money Order commission by Anchal Hundi or Postal Money Order to any person appearing to the Court to be entitled to the same or may, if it thinks fit, retain the deposit pending the decision of a competent Civil Court as to the person so entitled.

"at market rates were omitted. (3) The words "or other dues" occurring before the word "specified" were deleted and (4) For the words "or dues" which occurred before the words "being commuted" the words "and the interest, if any, due thereon" were substituted.

Secs. 30 & 31. These Sections were substituted by Section XV of Act XII of 1108. Sections 30 and 31 of Act V of 1071 ran as follows:—

"30. *Munsiff to issue notice to Jenmi.*—The Munsiff shall, upon such payment as aforesaid, issue a notice to the Jenmi or other persons named in the application mentioned in Section 28, calling upon him or

them to show cause why the payment should not be accepted and a receipt granted to the Kudiyan.

31. *Further procedure.*—(1) On the day fixed for the appearance of the parties, or on any other day to which the hearing of the application may be adjourned, the Munsiff shall hear the objections, if any, of the Jenmi or other parties claiming the right to receive the Michavaram and dues, and on being satisfied that the full amount due up to date has been paid into Court by the Kudiyan and that the Kudiyan is entitled to make the application shall grant a receipt in the Form prescribed by Section 19.

(2) Nothing in this Section shall affect the right of any party to institute a regular suit in a competent Civil Court to contest the payment, remittance or order made under Sub-section (1) or to recover the amount from the party, if any, to whom it has been paid or remitted under Sub-section (1) but, so far as the Kudiyan is concerned, the receipt granted under Sub-section (2) of Section 30 shall be deemed a full acquittance in respect of the amount covered by the receipt and shall have the same force and effect as a receipt granted by the person rightfully entitled to receive the amount. 1, X

32. Every application made under this Part B shall be exempt from payment of Court fees.

Applications under Part B to be exempt from Court fees.

(2) If the amount paid into Court be less than what is justly due to the Jenmi at the date of the application, the Munsiff shall reject the application and return the deposit, unless the Kudiyan offers to make good, and does make good, the deficiency within six weeks from the date of the order by the Munsiff to make good the same.

(3) In all cases where a receipt is granted by the Court, the deposit shall be paid over to the Jenmi or other party appearing on a summary investigation to be entitled to the deposit. In cases of dispute as to the person entitled to receive the deposit, the Munsiff may take security from the person

in whose favour he adjudges in the summary investigation before making the payment.

(4) Nothing in this Section shall affect the right of any party to contest by a regular suit the decision passed under Clause (1) or to recover the amount paid from the party receiving the deposit under the summary order of the Court.

(5) A receipt granted by a Court under Clause (1) shall operate as a full acquittance for the amount paid into Court and shall have the same force and effect as a receipt granted by the Jenmi himself."

Part C.—[Of the Jurisdiction of Courts over petty claims for Jenmikaram.]

33. Claims by Jenmis for recovery of arrears of [Jenmikaram] shall, when the amount or value of such claim does not exceed Rs. 100, be taken cognizance of and disposed of summarily by the Courts hereinafter mentioned.

(1) District Munsiffs shall have jurisdiction in respect of all such claims where the amount or value of the claim does not exceed Rs. 30.

Chapter III, Part C. The present heading was substituted by Sec. XVI, Act XII of 1108 for the one in Act V of 1071 which was:—"Part C. Of the Jurisdiction of Courts over petty claims for Michavaram and Customary dues."

Sec. 33. The Statement of Objects and Reasons appended to the Bill which was passed as Act V of 1071 explained the provision as follows:—

"This authorises the Munsiffs and Zillah Judges to dispose of summarily all claims by Jenmis for recovery of arrears of Michavaram and other dues when the amount or value of such claims does not exceed 50 and 100 Rs. respectively. The object of this provision is best stated in the words of the Jenmi and Tenant Commission, 'One of the chief complaints,' they write, 'made by the Jenmis which on enquiry was considered to be not wholly unfounded is that, while the statutory rights of occupancy were conferred on their Kudiyans, no facilities had been accorded to the Jenmis for the prompt enforcement of their claims, and that the rents and dues to the Jenmis

are consequently not being paid punctually by the Kudiyans. It was intended at the time the Royal Proclamation of 1042 was issued to introduce the provisions of old British Indian Regulation (Madras Regulations 28 of 1802 and 5 of 1822) since superseded by the Madras Rent Recovery Act VIII of 1865, but on consideration, these Regulations were probably found unsuited to the peculiar circumstances of the Jenmis in this State.

"The power of distraining for arrears given by the Madras Regulations to the landlords is a power liable to great abuse in the hands of needy agents of Jenmis, and cannot be safely entrusted to them without causing wide discontent. Distraint was unknown to the Travancore and Malabar system of land tenures and the introduction of the novel procedure of distraint by private landlords cannot be thought of until other and less objectionable remedies have been tried and found inefficacious. One remedy for the evil complained of, and a remedy open to the least objection, is to allow the

(2) Zillah Judges shall have similar jurisdiction where the amount or value of the claim exceeds Rs. 30 but does not exceed Rs. 100.

34. Except as otherwise provided by this Act, the procedure prescribed by any law for the time being in force for the trial of non-appealable cases shall be the procedure to be followed by the District Munsiffs and Zillah Judges in all suits and proceedings summarily cognizable by them under this Act.

Procedure for trial of non-appealable cases to be followed in summary suits under this Act.

35. The cause of action for recovery of such claims shall be deemed to have arisen at the place where the holding, in respect of which the claim accrued, is situated, and the suit shall, subject to the provi-

Where cause of action arises.

Jenmis the benefits of the small cause procedure of the Courts in determining the claims not only for rents properly so called but also for customary dues and to extend the small cause jurisdiction of the Munsiffs and Judges to claims of Jenmis—the value of which may not exceed 100 Rs. The Munsiff should try all claims of the value of Rs. 50 and under, while the Zillah Judges may be left to try claims of a value exceeding Rs. 50.”—*S. O. & R., T. G. G. dated 6-5-1890.*

The Select Committee altered the limit of pecuniary jurisdiction.

The word “Jenmikaram” was substituted for the words “Michavaram. renewal fees, or

customary dues” by Section XVII of Act XII of 1108.

Sec. 35. The Statement of Objects and Reasons annexed to the Bill which was passed as Act V of 1071 explained the provision as follows:—

“In the absence of an express provision such as is contained in this Section, the claims will have to be lodged, under the ordinary law of procedure, either in the Court having jurisdiction over the place where the Defendant resides, or where the contract of lease or its violation took place. These places may not always be the locality in which the property is situate and it is convenient to both parties that the claim should be heard by the Court having jurisdiction over the land.”—*S. O. & R. T. G. G. dated 6-5-1890.*

sions of Section 33, Clauses 1 and 2, be preferred to the Court within the local limits of whose territorial jurisdiction the cause of action shall have arisen as aforesaid.

36. The plaintiff in such suit shall be exempt from payment of Court fees, if the claim be for recovery of arrears which accrued due within 12 months next preceding its institution; if otherwise, the regular Court fee which would have been levied, had the claim been instituted as a regular suit in a competent Court, shall be levied on the plaintiff.

Sec. 36. "This Section exempts plaintiffs from payment of court fees wholly or partly according as they relate to claims for arrears which accrued within the preceding twelve months or not. The Royal Proclamation having exempted the Kudiyans from payment of court fees on applications made by them for permission to deposit rent in courts, it is but fair that the exemption should be extended to Jenmis also. Indeed the exemption would really operate as a relief to the Kudiyans who will eventually have to bear the fee in the great majority of cases where the Jenmis' claims are decreed by the Courts. 'It has always been the policy of the State', to quote the words of the Jenmi Commission, 'to afford such relief to the agriculturists as is compatible with its duty to the general body of its subjects, and the exemption from court fee under certain circumstances of the plaintiffs in suits for the recovery of one year's rent and dues does not involve a large sacrifice of revenue. The chief thing that deters the Jenmis now from resorting to

the Courts for the recovery of their rents is the heavy court fee to which the plaintiffs are now liable, and as the Government for reasons of State policy do not consider it expedient to vest the Jenmis with the powers of distraint of crops, which their brethren elsewhere possess, it is but proper that the Jenmis should be afforded facilities for recovering their rent in other less objectionable ways."—S. O. & R. T. G. G. dated 6-5-1890.

In modifying the Section, the Select Committee stated as follows:—

"The partial exemption from payment of court fees contemplated in this Section does not commend itself to us. The total exemption in respect of suits for the recovery of arrears which accrued due within one year prior to their institution is justified by the considerations adverted to in para 50. (See Section 32.) In all other cases, we would levy the regular court fee. We have amended the Section accordingly."—S. C. R., Pr. 53. T. G. G. dated 6-5-1890.

37. Any agent or Vicharippukaran of a Jenmi empowered in this behalf by a written authority under the hand of the Jenmi shall, for the purposes of a summary suit or application under this Act, be deemed to be a recognised agent of the Jenmi within the meaning of the Code of Civil Procedure, notwithstanding that the Jenmi may reside within the local limits of the jurisdiction of the Court in which the suit is to be instituted or is pending or in which the application is made.

38. If, in the decision of a suit cognizable summarily by a Munsiff or a Zillah Judge under Section 33, it becomes necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immovable property or the status of either of them or of those under whom they claim, which, if it had been the immediate subject-matter of the claim, would not be cognizable by the Munsiff or the Zillah Judge under the procedure applicable to non-appealable cases, it shall be competent to the District Munsiff or the Zillah Judge, as the case may be, to decide such question of title to immovable property or status, so far as it may be necessary to do for the determination of the summary suit; but such decision shall not be conclusive evidence of such title or status in any other action between the same parties or their representatives.

Sec. 37. The Bengal Tenancy Act.....Section 145, contains a similar provision. The agent of a Kudiyan was also brought within the ambit of the Sec. as drafted in the original Bill. In modifying the Sec. as it stands at present, the Committee said.—

“We agree with the High Court in thinking that the privilege conferred by this Section should be confined to the Jenmi. The corresponding Section of the Bengal Tenancy Act limits the privilege to the Naik or Gumastah of a landlord.”—S. C. R.

Sec. 38. “This Section drawn on the lines of Sec. 19 of the Madras Village Munsiff’s Act I of 1889, is intended to guard against the possibility of the claims for rents and dues being thrown out on technical grounds. The rights of all parties concerned are sufficiently protected by the last part of the Section which provides that the decision in the summary suit shall not operate as *res judicata*.”—S. O. & R.; T. G. G. dated 6-5-1890.

SEC. 39. THE JENMI AND KUDIYAN ACT. CHAP. III.

39. (1) When a Kudiyan-Defendant admits that money is due from him on account of [Jenmikaram], but pleads that it is due not to the Plaintiff but to a third person, the Court shall, except for special reasons to be recorded in writing, refuse to take cognizance of the plea, unless the Defendant pays into Court the amount so admitted to be due.

(2) When such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(3) Unless the third person within three months of the notice institutes a regular suit against the Plaintiff and therein obtains an order restraining payment of the money, it shall be paid over to the Plaintiff on his application.

(4) Nothing in this Section shall affect the right of any person to recover from the Plaintiff the money paid to him under Clause (3) of this Section.

40. The decision of Munsiffs and Zillah Judges passed in summary suits under this Part shall be final, but shall be subject to revision by the High Court in the manner provided for by Section [89 of the Code of Civil Procedure, 1100 :]

Decision of Munsiffs and Zillah Judges to be final. Provided that, no judgment, decree or order, in supersession of the decision or order of the subordinate Court, shall be passed by the High Court without giving the parties an opportunity of stating their case either in person or by Vakils.

Sec. 39. "This is borrowed from the Bengal Tenancy Act and is intended to check frivolous denials of the title of the Jenmis by the Kudiyan."—S. O. & R.; T. G. G. dated 6-5-1890.

"Michavaram, renewal fees or customary dues" by Sec. XVIII of Act XII of 1108.

See. 40. The words and figures bracketed were substituted for "568 of the Civil Procedure Regulation (II of 1065)" by Sec. XIX of Act XII of 1108.

The word "Jenmikaram" was substituted for the words

[CHAPTER IV.

Collection and payment of Jenmikaram by Government.

40-A. It shall be lawful for Our Government to assume the collection of Jenmikarams for payment over to the Jenmi concerned.

Power of Government to assume collection of Jenmikarams.

[*Explanation.*—The assumption of the collection may be made in respect of all the Jenmom lands in the State together or of such lands in any local area or in such other convenient groups as may be determined by Our Government.]

40-B. (1) For carrying out the purposes of the foregoing Section, Our Government shall as soon as may be, cause a Register of Jenmikarams to be prepared, after settling the Jenmikarams, showing in respect of each Jenmom land the Survey Number and such other particulars of description as may be prescribed, the names of the Jenmi and the Kudiyan, the Settlement pattamicham, the Jenmivaram, the Jenmikaram, the date and, nature of the document, if any, on the basis of which the Jenmikaram was fixed and such other particulars as may be prescribed.

(2) The Register may be prepared for the whole State or for each Pakuthi or other local area or for such groups of lands as may be determined by Our Government.

Chap. IV. This Chapter containing Sections 40-A to 40-N was inserted by Sec. XX of Act XII of 1108.

Sec. 40-A. The *Explanation* to the Sec. so added ran as follows:—“*Explanation.*—Our Government shall assume the collection in respect of all the Jenmom lands in the State at the same time although the proceedings towards such assumption

may be made in respect of all the Jenmom lands in the State together or of such lands in any local area or in such other convenient groups as may be determined by Our Government”.

The present *Explanation* was substituted by Sec. 2, Act XXVI of 1115. See Objects and Reasons extracted under Act XXVI of 1115 *supra*.

SEC. 40-C. THE JENMI AND KUDIYAN ACT. CHAP. IV.

Explanation.—The 'Register of Jenmikarams' shall for the purposes of this Act mean the Register in respect of the whole State or in respect of the Pakuthi or other local area or the group concerned.

40-C. Our Government may appoint any person or persons that they may deem fit for the Settlement of the Jenmikarams and the preparation of the Register of Jenmikarams and such person or persons (referred to hereinafter as the Jenmikaram Settlement Officers) may, for such settlement and such preparation, make such investigation and follow such procedure as may be prescribed.

40-D. Not less than one month before the work of the Settlement of Jenmikarams and the preparation of the Register of Jenmikarams is proposed to be begun, Our Government shall publish in Our Government Gazette, and in such other manner, if any, as may be prescribed, a Notification giving notice of the appointment of the Jenmikaram Settlement Officer for the Pakuthi, local area or group concerned and calling upon the Jenmis and Kudiyan and all persons interested to supply all necessary information and render all assistance in the matter.

40-E. When the preparation of the Register of Jenmikarams has been completed in the prescribed manner [* *] and such Register has received the approval of Our Government, Our Government shall publish in Our Government Gazette, and in such other manner, if any, as may be prescribed, a Notification notifying that, with effect from a specified date thereafter, which shall not be earlier than two months from the date of the Notification, they have under Section 40-A assumed the collection of Jenmikarams in respect of the whole State, [or the pakuthi

Sec. 40-E. The words "in respect of the whole State" which occurred after the words "prescribed manner" were deleted and the bracketed words were added at the end of the Sec. by Sec. 3, Act XXVI of 1115.

or other local area or the group of lands, as the case may be.]

40-F. (1) The Jenmikarams in respect of the lands covered by the Register of Jenmikarams referred to in the foregoing Section and accruing due from and after the date specified in the Notification published under that Section shall be paid to Our Government in such manner and at such times as may be prescribed and may in default of such payment be recovered under the provisions of the Revenue Recovery Act (Act I of 1068 as amended by Acts III of 1087, VIII of 1094, X of 1097 and II of 1099) in the same manner as arrears of Land Revenue.

Jenmikarams to be paid to Government and recoverable as arrears of Land Revenue.

(2) No such Jenmikaram shall be payable or be allowed to be paid in kind. Jenmikarams due in kind shall be paid at commutation rates fixed under the provisions of Section 46.

Jenmikaram to be paid in money only.

40-G. The Jenmikarams collected by Our Government shall be paid to the Jenmi concerned deducting therefrom a fee, towards the charges incidental to collection and payment, of such amount as may be prescribed from time to time not exceeding in any case two and a half per centum of the amount collected for payment.

Jenmikaram to be paid to Jenmi deducting cost of collection.

Explanation 1—If interest on any Jenmikaram is collected such interest also shall be paid over to the Jenmi deducting the fee in respect of such interest also.

Explanation 2 - If any costs are recovered on account of any processes taken for the recovery of any Jenmikaram such costs shall not be paid over to the Jenmi.

Explanation 3—Our Government shall be liable to pay only the Jenmikaram and interest actually collected by them.

SEC. 40-H. THE JENMI AND KUDIYAN ACT. CHAP. IV.

40-H. Notwithstanding anything contained in the foregoing provisions of this Act no Jenmikaram to be paid only to Government. (1), made otherwise than in accordance with the provisions of that Sub-section, shall be deemed to be a valid discharge of the liability to pay such Jenmikarams; and in respect of such Jenmikarams it shall not be lawful for any Jenmi to institute any suit under the provisions of Chapter III or for the Jenmi or the Kudiyan to make any application under the provisions of the same Chapter.

40-I. No collection or payment of Jenmikaram shall be stayed by Our Government merely on the ground that any party has any objection to the entries in the Register of Jenmikarams or to the collection or payment in accordance with such entries:

Jenmikarams must be collected according to the Register of Jenmikarams.

Provided that any party aggrieved shall have the right to institute a suit in a Civil Court of competent jurisdiction to establish the right which he claims and Our Government shall abide by the final result of such suit and may, if necessary, correct the Register of Jenmikarams accordingly.

40-J. (1) Our Government shall, at or after every future general Revenue Settlement, cause the Register of Jenmikarams to be revised. At such revision, Our Government may, if they deem fit, cause the particulars required to be entered in the Register of Jenmikarams to be incorporated in the Register that is prepared in respect of the Land Revenue Settlement.

Revision of Register of Jenmikarams.

(2) When any such revision has to be made the procedure prescribed by Sections 40-B to 40-E shall be followed as far as may be; and when the revised Register is completed and notification made under Section 40-E, such revised Register shall be the Register of Jenmikarams and when the particulars required to be entered in the Register of Jenmikarams are incorporated in the

Register prepared in respect of any Land Revenue Settlement, such Register shall be deemed to be the Register of Jenmikarams for the purposes of this Act.

40-K. Any changes in respect of the particulars entered in the Register of Jenmikarams, arising by reason of any circumstances, such as the transfer of the right to receive Jenmikaram and the like, occurring after the publication of the notification under Section 40-E, may be caused to be recorded in such manner as may be prescribed, and such record shall be deemed, if so prescribed, as a part of the Register of Jenmikarams.

Subsequent changes *re* Jenmikaram, etc. may be recorded.

40-L. (1) No suit or other proceedings shall lie against Our Government or their officers for doing, or failing to do, anything in connection with the settlement of Jenmikarams or the preparation of the Register of Jenmikarams or for having collected or paid any Jenmikaram in accordance with the Register of Jenmikarams.

When suits against Government will lie and when not.

(2) Nothing in Sub-section (1) shall be deemed to prohibit any person aggrieved by any collection or payment from instituting any suit against any other person in a Civil Court of competent jurisdiction for establishing the right which he claims or for following any money in the hands of any person to whom it was paid or for recovering any money from any person who was bound to pay it; or to prohibit any suit against Our Government for the recovery of any moneys realised by them on account of any dues already collected by them.

40-M. (1) Our Government shall have power to make Rules for carrying out the purposes of this Chapter.

Power to make Rules.

(2) Without prejudice to the generality of the power aforesaid, Our Government may make Rules not inconsistent with the provisions of this Act—

(a) to provide for the Registers or other records or accounts to be kept for facilitating the collection and payment of Jenmikarams and to determine

SEC. 40-N. THE JENMI AND KUDIYAN ACT. CHAP. IV.

which of these registers or records or accounts shall be deemed a part of the Register of Jenmikarams ;

- (b) to provide for the transfer of the right of the Jenmi or the liability of the Kudiyān by sale, gift, partition, or otherwise being recognised and recorded and procedure to be followed in recognising and recording such transfers ;
- (c) to provide for the grant of documents to the Jenmi and the Kudiyān evidencing the amount of the Jenmikaram and the manner and time of the payment of the same ;
- (d) to provide for the grant of receipts or vouchers for the payment made by a Kudiyān, or the receipt by a Jenmi of any Jenmikaram ;
- (e) for authorising the Jenmikaram Settlement Officers to exercise all or any of the powers exercisable under the Departmental Enquiries Act, Act VI of 1073 ;
- (f) for giving notice to the Jenmis or the Kudiyāns or both when coercive steps are taken against Jenmōm lands for the recovery of the Jenmikaram or the Sirkar tax and for determining the amount of the cost recoverable for the same and the party from whom it may be recovered ;
- (g) to make provision for any incidental matters that may arise in the settlement of the Jenmikaram or the preparation of the Register of Jenmikarams pursuant to the provisions of this Act ; and
- (h) for any matter that has to be prescribed under the provisions of this Act.

40-N. No Jenmikaram shall be recoverable under the provisions of this Chapter by the sale of any land except the land on which the Jenmikaram is a charge.]

What land can be sold for Jenmikaram.

[CHAPTER V.

Miscellaneous.]

41. The High Court may, from time to time, make Rules consistent with this Act for regulating the practice and procedure of Courts acting under this Act. The Rules so made shall be published in the Gazette.

Power of High Court to make Rules.

42. Notwithstanding anything contained in the foregoing, the provisions of this Act shall not apply to any Kanapattoms executed since 25th Karkatakam 1042, which expressly provide for redemption.

Saving of Kanapattoms executed since 25th Karkatakam 1042.

43. In contracts relating to Jenmom lands entered into for the first time after this Act comes into force, the question whether the tenancy is terminable or otherwise shall be determined according to the intention of the parties as gathered from the terms of the contract.

Terminable nature of tenancy to be determined from terms of contract.

44. Notwithstanding anything contained in the foregoing [no Jenmikaram shall be recoverable by any Jenmi or by Our Government from] any Kudiyan who or whose predecessor in interest has held his holding for more than fifty years preceding the date of this Act without paying Michavaram and other dues or without taking any renewal within the said period of fifty years.

Saving of rights of Kudiyan of more than fifty years' standing.

Chap. V. Miscellaneous. The heading was inserted by Sec. XX A. of Act XII of 1108.

Sec. 42. This Sec. was added by the Select Committee to whom the Act V of 1071 Bill was referred." The Committee said.—"The object is to exclude from the scope of the Bill all transactions between Jenmis and Tenants relating to Kanapattom leases which are deter-

minable and executed either in virtue of the Royal Proclamation. Sec. 8, or for the first time after this Regulation comes into force under an understanding that such lease should be determinable."—S. C. R.

Sec. 44. For the words "the provisions of this Regulation shall not apply to", the bracketed words were substituted by Sec. XXI of Act XII of 1108.

The provisions of this Act shall not apply to any right declared, established, or already acquired by Jenmis or Kudiyan at the date this Act comes into force.

And of established rights.

Explanation.— If any time for redemption has been specially provided for, the fifty years shall be calculated from the date on which the stipulated time expires.

[45. When the Jenmi and the Kudiyan cannot agree as to the apportionment as between them of the compensation money awarded or awardable on the acquisition, under the Land Acquisition Act, of any land or portion of land comprised in any holding, the portion due to each shall be determined in accordance with the following Rules :—

Apportionment of compensation money on land acquisition.

(a) So much of the compensation money as is due to any buildings shall belong entirely to the Kudiyan ;

(b) the balance left after deducting the portion of compensation money referred to in Rule (a) shall belong to the Jenmi and the Kudiyan in the proportion of the Jenmikaram charged or chargeable on the land or portion of land and the average annual net produce of the land or portion of land, as the case may be :

Provided that if the capitalised value of the Jenmikaram is smaller than such share of the Jenmi the capitalised value alone shall belong to the Jenmi and all the rest shall belong to the Kudiyan.

Explanation.—

1. The capitalised value of any Jenmikaram means an amount equal to sixteen and two-third times the amount of the Jenmikaram.

2 'Net produce' means the surplus remaining after deducting from the gross produce of any land a portion equivalent in value to the cost of cultivation and the

Secs. 45—47. These Secs. Act XII of 1108.
were added by Sec. XXII of

Sirkar tax and cesses, if any, and the Jenmikaram chargeable on such land and includes the value of such surplus.

3. 'Average annual net produce' means the net produce ascertained as derivable on an average for one year, by calculation of the net produce for each year during a period of ten years immediately preceding the date of such ascertainment.

4. When a portion alone of a land is acquired the portion of Jenmikaram chargeable on that land shall be ascertained as if the land had been divided; and the Jenmikaram of the portion of land acquired shall cease to be payable to the Jenmi or to Our Government.

46. (1) Subject to the provisions of this Act, Our Government may from time to time fix the rates for the commutation into money of paddy or other commodities for the purposes of this Act and notify the same in Our Government Gazette, and the rates so fixed shall be the rates for commutation for the purposes of this Act.

Government to fix commutation rates on advice of committees.

Explanation 1.—The rates may be uniform for the whole State or for all purposes or may vary.

Explanation 2.—The power to fix rates includes the power to revise rates already fixed.

(2) In fixing the rates, Our Government shall be guided by such Rules as may be passed by Our Government after previous publication.

(3) Such Rules shall, *inter alia*, provide for the appointment of a Committee to advise Our Government as to the rates to be fixed under this Section. The Committee shall consist of five members, two to represent the Jenmi interests, two to represent the Kudiyan interests and one, an official, to be the Chairman, and shall follow such procedure as may be prescribed.

Explanation.—The Committee may be a single Committee for the whole State or there may be different Committees for different places.

SEC. 47. THE JENMI AND KUDIYAN ACT. CHAP. V.

47. (1) Notwithstanding anything contained in the First Schedule annexed to the Travancore Limitation Act, no suit for any arrear of Jenmikaram or the interest due thereon shall be entertained by any Civil Court unless instituted within six years from the date of the Jenmikaram becoming an arrear :

Limitation period for Jenmikaram. Provided however that suits for Jenmikaram which are barred by reason alone of the above provision on the date of the commencement of the Amendment Act may be instituted within two years from that date.

(2) The Explanation to Article 119 of the First Schedule to the Travancore Limitation Act shall be deemed to stand repealed.]

PROCLAMATION.

*By His Highness the Maha Raja of Travancore
issued under date the 28th Kanni 1072
corresponding with the 12th
October 1896.*

“Whereas, by the provisions of paras 12 and 13 of the Proclamation dated 16th May 1886/4th Edavom 1061, certain ryots who have been performing Oolium service by virtue of certain loans advanced to them in ancient times recognised in the accounts as Muthalepu, are required, as a condition of relief from such service, to either refund the amount of the said Muthalepu standing against them or to agree to pay, until discharge of the debt, interest on the same at the rate of three per cent. per annum; and whereas it is represented to Us that the levy of the refund or the interest as aforesaid entails hardship on the ryots concerned, and that the render of the service on account of advances made in remote times has been a source of hardship and loss to them, We resolve, in their interests, to abolish the Muthalepu and are pleased to command as follows :—

That no demand shall hereafter be made in respect of the capital amount of the said Muthalepu, whether coupled with assignments of land or not, or in respect of the cess known as ‘Chomattupanom’ leviable on the separate loans, and all arrears of such cess; and the said Muthalepu, cess and arrears shall be written off the accounts.

That all sums already realised (but not yet credited in the accounts) on account of such Muthalepu, cess and arrears, or which may be realised up to the date of the receipt, in the Taluks, of instructions in pursuance of this Proclamation, shall be credited to Government.

That all services rendered on account of Muthalepu shall be discontinued.

The Proclamation was published in *T. G. G.* dated 13-10-1896.

ACT II OF 1072.
GENERAL CLAUSES ACT.

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THE GENERAL CLAUSES ACT.

ACT II OF 1072.

An Act to shorten the language used in Acts passed in Travancore and make certain provisions relating thereto.

Passed by His Highness the Maha Raja of Travancore on the 13th June 1897 corresponding with the 1st Mithunam 1072, under Section 9 of Act II of 1063.

Whereas it is expedient to shorten the language used in Acts passed in Travancore, and to make certain provisions relating to such Acts; It is hereby enacted as

Preamble.

follows:—

1. This Act may be called "The Travancore General Clauses Act of 1072," and it shall come into force at once.
- Title and commencement.

Year.	No.	Short title.	How affected by subsequent legislation.
1072	II	General Clauses.	Amended by Act XIII of 1112. See also Act IV of 1101.

Act II of 1072. Objects and Reasons. "The advantages of a Regulation like this can never be over-rated and are too obvious to need particular mention. In fact, it cannot be introduced at too early a stage of the legislature. Lately, a difficulty arose under the Stamp Regulation, and the High Court observed:—"Most of the Special and Local Laws in force in Travancore, to wit—Stamp Regulation I of 1059, Tobacco Regulation VIII of 1063, &c.,—contain no provision for the award of imprisonment in default of payment of fine imposed

under them. Some of our subordinate Magistrates nevertheless pass alternative sentence of imprisonment in cases tried under such laws, apparently believing that such sentences are sanctioned by the provisions of Section 67 (Sec. 56) of the Penal Code; but when such cases came under our notice, we have been obliged to cancel the imprisonment as being unauthorized by law. Recently we had to issue a circular for the information and guidance of the subordinate Criminal Courts, holding that, under the Penal Code as introduced into

CHAPTER I.

DEFINITIONS.

2. In this Act and in every Act, now in force, or passed after the commencement of this Act, unless there be something repugnant in the subject or context,—

Definitions.

- (1) "Abet", with its grammatical variations and cognate expressions, shall have the same meaning as in the Penal Code.

"Abet."

Travancore and now in force Section 67 did not apply to offences falling under Special and Local Laws. We ourselves fail to see any valid reason why a failure to fulfil a sentence of fine under a Special or Local Law should not be met by imprisonment as is done in British India, but in the absence of a provision in any of our Regulations similar to that in Section 5 of the British Indian General Clauses Act (I of 1868) we are compelled to rule as stated above. We have therefore the honor to urge upon Government the necessity of passing a General Clauses Regulation on the lines of Act I of 1868 in British India or adopting any other means to remedy the defect in the law at an early date'. Such difficulties must increase with the expansion of our Statute Book. The Bill is a close adaptation of the Madras Act, I of 1891".— S. O. & R., T. G. G. dated 24-3-1896.

For Select Committee Report, see T. G. G. dated 1-9-1896.

For legislative proceedings, see T. G. G. dated 24-3-1896; 8-9-1896; 1-12-1896 and 8-6-1897.

The Act was published in T. G. G. dated 15-6-1897.

Act XIII of 1112. *Objects and Reasons.* "Government propose to change the designation of the Head Sirkar Vakil into 'Advocate General' that of the Assistant Head Sirkar Vakils and Sirkar Vakils into 'Government Pleader' and that of the Durbar Physician into 'Surgeon General'. This Bill is proposed to enable whatever may be done by these Officers to be done by them with their changed designations." S. O. & R., T. G. G. dated 13-7-1937.

For legislative proceedings see A. P. Vol. X, Pp. 92-94. C. P. Vol. X, Pp. 143-144.

The Act was published in T. G. G. dated 24-8-1937.

Act IV of 1101. The words "We", "Our", "Us" and other expressions referring to the Sovereign of Travancore occurring in every Act, Proclamation, Rule, Notification etc., have been enacted to include a Regent who is also a member of the Ruling family by Sec. 2 of this Act.

Sec. 2. The words "now in force or" are additions which are not found in the corresponding Sec. 3 of the Madras Act (Act I of 1891).

SEC. 2. THE GENERAL CLAUSES ACT. CHAP. I.

- (2) "Chapter", "Part", "Section" and "Schedule" shall mean respectively a chapter, part and section of, and schedule to, the Act in which the word occurs.
- "Chapter" "Part"
"Section" and
"Schedule." part and section of, and schedule to,
- (3) "Dewan Peishkar" shall include every officer who, for the time being, is authorised to exercise the powers of a Dewan Peishkar.
- "Dewan Peishkar"
- (4) "Commencement," used with reference to an Act shall mean the time at which the Act comes into force.
- "Commencement."
- (5) "Document" shall mean any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.
- "Document."
- (6) Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.
- "Good faith."
- (7) "Immovable property" shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, but not standing crops.
- "Immovable property."
- (8) "Imprisonment" shall mean imprisonment of either description as defined in the Penal Code.
- "Imprisonment."
- (9) "Judicial proceeding" shall mean any proceeding in the course of which evidence is, or may be, legally taken.
- "Judicial Proceeding."
- (10) "Movable property" shall mean property of every description except immovable property.
- "Movable property."

Clause 7. The expression "but not standing crops" is an addition not found in the Madras Act.

Clause 13. In the Madras Act

the corresponding definition is as follows:—"Person" shall include any company or association of individuals whether incorporated or not".

(11) "Oath," "Swear" and "Affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing.

"Oath," "Swear" and "Affidavit".
 (12) "Offence" shall mean any act or omission made punishable by any law for the time being in force.

"Offence."
 (13) "Person" shall include any company or association or body of persons, whether incorporated or not.

"Person."
 (14) "Place" includes also a house, building, tent and vessel.

"Place."
 (15) "Public" includes any class of the public or any community.

"Public."
 (16) "Public nuisance" shall have the meaning assigned to that expression in the Penal Code.

"Public nuisance"
 (17) "Registered" shall mean registered in Travancore under the law for the time being in force for the registration of documents.

"Registered."
 (18) "Sign" with its grammatical variations and cognate expressions, shall include "mark" with its grammatical variations and cognate expressions.

"Sign."
 (19) In the case of any one whose personal law permits adoption, "son" shall include an adopted son, and "father," an adoptive father.

"Son." "Father."
 (20) "Sub-section" shall mean a sub-section of the Section in which the word occurs.

"Sub-section."
 (21) "Will" shall include a codicil and every writing making a voluntary posthumous distribution of property.

"Will."
 (22) Words importing the masculine gender shall include females.

SEC. 3. THE GENERAL CLAUSES ACT. CHAP. II.

- (23) Words in the singular shall include the plural, and words in the plural shall include the singular.
“Number.”
- (24) Words which refer to acts done extend also to illegal omissions.
“Illegal omissions.”
- (25) “Writing,” with its grammatical variations and cognate expressions, shall include “Printing,” “Lithography,” “Photography,” with their grammatical variations and cognate expressions and other modes of representing or reproducing words in a visible form.
“Writing.”
- (26) “Year” and “month” shall respectively mean a year and month reckoned according to the Malayalam Calendar.
“Year.” “Month.”

CHAPTER II.

GENERAL PROVISIONS APPLICABLE TO FUTURE ACTS.

3. This Chapter shall apply to all Acts passed after the commencement of this Act unless a contrary intention appears in such Acts.
Application of Chapter II to all future Acts.

4. Every Act to which this Chapter applies, and in which no time is mentioned or provision made for its commencement, shall come into force upon its publication in the Government Gazette, after the Royal assent thereto under the Sign Manual.
Commencement of future Acts.

5. Where, by an Act to which this Chapter applies and which is not to come into force immediately on the passing thereof, a power is conferred on Our Government or other authority to make Rules, or to issue orders, with respect to the application of the Act, or with respect to the appointment of any officer thereunder, such power may be exercised at any time after the passing of the Act, but Rules or orders so made or issued shall not take effect till the commencement of the Act.
Making of Rules and issue of orders between passing and commencement of Act.

6. Where by an Act to which this Chapter applies, a power to make Rules is expressed to be given, subject to the condition of the Rules being made after previous publication, the following provisions shall apply, namely :—

(a) The authority having the power to make the Rules shall, before making them, publish a draft of the proposed Rules.

Provisions regulating the making of Rules after previous publication.

Publication of draft Rules.

(b) The publication shall be made in such manner as the authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as Our Government prescribes.

Manner of publication.

(c) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

Notice to accompany draft Rules.

(d) The authority having power to make Rules shall consider any objection or suggestion which may be received from any person with respect to the draft, before the date so specified.

Consideration of suggestions in regard to draft Rules.

(e) The publication in the Government Gazette of a Rule purporting to have been made in exercise of a power to make Rules after previous publication, shall be conclusive proof that the Rule has been duly made.

Publication to be proof of due making of Rules.

7. Where any Act, to which this Chapter applies, repeals any other Act, then the repeal shall not—

Effect of repealing an Act.

(a) affect anything done or any offence committed, or any fine or penalty incurred, or any proceedings begun, before the commencement of the repealing Act; or,

SEC. 8. THE GENERAL CLAUSES ACT. CHAP. II.

(b) revive anything not in force or existing at the time at which the repeal takes effect ; or,

(c) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed ; or,

(d) affect any right, privilege, obligation or liability, acquired, accrued, or incurred under any enactment so repealed ; or,

(e) affect any fine, penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or,

(f) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, fine, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such fine, penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

8. In any Act to which this Chapter applies—

Revival of repealed enactments. (a) for the purpose of reviving either wholly or partially an Act wholly or partially repealed, it shall be necessary expressly to state such purpose ;

Commencement of term. (b) for the purpose of excluding the first in a series of days or any other period of time, it shall be sufficient to use the word "from";

Termination of term. (c) for the purpose of including the last in a series of days or any other period of time, it shall be sufficient to use the word "to";

Application to subordinates of law relative to official superiors. (d) for the purpose of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully executing the duties of such office in the place of their superior, it shall be sufficient to prescribe the duty of the superior ;

(e) for the purpose of indicating the relation of a law to successors of any functionaries, or of corporations having perpetual succession, it shall be sufficient to express its relation to the functionaries or corporations;

Application of law to successors of functionaries and corporations.

(f) for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions or that of the officer by whom the functions are commonly executed.

Application of law to persons for the time being filling an office.

9. Where an Act, to which this Chapter applies, confers power to make Rules or bye-laws or to issue orders, expressions used in such Rules, bye-laws or orders shall unless a contrary intention appears in the Rules, bye-laws or orders, have the same respective meanings as in the Acts conferring the power.

Expression used in bye-laws and orders to have same meaning as in Act under which they are made or issued.

10. Where, by an Act to which this Chapter applies, any act or proceeding is directed or allowed to be done or taken in a Court or office, on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

Necessary extension of prescribed periods.

This Section does not apply to any act or proceeding to which the Limitation Act applies.

CHAPTER III.

GENERAL PROVISIONS APPLICABLE TO ALL ACTS.

11. This Chapter shall apply to all Acts passed by Us, unless a contrary intention appears in any such Act, but it shall not affect anything done or commenced prior to the commencement of this Act under any enactment now in force.

Application of Chapter III to all Acts.

12. Where an Act confers a power or imposes a duty, then the power may be exercised and the duty shall be performed from time to time as occasion requires.

When powers and duties to be exercised and performed.

13. Where an Act confers a power or imposes a duty on the holder of an office, as such, then the power may be exercised and the duty shall be performed by the holder for the time being of the office.

Exercise of powers and performance of duty by temporary holder of office.

14. Where an Act confers a power to make any Rules or bye-laws, or to issue orders, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the Rules, bye-laws or orders.

Revocation and alteration of Rules, bye-laws and orders.

15. Whenever, by an Act, authority is given to confer powers or impose duties, such powers may be conferred or duties imposed by name or by office or on classes of officials generally by their official titles.

Mode of conferring powers and imposing duties.

16. Where an Act repeals and re-enacts, with or without modification, all or any of the provisions of a former Act, references in any other Act to the provisions so repealed shall be construed as references to the provisions so re-enacted, and, if notifications have been published, proclamations

References to provisions in Act repealed and re-enacted.

or certificates issued, powers conferred, forms prescribed, local limits defined, offices established, orders Rules and appointments made, engagements entered into, licenses or permits granted, and other things duly done, under the provisions so repealed, the same shall be deemed, so far as the same are consistent with the provisions so re-enacted, to have been respectively published, issued, conferred, prescribed, defined, established, made, entered into, granted or done under the provisions so re-enacted.

17. The provisions of the Penal Code in respect of fines shall apply to all fines imposed under the authority of any Act, unless that Act shall contain an express provision to the contrary.

18. Where an act or omission constitutes an offence under two or more enactments, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same act or omission.

19. Where, in any Act, or in any Rule passed under any Act, it is directed that any order, notification or other matter shall be notified or published, such notification or publication shall, unless the Act otherwise provides, be deemed to be duly made if it is published in the Government Gazette.

20. When, by an Act, Our Government is empowered to extend or apply an Act, or any provision of an Act to any place in, or to any portion of, Travancore, Our Government may, in any order extending or applying such Act or provision or in a subsequent order, notify the time at which the same shall come into force in the place or portion of Travancore to which it is so extended or applied; and unless it is otherwise provided in the Act, Our Government may, by notification in the Government Gazette, from time to time, postpone the time at which the Act or

provision shall come into force in such place or portion of Travancore, or cancel the order for extending or applying the same to such place or portion of Travancore:

Provided that no order postponing the time at which an Act or provision shall come into force, or cancelling an order for extending or applying the same, shall be made after the Act or provision has actually come into force in the place or portion of Travancore to which such order relates.

[21. (1) The expression "Head Sirkar Vakil" shall mean the Advocate-General appointed as such by Our Government; and whatever the Head Sirkar Vakil may do, may be done by the Advocate-General in the name of the Advocate-General.

(2) The expressions "Assistant Head Sirkar Vakil" and "Sirkar Vakil" shall mean the Government Pleader appointed as such by Our Government and whatever the Assistant Head Sirkar Vakil or the Sirkar Vakil may do, may be done by the Government Pleader in the name of the Government Pleader.

22. The expression "Durbar Physician" shall mean the Surgeon-General appointed as such by Our Government and whatever the Durbar Physician may do, may be done by the Surgeon-General, in the name of the Surgeon-General.]

Secs. 21 and 22. These were added by Act XIII of 1112.

ACT III OF 1072.

IRRIGATION ACT.

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 - (4) "Minor Irrigation Work."
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4—6 [Omitted].
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IRRIGATION ACT.

SECTIONS.

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ACT III OF 1072.

An Act to provide for the construction, repair, and maintenance of Irrigation Works and for the conservation and distribution of water for purposes of Irrigation.

Passed by His Highness the Maha Raja of Travancore on the 19th June 1897 corresponding with the 7th Mithunam 1072, under Section 9 of Act II of 1063.

Whereas it is expedient to provide for the construction, repair and maintenance of Irrigation Works and for the conservation and distribution of water for purposes of irrigation; It is enacted as follows:—

1. This Act may be called "The Irrigation Act of 1072", and it shall come into force on the 1st day of Chingom 1073.
- Short title and commencement.

Year.	No.	Short title.	How affected by subsequent legislation.
1072	III	Irrigation Act.	Repealed in part by Act VII of 1114. Amended by Acts VI of 1090; V of 1097; II of 1103; VII of 1114 and X of 1117.

Act III of 1072. Objects and Reasons. "The prosperity of the people of an essentially agricultural country like Travancore greatly depends upon the manner in which water intended to be or capable of being used for irrigation purposes is collected, conserved and distributed; and this has in consequence been a subject for State regulation. In South Travancore and in parts of the Trivandrum and Quilon Divisions, Government has always exercised some sort of control over irrigation. In North Travancore too, where lands suffer from excess rather

than from want of water, Government has, especially in recent years, been taking steps to put the drainage works in order. But, in the absence of a definite law prescribing the duties of the ryots in respect of the execution, repair and maintenance of irrigation and drainage works and the mode of enforcing such duties, providing penalties for such acts and omissions as are calculated to injure irrigation and drainage works, and generally regulating matters connected with irrigation and drainage, the result achieved, though doubtless satisfactory so

IRRIGATION ACT.

far as it goes, is not quite what it should be. The present Bill is intended to meet this want."—*S. O. & R., T. G. G. dated 22-10-1895.*

The object of the measure was further explained by the Official Member in charge of the Bill, who said:—

"The Council may remember that, in October 1891, I introduced a Bill to provide for the construction, repair and maintenance of irrigation works. That Bill was chiefly intended to give legal force to certain administrative measures adopted by His Highness the Maha Raja's Government in view to improve certain irrigation and drainage works in parts of Kottayam, Quilon and Trivandrum Divisions. The 4 southernmost Taluks of the Padmanabhapuram Division and the Taluk of Shencottah in Quilon were expressly excluded from the Bill as the administrative measures referred to did not affect those Taluks. The opinion of some of the members of the Council and of some other gentlemen (official and non-official) with whom I had the pleasure of discussing the subject, was that it would be better to make the Bill more comprehensive than it was and bring within its scope Shencottah and Nanjenad. In deference to these views, I withdrew the Bill with a view to revise and amplify it and I now move for leave to bring forward the amended Bill.

I shall just touch upon a few of the leading features of the Bill.

The Bill provides for the construction, restoration, repair and maintenance of irrigation and drainage works. The former are as important for agricultural purposes in South Travancore as the latter are in upper and middle Travancore, and both classes of works are with few exceptions in a state of disrepair. There are in the Taluks of Thovalai, Agasteesvaram, Eraniel and Kalculam about 3,000 tanks of which more than 2,000 have gone out of order. The drainage channels in the Quilon and Kottayam Divisions of which there are about 300 in number are mostly in the same condition. The same is more or less the case with similar works in the rest of the country. The works repaired by Government even in recent years have in some cases fallen, and in others are gradually falling, into disrepair and it is of the utmost importance that proper provision should be made for the maintenance in an efficient condition of such works.

The ryots whose prosperity greatly depends upon the condition of the irrigation and drainage works are, owing to some extent, no doubt, to their generally indigent circumstances but chiefly, I believe, to the absence of the spirit of self-help and combination, quite apathetic, and I doubt that without State intervention they could either now are in the near future be expected to help themselves. In view of the very large number of works which call for attention, it appears to be

ACT III OF 1072.

practically impossible for Government to undertake the restoration and maintenance of all of them at its cost, at any rate to do so within a reasonable time. It is therefore expedient and necessary to leave the minor works which require no professional supervision and which could ordinarily be carried out by a contribution of labour by the people interested, provision being made to enforce the obligation. In determining what works should be thus left to the people themselves, reference should of course be had to past usage and local conditions. The maintenance of all works excepting such large works as the main irrigation channels in South Travancore, should ordinarily devolve on the ryots.

The Bill has been drafted on the lines above indicated. It also provides for the protection of works from injury, encroachment or other interference and also from danger arising from sudden floods and other natural causes.

Provision has also been made for facilitating the distribution and for preventing the wastage of water."—*L. C. P., dated 17-2-1894.*

For Select Committee Report see *T. G. G. dated 22-10-1895.*

For legislative proceedings see *T. G. G. dated 20-3-1894; 5-3-1895; 12-11-1895; 24-3-1896; 2-6-1896; 1-12-1896 and 8-6-1897.*

The Act was published in *T. G. G. dated 29-6-1897.*

Act VI of 1090. *Objects and Reasons.* "It is thought desirable to empower the Division Peishkar or any other Officer to sanction any urgent work even without the sanction of the Dewan. It empowers the Government to confer upon the Boards all or any of the powers conferred upon the Irrigation Officer under the Regulation." *S. O. & R., T. G. G. dated 18-8-1914.*

For Report of the Select Committee see *T. G. G. dated 17-11-1914;*

For legislative proceedings see *T. G. G. dated 17-11-1914; 29-12-1914 and 6-7-1915.*

The Act was published in *T. G. G. dated 10-8-1915.*

Act V of 1097. *Objects and Reasons.* "It has been brought to the notice of Government at some of the Sessions of the Assembly that Irrigation Boards consisting of officials and non-officials should be constituted for the better distribution of the Kodayar water. The Government are of opinion that the constitution of Irrigation Boards consisting of officials and non-officials with certain powers concerning the management and distribution of water from the Kodayar and other irrigation systems might prove beneficial, and the present Bill is intended to give such Boards a legal status."—*S. O. & R., T. G. G. dated 12-7-1921.*

The Bill was not referred to a Select Committee.

For legislative proceedings see *T. G. G. dated 6-9-1921 and 20-12-1921.*

IRRIGATION ACT.

The Act was published in *T. G. G. dated 20-12-1921.*

Act II of 1103. Objects and Reasons.—"Section 23 of the Irrigation Regulation of 1072 provides that whenever, by local custom, any work for purposes of agriculture should be done by the joint labour or cost of the proprietors of all the lands benefited by such work, if any of such proprietors fails or neglects to do his share of the work or contribute his share of the cost or labour, the Peishkar or any Officer authorised in that behalf may investigate the matter and pass such order as he deems fit. The Section further provides that, if that order directs a defaulting proprietor to execute a portion of any work and if such defaulting proprietor fails to execute it, the estimated cost of the work directed to be done may be recovered from the defaulter as arrears of land-revenue. But the order passed by the Peishkar or other Officer need not always be one to do any specific portion of a work. It may also be, as very often it has to be, to contribute a portion of the cost involved in a work that ought to be done by joint cost as, for example, when the Peishkar has to order one of the many proprietors of a *punja padam* to pay a rateable portion of the cost incurred by the others in draining the entire *padam* of the water in it. In such cases, the Section does not lay down how the amount ordered by the Peishkar or other Officer to be paid by the defaulting proprietor, is to be recovered. This Bill is therefore framed to authorise the

recovery, by the Revenue Recovery processes, of such and other amounts ordered to be paid under the provisions of the Section. Occasion has been taken also to make it explicit that the Peishkar or other Officer may pass orders directing the payment of any portion of the cost involved in a work".—*S. O. & R., T. G. G. dated 26-10-1926.*

For legislative proceedings see *L. C. P. Vol. XI, Pp. 32-42; Vol. XII, Pp. 360, 454.*

The Act was published in *T. G. G. dated 15-5-1928.*

Act VII of 1114. Objects and Reasons.—"The main purpose of the Bill is to carry out the legislative proposals made by the Minor Irrigation Committee in their report to Government" *S. O. & R., T. G. G. dated 24-11-1936.*

The proposal of the committee to bring Petty Irrigation works under the Minor Irrigation was implemented by this amending Act.

For Select Committee's Report see *T. G. G. dated 5-7-1932.*

For legislative proceedings see *A. P. Vol. XI, Pp. 460-463; Vol. XII, Pp. 347-354; C. P. Vol. XII, Pp. 533-534.*

The Act was published in *T. G. G. dated 27-9-1938.*

Act X of 1117. The Act was passed direct by His Highness the Maharaja. The amendments introduced by this Act were consequent on the abolition of the post of Land Revenue and Income-Tax Commissioner. This Act was published in *T. G. G. dated 25-11-1941.*

2. In this Act.—

Definitions.

(1) The term "Irrigation Work" shall include—
"Irrigation Work"

(a) all canals, channels, reservoirs and tanks which are intended or which are or may be used for the supply or storage of water for agricultural purposes ;

(b) all works embankments, structures, supply and escape channels connected with such canals, channels, reservoirs or tanks ;

(c) all water-courses which are supplied with water from such canal, channel, reservoir, or tank ; and

(d) all drainage works, *i. e.*, canals, channels, escape channels from a canal, channel, reservoir or tank, dams, weirs, embankments, sluices, groynes or other works for the protection or benefit of agricultural lands.

(2) The term "Major Irrigation Work" shall mean and include all works irrigating an area of land exceeding two hundred acres.

(3) [Omitted by Section 2, Act VII of 1114.]

(4) The term "Minor Irrigation Work" shall mean and include all irrigation works other than Major [* *] works as above defined.

Sec. 2, Sub-Sec. (1). "The term 'Irrigation work' has been so defined as to include not only irrigation works proper, but also works intended for drainage purposes. Such a definition is convenient as most of the provisions contained in the Bill are common to both classes of works."—S. O. & R., T. G. G. dated 22-10-1895.

The words "Other works for the protection of agricultural lands from flood or from erosion" occurred at the end of Clause (d) of this Sub-Sec. The present wording was adopted by the Council on this motion

of the Official Member in charge so as to make the definition sufficiently comprehensive. See L. C. P. dated 16-5-1896.

Sec. 2, Sub-Sec. (3). This was omitted by S. 2 of Act VII of 1114. The Sub-Sec. (3) ran as follows:—(3). The term 'Petty Irrigation Work' shall mean and include all irrigation works irrigating an area of land not exceeding five acres "

Sec. 2, Sub-Sec. (4). The words "and Petty" which occurred within brackets were deleted by Sec. 2 of Act VII of 1114.

(5) The term "Irrigation Officer" shall mean an officer drawing a monthly salary of not less than thirty rupees and appointed by Our Government to exercise control or jurisdiction over any irrigation work or all irrigation works in a specified area, or to distribute or to control the distribution of water for irrigation purposes.

(6) The term "Proprietor" means the owner of land and includes the cultivator or person in actual possession of such land.

(7) The expression "Majority of Proprietors" means persons who own more than one-half of the acreage benefited by an irrigation work ;

(8) The term "Irrigation" with its grammatical variations shall include "drainage" with its corresponding variations.

3. Our Government may, from time to time, by Notification in the Gazette, invest any [*] officer either by name or by virtue of his office [or any Board constituted under this Act or any member thereof] with all or any of the powers or duties hereinafter conferred or imposed under this Act, and shall declare the local limits within which such powers or duties shall be exercised or performed.

4-6. [Omitted by Section 3, Act VII of 1114.]

Sec. 3. The bracketed words were inserted and the word "irrigation" which occurred before the word "Officer" deleted by Sec. 1, Act V of 1097.

Secs. 4-6. These Secs. were omitted by Sec. 3 of Act VII of 1114. The omitted, Secs. were as follow :—

"4. Construction, repair and maintenance of Petty Irrigation Works to devolve upon proprietors benefited. The construction, repair and mainten-

ance of Petty Irrigation Works shall devolve upon the proprietors of the lands benefited by such works.

5. Application to Division Peishkar to have repair of such work carried out by Government. If the proprietors of lands benefited by a Petty Irrigation Work are unable to combine and carry out any repair or other work in connection with such work, or if, for any other reason, they desire

7. Our Government may, in consideration of the circumstances of the ryots and other matters, determine by Rules, from time to time, the terms on which the Minor Irrigation Works in specified local areas may be constructed and repaired.

Power to Government to determine by Rules the terms of construction and repair of Minor Irrigation Works in specified areas.

Nothing in this Section and in Section 8 shall apply to localities where according to custom such works are carried out or maintained by Government at their entire cost.

Saving of customary right.

to have such repair or work done by Government, it shall be lawful for any of the proprietors to apply to the Division Peishkar to have such repair or other work carried out by Government. The application shall specify the name of the Irrigation Work, the work proposed to be done to it, the area of lands to be benefited by it and any other particulars which Our Government may prescribe from time to time.

6. *When Division Peishkar may carry out work.* On receipt of the application referred to in the last Section, the Division Peishkar may, after satisfying himself by making such enquiry as he may deem fit that the application is *bona fide* and is agreed to by the majority of the proprietors or should be complied with in the general interests of the proprietors, cause an estimate to be prepared and have the work carried out with the previous sanction of Government."

Sec. 7. "In the four Taluks of Nanjenad therein mentioned

Government undertake all the works. In Shencottah, a moiety of the cost is recovered from the ryots. In the rest of the country, all the works have been as a rule left to the ryots themselves; though, as already observed, Government has recently made some concession in their favour. The Section has been so drafted as to leave it to Government to determine from time to time the terms on which it would undertake works described as Minor works"—*S. O. & R., T. G. G. dated 22-10-1895.*

The 2nd para was put in by the Select Committee who observed as follows:—

"The object is to bring out clearly the fact that it is not intended to take away the right which the people in any locality now enjoy of having the irrigation works attended to entirely at the cost of Government. We understand that in the four southernmost Taluks of Travancore, the irrigation works are executed wholly at Government cost. The Section

8. In any local area in which the construction and repair of Minor Irrigation Works are not,

Procedure of Division Peishkar on application for Minor Irrigation Work in other cases.

according to custom or Rules passed under the last Section, undertaken by Government at their entire cost, it shall be competent for the Division Peishkar or other officer authorised by

Our Government in this behalf, on the application of any proprietor interested in a Minor Irrigation Work, to satisfy himself, after making such enquiry as he may deem necessary, that the work mentioned in the application should be executed in the interests of the majority of proprietors, and if so satisfied, to cause a plan and estimate of the work and a specification of the lands which will be benefited thereby to be prepared.

9. If, in any such area, the Division Peishkar or other

When Division Peishkar may move without application.

officer aforesaid is satisfied that any Minor Irrigation Work should be constructed or repaired and that the persons interested in such work have not

made application owing to the sparseness of the population or the circumstances of the inhabitants or other sufficient cause, he may, on his own motion, cause a plan, estimate and specification to be prepared as in the preceding Section.

10. The plan, estimate and specification made under the last two Sections shall be forwarded

Notice to put in objections.

to the Dewan, and an abstract of the estimate and of the specification of the lands likely to be benefited shall be published in the

as modified by us would leave all vested rights *intact*—

S. C. R., T. G. G. dated 22-10-1895.

Secs. 8-11.—“In view of the absence of the spirit of co-operation for a common and useful object, which unfortunately characterises the masses, interference on the part of Government is necessary in the interests of the people themselves. It is at the same time desirable

to provide safeguards against arbitrary, unnecessary or undue interference. These Sections contain the power to interfere with such limitations and reservations as would make the interference expedient but innocuous. Similar provisions are contained in the Ceylon Ordinance No. 23 of 1889 (An Ordinance relating to the Irrigation and Cultivation of paddy lands,)—S. O. & R., T. G. G. dated 22-10-1895.

Gazette, with a notice calling upon all persons concerned who may have any objection to the work being done to put in their objection before the Division Peishkar or other officer aforesaid who submitted the estimate, within a time to be specified therein. The Division Peishkar or other officer aforesaid shall hear and record the objections, if any, which may be put in, and forward the same to the Dewan with his opinion.

11. If no objections have been put in, or if the majority of proprietors agree to the work, the estimate may be sanctioned and the work carried out at Government cost.

When Government may carry out the work.

In any case in which the majority of proprietors do not agree, if it be found after duly considering their objections that the work proposed should be executed in the interests of the proprietors, the Dewan may order the work to be carried out at the cost of Our Government.

[11-A. If, in the case of any accident being apprehended or happening to any [*] Minor Irrigation Work, any work in the nature of an urgent repair is needed, failure to carry out or delay in carrying out which is likely to cause serious damage, the Division Peishkar, or any other officer duly authorised in this behalf, may, notwithstanding anything contained in Sections [*] 8 to 11, order the execution of such work at the cost of Government.]

Accident to any Petty or Minor Irrigation Work.

12. If the majority of proprietors interested apply to the Division Peishkar or other officer aforesaid, stating that any Minor Irrigation Work should be constructed, restored or repaired by Government and agreeing to repay the cost such officer shall, after giving notice to the other

Procedure of Division Peishkar on application agreeing to repay cost.

Sec. 11-A:—This Sec. was inserted by Sec. 2, Act VI of 1090. Sec. 4 of Act VII of 1114 omitted the words "Petty or" occurring before the word "Minor" as also the expression "6 and" occurring after the word "Sections".

Sec. 12. "This Section is based on the maxim *privatum incommodum publico bono pensatur*. But here the indifferent or dissenting few may be really benefited by the work". S. O. & R., T. G. G. dated 22-10-1895.

proprietors, investigate the matter, and if satisfied that the work applied for should be constructed or repaired in the interests of cultivation, shall submit a report to the Dewan. The report shall specify the nature of the work, the area of land which will be benefited by it, with the assessment thereon, a rough estimate of the cost, the number of instalments in which the applicants are willing to repay the cost, and such other particulars as may be prescribed by the Dewan. The Dewan may sanction the execution of the work on the terms agreed to by the applicants.

13. [(1)] When any Minor Irrigation Work has been

Proprietors benefited bound to maintain Minor Irrigation Works constructed or repaired at Government cost.

constructed or completely restored or repaired at the cost, wholly or partly, of Government, it shall be the duty of the proprietors of lands benefited by such work to maintain it, *i. e.*, to keep it at the level of efficiency at which it was when the construction, restoration or repair was completed.

A list of all works constructed, or completely restored, or repaired under this Section shall be published in the Gazette in the first month of every official year.

[(2)] Notwithstanding anything contained in Sub-section (1), Our Government may, subject to such rules, if any, as they may

When Government may levy a cess.

make, undertake the maintenance of any such irrigation work as it is the duty of the proprietors to maintain under Sub-section (1) and levy a cess, towards the cost of such maintenance, of an amount not exceeding four chuckrams per acre of the lands benefited, and whenever Our Government so undertake to maintain any work it shall not be the duty of the proprietors to maintain that work.

Explanation.—Our Government may at any time relinquish the work of maintenance which they have

Sec. 13. Sub-sec. (2) of this Sec. was added by Sec. 5, Act VII of 1114. The statement of Objects and Reasons appended to the amending Bill says:—

“The Committee have recommended that it should be

possible for Government to take up the maintenance of Minor Irrigation Works on levying a small cess on the lands benefited. This clause is intended to carry out that recommendation.”

undertaken and in such cases no cess shall be leviable, and it shall be the duty of the proprietors to maintain the work.]

14. It shall be the duty of the Irrigation officer to periodically inspect all the Minor Irrigation Works falling under the last Section and report to the Division Peishkar or other officer to whom he is subordinate, the condition of these works. The Division Peishkar or other officer aforesaid may, on being satisfied from such report or from other reliable information that the proprietors concerned have failed to maintain the work or have maintained it unsatisfactorily, publish a notice calling upon the proprietors of lands benefited by the work to carry out the necessary work within a prescribed period or to show cause why they should not do so. The publication of the notice shall be by beat of tom-tom in the village in which the Irrigation Work is situate and by posting copies thereof in some conspicuous places in such village and in the Proverthi and Taluk Cutcheries.

15. If, as required by the notice mentioned in the last Section, the proprietors fail or refuse to execute or satisfactorily execute the work or to satisfy such officer that such work should not be carried out, the Division Peishkar or other officer may, subject to such Rules as may be issued by Our Government in regard to funds and the agency to execute such works, cause the work to be carried out at Government cost.

16. The cost of any work executed under Sections [*] 11, [11-A], 12 and 15 shall be a first charge on the lands benefited by such work and shall be recovered *pro rata* from such lands as arrears of public revenue in such equal yearly instalments not less than five, as may be fixed by Our Government from time to time.

Sec. 16. The figure and letter "11-A" were inserted by Sec. 3 of Act VI of 1090. The figure '6' and the words 'Petty or' which occurred within brackets were deleted by Sec. 6, Act VII of 1114.

Our Government may remit, in whole or in part, the cost of any [* *] Minor Irrigation Work, recoverable under the first para of this Section.

17. The construction, repair and maintenance of all Major Irrigation Works shall devolve on Our Government.

Construction, repair and maintenance of Major Irrigation Works to devolve on Government.

18. Notwithstanding anything hereinbefore contained, Our Government may levy a cess on any area benefited by an Irrigation Work, Major or Minor, constructed, restored or repaired, after the passing of this Act, wholly at the cost of Government, provided that the total amount of such cess shall not exceed 6 per cent. interest on the total outlay incurred, and provided also that, in the case of a Minor Irrigation Work, the cess shall absolve the ryots interested from payment of their portion of the cost of such work where such payment is otherwise leviable, and also from the duty of maintaining the work under Section 13.

Power to Government to levy cess.

[*Explanation.*—A cess under this Section and Sub-section (2) of Section 13 shall not be leviable at the same time.]

19. Any person desiring the construction of a new Irrigation Work for irrigating his land may apply in writing to the Division Peishkar stating—

Application for construction of a new Irrigation Work.

(1) that he has been unable to come to terms with the owners of the land on which such work has to be constructed or through which it will pass ;

(2) that he desires the Irrigation officer, in his behalf and at his cost, to do all things necessary for acquiring a right to so much of the said land as will be necessary for such Irrigation Work ; and

Sec 18. The *Explanation* was added by Sec. 7 of Act VII of 1114.

(3) that he is able to defray all costs involved in acquiring such land and constructing such work.

If the Division Peishkar considers—

Procedure of Division Peishkar thereupon.	(a) that the construction of such work is necessary, (b) that the statements in the application are true,
---	--

he shall call upon the applicant to make such deposit as he considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he may consider likely to become due, and upon such deposit being made, he shall, after due enquiry mark out the land which in his opinion it will be necessary to acquire for the construction of the work and shall give notice of the same to the owner of such land. The notice shall also be published in the Gazette and in the village in which the land is situate.

Objection to construction to be made to Division Peishkar.	Within thirty days from the date of the above notice, the owner or any other person interested in the land or in the Irrigation Work to which the notice refers shall apply to the Division Peishkar by petition stating his objection to the construction for which application has been made. The Division Peishkar shall consider the objection and such evidence as may be adduced by both parties or as he may himself call for, and pass an order in writing stating the grounds of such order.
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If the order be that the application is reasonable and should be granted, the land marked out may, with the previous sanction of the Dewan, be acquired under the Land Acquisition Act.

20. No such applicant shall be placed in occupation of such land until he has paid to the person named by the officer assuming the land, the amount of compensation awarded and any damage occasioned by the marking out and occupation of such land together with all expenses incidental to such occupation.

If such amount is not paid, the same may be recovered as if it were an arrear of land revenue.

21. When any such applicant is placed in occupation of any land, the following conditions shall be binding on him :—
 Conditions binding to secure continuance of occupation.

(1) The land shall not be used for any purpose other than such Irrigation Work, except with the special sanction of Government.

(2) The work shall be completed to the satisfaction of the Division Peishkar within such period after the occupation of the land is given to the occupant as may be determined by such officer.

(3) The applicant or his representative in interest shall pay the tax due on such land.

If any of these conditions is not complied with, the right of the applicant or his representative in interest to occupy such land or work shall cease absolutely :

Provided that the liability to pay tax shall continue until the applicant or his representative in interest has restored the land to its original condition.

22. The provisions of Sections 19, 20 and 21 shall, so far as may be, apply to applications for land required for the extension or alteration of an existing Irrigation Work.
 Land for the extension of Irrigation Work to be obtained under same procedure.

23. [(1) Whenever, by local custom or for other good reason, any work for purposes of agriculture should be done by the joint labour or cost of the proprietors of all

Sec. 23. The Section as originally enacted ran as follows :—

"23. Procedure on failure to contribute cost or labour for work to be done by joint labour. Whenever, by local custom, any work for purposes of agriculture should be done by the

joint labour or cost of the proprietors of all the lands benefited by such work, if any of such proprietors fails or neglects to do his share of the work or contribute his share of the cost or labour, it shall be lawful for the Division Peishkar on the application of a

the lands benefited by such work, if any such proprietors fails or neglects to do his share of the work or contribute his share of the cost or labour, it shall be lawful for the Division Peishkar, or any officer specially authorised by Our Government in this behalf, on the application of a reasonable number of proprietors interested in such work or injured by such failure or neglect, to investigate the matter and pass such order as he deems fit, and he may by such order also direct the defaulting proprietor to execute any portion of the work or pay any portion of the cost of the work. If the order directs that the defaulting proprietor shall execute a portion of the work, it shall distinctly specify the portion of the work to be executed, the time within which it should be done and the estimated cost of such work. On the defaulting proprietor refusing or failing to execute the work within the time prescribed in the order, the cost of the work may be recovered from such defaulter as arrears of land revenue and the work executed under the orders of the Division Peishkar or such officer as aforesaid.

(2) Notwithstanding anything contained in Sub-section (1) it shall be lawful for any of the proprietors to do the work or to contribute the cost or labour, which the defaulting proprietor or proprietors should have done or contributed, and, in case he has so done or contributed after giving notice to the defaulting proprietor or proprietors, he may apply to the Division Peishkar, or any

reasonable number of proprietors interested in such work or injured by such failure or neglect, to investigate the matter and pass such order as he deems fit. If the order directs that the defaulting proprietor shall execute a portion of the work, it shall distinctly specify the portion of the work to be executed, the time within which it should be done and the estimated cost of such work. On the defaulting proprietor refusing or failing to execute the work within the time pres-

cribed in the order, the cost of the work may be recovered from such defaulter as arrears of land revenue and the work executed under the orders of the Division Peishkar.

Illustration—The putting up of ring-bunds or draining of water in Punja Padams in Kuttanad are works contemplated in this Section."

The words "or any officer specially authorised in this behalf" were inserted after the words "Division Peishkar"

officer specially authorised by Our Government in this behalf, to order the defaulting proprietor or proprietors to compensate him for the reasonable cost or labour incurred by him. The Division Peishkar, or such other Officer, may thereupon give notice to the defaulting proprietor or proprietors, hear him if he appears and make such other investigations as he thinks necessary and order the defaulting proprietor or proprietors to pay a sum of money as would be, in the opinion of the Division Peishkar, or such other officer, sufficient compensation for such reasonable cost or labour.

- (3) (a) Any aggrieved party may appeal to the [Dewan or any officer specially authorised by Our Government in this behalf by notification in Our Government Gazette] against any order passed by the Division Peishkar or

where it occurred for the first time and the words "or such officer as aforesaid" were added at the end, by Sec. 4, Act VI of 1090. It was further amended by Sec. 2, Act II of 1103. By this amendment the words "and may also, by such order, direct the defaulting proprietor to execute any portion of the work or pay any portion of the cost of the work" were added at the end of the first sentence in the Section and after the 3rd sentence the words "any sum of money ordered to be paid under the provisions of this Section may also be recovered from the defaulting proprietor as arrears of land revenue and the amount so recovered paid to the party entitled thereto" were added.

The Sec. thus amended was substituted by sec. 8 of Act VII of 1114. The statement of Objects and Reasons says:—

"Section 23 of the Regulation has come in for criticism

at the hands of the Committee as well as of Revenue Officers. This clause proposes to amend Section 23, the main amendment being to the effect that, if anyone of the proprietors of lands who have jointly to do any work for purposes of agriculture defaults to do his portion of the work, the others may do that portion also and get the cost thereof recovered as arrears of land revenue."

No heading has been assigned to the substituted Sec.

The substituted Sec. was further amended by Sec. 2 of Act X of 1117. The words in brackets in Clause (a) of Sub-sec. (3) were substituted for the words "Land Revenue Commissioner" which occurred in both the places and the words "or of the Land Revenue Commissioner" which occurred in Clause (b) of Sub-section (3) were omitted.

other officer under Sub-section (1) or Sub-section (2), provided that such appeal is preferred within such time as may be prescribed by Our Government, and the [Dewan or such other officer as the case may be] may thereupon pass such orders as he thinks are just and reasonable after giving notice to the opposite party and hearing him if he appears.

- (b) It shall be lawful for Our Government to revise any order of the Division Peishkar or other officer [*] made under this Section and pass such orders as are in their opinion just and reasonable.

(4) Any sum of money ordered to be paid under the provisions of this Section may also be recovered from the defaulting proprietor as arrears of land revenue and the amount so recovered paid to the party entitled to it.

Illustration.—The putting up of ring bunds or draining of water in *punja padams* in Kuttanad are works contemplated in this Section.]

24. Whenever it shall appear to the Irrigation officer that there is imminent danger of the embankment of any tank, canal or channel or other Irrigation Work being breached and of a destructive inundation being caused thereby which may be prevented by a large body of labourers immediately working together to strengthen the embankment or other work, or, when such breach has occurred, if it shall appear to such officer that it can be repaired and inundation caused by it be stopped, by the immediate employment of a large body of labourers for that purpose, it shall be lawful for such officer to call upon all able-bodied male persons of the labouring classes of the Proverti or Provertis in the vicinity to co-operate in the work necessary for preventing or repairing the breach, as the case may be.

In the absence of the Irrigation officer, it shall be lawful for the local Tahsildar or Proverticar to make such requisition in his stead.

25. Every person who shall be employed on such work under such requisition shall be paid for his labour by day at the highest rate paid in the neighbourhood for similar work, and, if he is required to work at night, at double such rate.

Rates of remuneration to labourers so employed.

26. It shall be lawful for the Irrigation officer or, in his absence, the local Tahsildar or Proverticar, to make requisitions upon the inhabitants in the vicinity for the supply of materials,—to wit, trees and leaves, bamboos, straw and the like, necessary for the purposes mentioned in Section 24, and to seize and, if necessary, to cut down such articles wherever they may be found, giving receipts for them in writing.

Inhabitants may be called upon for supply of materials.

Such supplies shall be paid for at the highest prices for which such supplies are sold in the neighbourhood.

Supplies how to be paid for.

And in case damage is sustained by any person in consequence of the cutting down of any such articles, compensation shall be made for such damage.

[26-A. (1) Any Irrigation Officer, and any person acting under his special orders in writing in this behalf, may, within such distance from any irrigation work as Our Government may, by Rule prescribe, enter upon any land for the purpose of,

Power to enter for depositing or obtaining materials.

- (a) depositing upon it soil or other things taken from such work or material required for use on such work ; or

Sec. 26-A. This was inserted by Sec. 9 of Act VII of 1114. The statement of Objects and Reasons says :—

“The Committee have recommended that provision should be made to enable Irrigation Officers to enter private lands for depositing or obtain-

ing materials for irrigation works. This clause proposes therefore to insert the necessary provisions.”

The words bracketed were substituted for the words “Land Revenue Commissioner” by Sec. 3 of Act X of 1117.

- (b) obtaining from it earth, stone or other material for repairing or altering such work.

(2) If any Irrigation Officer or other person, in the exercise of powers conferred by Sub-section (1), proposes to enter, otherwise than with the consent of the occupier, on any land or into any building or enclosed court or garden attached to a dwelling house, into which the water does not flow from any irrigation work, he shall previously give the occupier of such land, building, court or garden reasonable notice in writing of his intention to do so :

Provided that no such notice shall be necessary for entry on land in an emergency.

(3) (a) In every case of entry under this Section, the person making such entry shall ascertain and record the extent of the damage, if any, caused by the entry or by anything done under this Section and within one month from the date of such entry compensation shall be tendered by such person to the owner of the property damaged. In case of disputes as to the extent of the damage or the sufficiency of the amount tendered, he shall forthwith refer the dispute to the Division Peishkar of the Division.

Compensation to owner of property damaged by entry.

(b) The Division Peishkar shall make inquiry as to the matters in dispute and decide the amount of the compensation ;

(c) Against the decision of the Division Peishkar an appeal shall, subject to such Rules as may be prescribed by Our Government lie to the [Dewan or any officer specially authorised by Our Government in this behalf by notification in Our Government Gazette] whose decision shall be final.]

27. The distribution of the water of all Irrigation Works constructed, repaired or maintained by Government at their cost, whether wholly or partly, shall be regulated by such Rules or orders as may be prescribed or issued by Our Government, from time to time.

Distribution of water of works constructed at Government cost to be regulated by Government.

28. Whoever without proper authority does any of the following acts, that is to say,—

Acts punishable
under the Act.

(1) injures, alters, enlarges or obstructs any Irrigation Work ;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any Irrigation Work ;

(3) interferes with or alters the flow of water in any Irrigation Work so as to endanger, injure or render less useful any such work ;

(4) being responsible for the maintenance of or using an Irrigation Work, causes, or occasions waste of the water in such Irrigation Work or interferes with the authorised distribution of the water therefrom, or uses such water in an unauthorised manner ;

(5) corrupts or fouls the water of any Irrigation Work so as to render it less fit for the purposes for which it is ordinarily used ;

(6) being liable to furnish his own labour, fails or neglects to furnish such labour ; or

(7) destroys or moves any level, mark or water-gauge fixed by the authority of a public servant ;

shall be liable, on conviction before a Magistrate, to a fine not exceeding Rs. 50, or to imprisonment of either description for a period not exceeding one month, or to both.

Nothing in this Section or Section 29 shall apply to acts done in respect of Irrigation Works which are exclusively owned by individuals.

Sec. 28. "Some of the acts made punishable under this Section are also punishable under the Penal Code, but it is manifestly desirable to group

together all the acts and omissions which are infringements of the provisions of this special law."—S. O. & R., T. G. G. dated 22-10-1895.

[28-A. When any person is convicted of an offence under Section 28, the convicting Magistrate may order that the said person shall remove the obstruction or repair the damage or replace or repair the level mark or water-gauge in respect of which conviction has taken place within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Irrigation Officer may carry out the work in accordance with such order and the cost thereof shall be recoverable from such person as arrears of land revenue.

28-B. When the person causing any damage, alteration, enlargement or obstruction to any irrigation work without proper authority cannot, after such enquiry as the Division Peishkar may deem sufficient, be ascertained or identified, the Division Peishkar may, after giving not less than one month's notice to the occupiers of all lands benefited thereby and after hearing their representations, if any, recover from them as arrears of land revenue, the cost of repairing such damage, or removing such alteration, enlargement or obstruction, in such proportion as he thinks fit.]

29. Any person in charge of an Irrigation Work or of the distribution of water from such work may take into custody without a warrant and take forthwith before a Magistrate or to the nearest Police

Secs. 28-A and 28-B. These Secs. were added by Sec. 10 of Act VII of 1114. The statement of Objects and Reasons says :—

“If any person injures or interferes with irrigation works, he is punishable (See Section 28 of the Regulation.) It is felt that, there should be provision also to recover damages summarily from him. It is felt

too that, in cases where it is not possible to put the blame specifically on any individual, it should be possible to recover the damages from the land-owners collectively. This clause proposes to insert two new Sections for the purpose.”

Sec. 29. “The power conferred by this Section is necessary to effectually and promptly check wilful acts.

Station to be dealt with according to law, any person who, within his view, commits any of the following offences:—

(1) wilfully injures or obstructs any Irrigation Work, or,

(2) without proper authority interferes with the supply or flow of water in or from any Irrigation Work.

30. Our Government may, from time to time, make Rules consistently with the provisions of this Act to regulate the following matters:—

(1) The proceedings of any officer who, under the provisions of this Act, is required or empowered to take action in any matter;

(2) the cases in which, and the officers to whom, and the conditions subject to which, orders and decisions given under any provision of the Act shall be appealable;

(3) the persons by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done; and generally to carry out the provisions of this Act; and

(4) the number of instalments in which the cost of [* *] Minor Irrigation Works may be recovered, and the circumstances under which remission of such cost may be granted under Section 16.

[(5) the conferment by Our Government on Irrigation Officers of any or all of the powers of the Division Peishkar under the Land Acquisition Act (Act XI of 1089 as amended by Acts V of 1096 and I of 1099) and

Similar provision is made in Act VIII of 1873 (An Act to regulate irrigation, navigation and drainage in Northern India)—S. O. & R., T. G. G. dated 22-10-1895,

Sec. 30. The words "Petty and" which occurred in Clause (4) were omitted and Clause (5) was inserted by Sec. 11 of Act VII of 1114. The statement of Objects and Reasons says:—

"The Committee have recommended that Irrigation Officers should have summary powers to deal with encroachments on *porambokes* connected with irrigation works and also powers to acquire land for irrigation works. This clause proposes to empower the Government to confer the necessary powers."

the Land Conservancy Act of 1091 (Act IV of 1091 as amended by Act V of 1105) either generally or for special areas or for special purposes.]

Such Rules shall, when published in the Gazette, have the force of law.

31. No action shall lie against Government for not complying with the application of ryots for the construction, repair, improvement or restoration of any Irrigation Work.

Bar of action against Government.

[32. (1) Our Government may, by a Notification in Our Government Gazette, constitute Boards for any local area for regulating the distribution of water of any Irrigation Work, for keeping the Irrigation Work or any part thereof in repair and for other purposes, as may from time to time, be prescribed by Government by Rules made under this Act.

Constitution of Irrigation Boards. Their functions. Power to make Rules.

(2) Our Government may, by a like Notification, dissolve any Board constituted under Sub-section (1).

(3) For the discharging of its functions, any Board constituted under Sub-section (1) may, with the previous sanction of Government, levy a cess on the lands benefited.

(4) Our Government may from time to time make Rules as to—

- (a) the number of elected and nominated members for each Board ;
- (b) the term of office of the members of the Board ;

Sec. 32. "This Section was added by Sec. 2 of Act V of 1097. "It deals with the constitution of Boards and empowers the Government to define by Rules the powers and duties of the Board and other matters. The Board may, for meeting

the necessary expenses in connection with the discharge of their duties, levy a cess at such rate or rates per acre of land served by it as it may fix with the previous sanction of Government." S. O. & R., T. G. G. dated 12-7-1921.

- (c) the qualification and registration of electors, the time and mode of election and any other matter connected with election ;
- (d) the dissolution or supersession of Boards and the consequences of such dissolution or supersession ;
- (e) the powers and duties of the Boards ;
- (f) the conduct of business at their meetings ;
- (g) the appointment and punishment of their servants ;
- (h) the rates at which the cess may be levied ;
- (i) the mode of realising such cess ;
- (j) the purposes for which the money collected may be utilised ;
- (k) the relations between two or more Boards ;
and
- (l) all other matters necessary for carrying out generally the purposes of this Act.

(5) All such Rules shall be published in Our Government Gazette and thereupon they shall have the force of law.]

ACT II OF 1073.

EPIDEMIC DISEASES ACT.

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An Act to provide for the better prevention of the spread of Dangerous Epidemic Disease.

Passed by His Highness the Maha Raja of Travancore on the 18th September 1897 corresponding with the 4th Kanni 1073, under Section 9 of Act II of 1063.

Whereas it is expedient to provide for the better prevention of the spread of Dangerous Epidemic Disease; It is hereby enacted as follows :—

1. This Act may be called “The Epidemic Diseases Short title and Act of 1073,” and shall come into commencement. force at once.

*The figures on the right side refer to the corresponding Sections of Indian Act III of 1897.

As an emergent measure, Act I of 1073 was promulgated for the better prevention of the outbreak or spread of dangerous epidemic diseases. This was passed under Section 10, Act II of 1063 and was in force only for six months. In moving that it had to be retained in the Statute Book as a permanent enactment the official member in charge said :—

“When the outbreak of the plague in and about Bombay was assuming terrible proportions, this Government in common with others had to enforce

all the necessary precautions. The dire visitation has after all been only scotched—not killed yet—and the necessity for these safeguards continues all the same. Let alone the academic discussions of learned conventions about the origin of the disease, the lessons of bitter experience cannot be ignored that enforcement of sanitation, segregation of the affected and other preventive and precautionary measures do tell. It is essential in the paramount interests of public health that the Executive should be armed with the necessary powers in

2. (1) Our Government may, on being satisfied that any part of Travancore is visited by, or threatened with, an outbreak of any dangerous epidemic disease, or that there is risk of any such disease being imported into any part of Travancore, and that the ordinary provisions of the law for the time being in force are insufficient for the purpose, take such measures and, by public notice, prescribe such temporary Rules to be observed by the public or by any person or class of persons, as may be deemed necessary to prevent the outbreak or the spread of such disease or the importation thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

(2) In particular and without prejudice to the generality of the foregoing provisions, Our Government may take measures and prescribe Rules for—

(a) the inspection of any ship or vessel leaving, or arriving at, any port in Travancore, and such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary; and

(b) the inspection of persons travelling by land or water and the segregation in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

3. Any person disobeying any Rule or order made under this Act shall be deemed to have committed an offence punishable under Section 188 of the Penal Code.

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

this behalf, and it is with this in view that I commend the measure to the Council as one to be placed permanently on our Statute Book. It will be seen that the exceptional powers will be resorted to only when the ordinary provisions of the law for the time being in force are found insufficient for the purpose."—*L. C. P. dated 11-9 1897.*

This is a close adaptation of the Indian Act III of 1897. The latter Act was subsequently amended by Acts XIII of 1898, X of 1914 and XXXVIII of 1920.

For legislative proceedings see *T. G. G. dated 21-9-1897.*

The Act was published in *T. G. G. dated 21-9-1897.*

ACT IV OF 1073.

THE ABKARI ACT.

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ACT IV OF 1073.

An Act to amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs.

Passed by His Highness the Maha Raja of Travancore on the 15th March 1898 corresponding with the 3rd Meenom 1073, under Section 9 of Act II of 1063.

Whereas it is expedient to amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in Travancore; It is enacted as follows:—

I. PRELIMINARY AND DEFINITIONS.

1. This Act may be cited as 'The Abkari Act.'
Short title.

And it shall come into force on the 10th Meenom Commencement. 1073.

Year.	No.	Short title.	How affected by subsequent legislation.
1073	IV	Abkari Act.	Amended by Acts IV of 1074, I of 1104, VI of 1114 and XXI of 1118.

Legislative History. The Administration Report of the year 1054 states as follows:—

"The Abkari Revenue was hitherto collected on a system based on usage, circular orders etc. In the year under review, a Regulation was passed (Regulation I of 1054) clearly defining the system and approximating it as nearly as possible to that obtaining in British India. Shops for the sale of European liquors which were

fast multiplying were subjected by the new law to the restrictions of a licence renewable year by year."—A. R., 1054, Pr. 1.

Act I of 1054 also provided for the manufacture, sale, transit and possession of liquor within the limits of Travancore.

This Act was amended by Act I of 1055 with a view to prescribe a period of limitation for appeals.

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The system of Abkari administration thus introduced continued unaltered for about 20 years. In the year 1073 an Act was passed, (Act I of 1073) which was in force for a period of 6 months. This Act empowered certain Abkari Officers to conduct searches and arrest persons in certain cases under the Abkari Law. It was passed in view of the experimental arrangement introduced in the Abkari administration pending the consideration of the comprehensive Bill which had already been introduced in the Council and which was subsequently enacted as Act IV of 1073. This latter Act is a close adaptation of the Madras Abkari Act I of 1886. The Madras Act was subsequently amended by Acts I of 1905, I of 1913, I of 1915, XVIII of 1929 and the Imperial Act II of 1930. Many of these amendments have been introduced in our Act IV of 1073 by subsequent amending Acts.

Act IV of 1073. *Objects and Reasons.*—"The existing Abkari Law of Travancore is contained in Regulations I of 1054 and I of 1055. These were based on Madras Act III of 1864. The latter was amended by Act V of 1879 and wholly repealed by Act I of 1886; but the Travancore law remains the same.

The successive amendments of the law in the Madras Presidency were rendered necessary by the improvements from time to time introduced in the administration of the Abkari Revenue. Similar improvements, so far as local circumstances and conditions would

permit, being in contemplation, it becomes necessary in the first instance to make the law sufficiently elastic and comprehensive.

The Bill is a close adaptation of the Madras Act I of 1886."—*S. O. & R., T. G. G. dated 8-6-1897.*

The outline of the Bill was briefly sketched by the member in introducing the Bill. He said:—"Madras Act I of 1886 of which this Bill is an adaptation contains certain provisions relating to intoxicating drugs. I have embodied these provisions in the Bill as Regulation VI of 1063 (Opium and Bhang Regulation) does not appear to be sufficiently comprehensive. One of the effects of a stringent Abkari Law will be to raise the price of liquor, in which case the temptation to use intoxicating drugs which are far more deleterious than liquor will be greater. It becomes, therefore, necessary, both on grounds of public morality and for the protection of the revenue, to strictly regulate the production and sale of intoxicating drugs.

Part 1 which contains the definitions of the terms used in the Bill calls for no remark. Part 2 relates to the appointment of Abkari Officers. The provisions are mainly of an enabling character. Part 3 deals with import, export and transport of liquor. It will be noted that provision is made for the issue of general permits, and it is also expressly declared that permits extend to and include the servants and agents of the grantees. The absence of such provisions in the present

law has been a source of great practical inconvenience. Part 4 treats of manufacture, possession and sale. The prohibition contained in Section 10 may appear to be too wide, as under it a license is required to tap palm trees even for sweet toddy. Section 13, however, provides for the exemption from all the provisions of the Regulation, of trees tapped or toddy drawn in pots or other receptacles freshly coated internally with lime for the purpose of the manufacture of jaggery. I need hardly say that nothing would be farther from the intention of Government than to do anything which would have the effect of repressing so important an industry as the manufacture of jaggery. I may add that, soon after Act I of 1886 became law, the Madras Government, by a notification, declared that none of the provisions of that Act shall apply in any part of the Presidency to toddy drawn for the purpose of the manufacture of jaggery. Part 5 deals with duties. This is entirely new, no duty being chargeable under the farming system. Section 16 provides for the introduction of the Distillery System. The most noticeable point in this part is the provision relating to the levy of duty by way of tax on toddy trees. This may be objected to on the ground that it is unfair to impose a tax on trees which in this country are already taxed under the Revenue Settlement. The proposed duty, however, is not a tax on the ordinary usufruct of the tree including toddy used for jaggery, but on toddy used as

fermented liquor or for the manufacture of arrack. The tree-tax system is intended as an improvement on the farming system under which, as I have already explained, it is impossible to regulate taxation according to the quantity consumed. Section 23 of the Madras Act which empowers a grantee to proceed against any person holding under him for the recovery of any money due to him as an arrear of rent has been omitted. In the first place, we have no Rent Recovery Regulation. Further, it is not considered expedient to invest Abkari renters with such powers. Even the Jenmis are not given the power of proceeding against the Kudiyaans for arrears of rent. Part 6 deals with licenses. At present licenses can be issued only by the Dewan. In the Bill the Division Peishkars are empowered to issue licenses. The delegation of the power to Division Peishkars subject to the provisions of Section 21 would only conduce to administrative convenience. Part 7 contains some general provisions. The first two Sections (24 and 25) are more or less in accordance with the existing law. Section 26 provides for the passing of rules regulating several important matters connected with the Abkari administration. Part 8 is the most important portion of the Bill. It deals with the powers and duties of officers. The powers conferred on the Abkari Officers are doubtless very large, but if any other than the farming system is to be adopted, such powers are necessary for fiscal

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as well as for police purposes. The severe penalties provided for abuse of powers by Abkari Officers may, however, be a safeguard against the powers being used to the detriment of innocent persons. Part 9 deals with penalties. As in the case of powers of officers, the penalties provided are higher than those under the present law. Regulation I of 1054 provides only for fines: in case of default, for simple imprisonment. Under the existing law, appeals from the decisions of the District Magistrates lie to the Dewan and the High Court have practically nothing to do with the Criminal administration so far as it relates to Abkari."

L. C. P. dated 29-5-1897.

For Select Committee Report see *T. G. G. dated 23-11-1897.*

For legislative proceedings see *T. G. G. dated 20-3-1894; 8-6-1897; 21-9-1897; 30-11-1897 and 15-3-1898.*

The Act was published in *T. G. G. dated 15-3-1898.*

Act IV of 1074. Objects and Reasons.—"The amendment proposed in the Bill is intended to provide for a legal presumption that a person has committed an offence under the Regulation in respect of any liquor, intoxicating drug, &c., for the possession of which he cannot satisfactorily account. The provision is taken from the Madras Act I of 1886, of which our Abkari Regulation is a close adaptation. It was also in the original Bill which became law as Regulation IV of 1073, but was omitted in the Select Committee

stage as it was then considered not quite necessary. It has however since been brought to the notice of Government that the special rule of presumption is necessary for the satisfactory working of the Regulation and in the interests of the Abkari revenue not only of this State, but also of the neighbouring territories. Hence this short Bill"—*S. O. & R., T. G. G. dated 29-11-1898.*

For legislative proceedings see *T. G. G. dated 6-12-1898 and 21-3-1899.*

The Act was published in *T. G. G. dated 28-3-1899.*

Act I of 1104. Objects and Reasons.—"The object of the amendments proposed in this Bill is in general to effect a more far-reaching control of the use of intoxicating drugs, especially cocaine and allied preparations. The definition of "intoxicating drug" occurring in Section 3 (11) of the Regulation is sought to be amended by making specific mention of the coca plant as a material from which intoxicating substances may be prepared. As there may be cases in which the intoxicant nature of any preparation or substance may be disputed, an "explanation" is also proposed to be added to confer power on Government to declare any substance to be an intoxicating drug. The cultivation of the ganja and the coca plants is proposed to be absolutely prohibited, and clauses 3, 4, 5 and 6 of the Bill relate to this prohibition. Clause 7 of the Bill relates to an amendment of Section 67 of the Regulation.

2. From the date on which this Act comes into force, Acts I of 1054 and I of 1055 and Act VI of 1063 in so far as it relates to bhang, shall be repealed :

Provided that all licenses granted under the said Acts shall continue in force for the periods for which the same have been granted, subject to the provisions of the said Acts :

As Section 67 stands, medical practitioners may, without any of the restrictions of the Regulation, deal in medicines containing intoxicants for medicinal purposes. Even if it is considered necessary in any case to exercise control, as it may very often be, there is no legal provision for doing so either generally or in respect of specific persons or specific articles, except in the matter of sales which may be controlled under the latter part of Section 67. It is proposed therefore to take power for Government to control the traffic in intoxicants in fit cases even in respect of medical practitioners and the medical drugs dealt with by them. Occasion has been taken also to take power for Government to exempt any person or any article from the provisions of the Regulation in any fit case and to make it clear that medical practitioners may be permitted to hold possession of liquor also and prepare it into medicines" - S. O. & R., T. G. G. dated 22-11-1927.

For legislative proceedings see L. C. P. Vol. XII, Pp. 361-380, 454-460 and Vol. XIV, P. 41.

The Act was published in T. G. G. dated 19-2-1929.

Act VI of 1114. *Objects and Reasons.* "At present only Abkari Officers whose monthly salary is not less than Rs. 20 are empowered to conduct searches under Sec. 28 of the Abkari Regulation. To facilitate prompt detection of offences, it has been found necessary to invest Petty Officers of all grades (irrespective of their salary) with power to conduct searches. The amendment now proposed is to achieve this object." S. O. & R., T. G. G. dated 7-6-1938:

For legislative proceedings see A. P. Vol. XII, Pp. 354-357; C. P. Vol. XII, Pp. 535, 536.

The Act was published in T. G. G. dated 27-9-1938.

Act XXI of 1118. *Objects and Reasons.* "At present there is no provision in the Act to penalise rendering or attempting to render denatured spirit fit for human consumption. It has been found necessary to prescribe a penalty in such cases. Hence the Bill." S. O. & R., T. G. G. dated 11-5-1943.

For legislative proceedings see A. P. Vol. XXI, Pp. 203 204 and C. P., Vol. XXI, Pp. 109, 110.

The Act was published in T. G. G. dated 29-6-1943.

Provided further that this Act shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into force.

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

Interpretation.

(1) "Abkari Revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to liquor or intoxicating drugs.

(2) "Abkari Officer" means the Division Peishkar or any officer lawfully appointed or invested with powers under Section 4 or 5.

(3) "Division Peishkar" means the officer in charge of a Division or any officer appointed under Section 4, Clause (b), to exercise all the powers and to perform all the duties of a Division Peishkar under this Act.

(4) "Abkari Inspector" means an officer appointed under Section 4, Clause (d)

(5) "Toddy" means fermented or unfermented juice drawn from a cocoanut, palmyra, date or any other kind of palm tree.

Sec. 3, Sub-sec. (6) The definition as originally enacted read as follows:—"Spirits" means any liquor containing alcohol and obtained by distillation." The same was the definition in the Madras Act I

of 1886. This was amended by Acts I of 1913 and I of 1915. The present definition was substituted by Sec. 2, Act XXI of 1118 and corresponds exactly to the amended definition in the Madras Act.

(6) ["Spirits" means any liquor containing alcohol and obtained by distillation whether it is denatured or not,
"Spirits."

Explanation :—"Denatured" means subjected to a process prescribed by Our Government by notification for the purposes of rendering unfit for human consumption.]

(7) "Liquor" includes spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol.
"Liquor."

(8) "Beer" includes ale, stout, porter, and all other fermented liquors usually made from malt.
"Beer."

(9) "Country liquor" means liquor manufactured in Travancore on which duty of excise has not been levied or is not leviable under this Act at the full rates of duty chargeable on liquor imported into Travancore from foreign countries.
"Country liquor."

(10) "Foreign liquor" includes all liquor other than "Country liquor."
"Foreign liquor."

Provided that, in any case in which doubt may arise, Our Government may declare, by Notification, what, for the purposes of this Act, shall be deemed to be "Country liquor" and what "Foreign liquor."

(11) "Intoxicating drug" includes ganja, bhang [coca] and every preparation and admixture of the same and every intoxicating drink or substance prepared from any part of the ganja [or the coca] plant, from grain or from other material and not included in the term "liquor", but does not include opium or anything included within the meaning of that word as defined in [Act IV of 1090.]
"Intoxicating drug."

Sec. 3, Sub-sec. (11) The words "Act IV of 1090" were substituted for the words "Regulation VI of 1063" and the other bracketed words were inserted by Sec. 2, Act I of 1104.

(12) "Sale" or "Selling" includes any transfer otherwise than by way of gift.
 "Sale" or "Selling."
 "Selling."

(13) "Import" means to bring into Travancore from sea or from foreign territory.
 "Import."

(14) "Export" means to take out of Travancore to sea or to foreign territory.
 "Export."

(15) "Transport" means to move from one place to another within Travancore.
 "Transport."

(16) "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous or intoxicating liquor or intoxicating drug is produced or prepared and also re-distillation and every process for the rectification of liquor.
 "Manufacture."

(17) "Rectification" includes every process whereby spirits are purified, or are coloured or flavoured by mixing any material therewith.
 "Rectification."

(18) "Place" includes also a house, building, shop, tent and vessel.
 "Place."

II. ESTABLISHMENT AND CONTROL.

4. Our Government may, from time to time, by Notification,

(a) appoint an officer who shall exercise all the powers of a Division Peishkar in respect of the Abkari Revenue and who shall have the control of the administration of the Abkari Department or of the collection of the Abkari Revenue or of both ;

Appointment of officers for the administration of the Department.

(b) appoint any person other than the Division Peishkar to exercise all or any of the powers and to perform all or any of the duties of a Division Peishkar in respect of the Abkari

Revenue, either concurrently with or in exclusion of the Division Peishkar, subject to such control as Our Government may, from time to time, direct ;

- (c) withdraw from the Division Peishkar any or all of his powers in respect of the Abkari Revenue ;
- (d) appoint officers to perform the acts and duties mentioned in Sections 36 to 49 inclusive, of this Act ;
- (e) appoint subordinate officers of 'such' classes and with such designations, powers and duties under this Act as Our Government may think fit ;
- (f) order that all, or any of the powers and duties assigned to any officers under Clauses (d) and (e) of this Section shall be exercised and performed by any Government officer ;
- (g) delegate to any Abkari Officer all or any of the powers under this Act.

5. Our Government may, from time to time, make Rules prescribing the powers and duties under this Act to be exercised and performed, by Abkari Officers of the several classes.

Rules for the guidance of Abkari Officers.

III. IMPORT, EXPORT AND TRANSPORT.

N6. o liquor or intoxicating drug shall be imported unless,

Import of liquor or intoxicating drug. (a) being liable to the payment of customs duty under the Rules for the time being in force relating to the duties of customs on goods imported into Travancore, it has been dealt with according to such Rules ; or

- (b) the permission of Our Government is obtained for the importation of liquor or intoxicating drug other than that mentioned in Clause (a) on payment of the duty, if any, to which the same is liable under this Act and on such other terms as Our Government thinks fit.

7. No liquor or intoxicating drug shall be exported unless its export is permitted by Our Government on payment of the fee or duty, if any, to which it is liable under any law or Rules for the time being in force on its transshipment or re-exportation.

8. No liquor or intoxicating drug exceeding such quantity as Our Government may, from time to time, prescribe by Notification, shall be transported except under a permit issued under the provisions of the next following Section :

Provided that, in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, such permits shall be dispensed with, unless Our Government shall, by Notification, otherwise direct with respect to any local area.

9. Permits for the transport of liquor or intoxicating drugs may be issued by the Division Peishkar or by any person duly empowered in that behalf.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs, or special for specified occasions and particular consignments only.

Every permit shall specify—

- (a) the name of the person authorised to transport liquor or intoxicating drugs ;
- (b) the period for which the permit is to be in force ;
- (c) the quantity and description of liquor or intoxicating drugs for which it is granted ;
- (d) any other particulars which Our Government may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permits shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

IV. MANUFACTURE, POSSESSION AND SALE.

10. [(1)] No liquor or intoxicating drug shall be manufactured ;

Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act. [* * * *]
no toddy-producing trees shall be tapped ;
no toddy shall be drawn from any tree ;
no distillery or brewery shall be constructed or worked ; and

no person shall use, keep or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquor other than toddy or any intoxicating drug ;

except under the authority and subject to the terms and conditions of a license granted by the Division Peishkar in that behalf, or under the provisions of Section 18.

[(2) The cultivation of the ganja and the coca plant is absolutely prohibited.]

11. No person, not being a licensed manufacturer or vendor of liquor or intoxicating drugs,

Possession of liquor or intoxicating drugs in excess of the quantity prescribed, prohibited.
shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as Our Government may, from time to time, prescribe by Notification, in respect of any specified description, or kind of liquor

or intoxicating drug, unless under a license granted by the Division Peishkar in that behalf :

Provided that—

(1) No fee shall be charged for any such license granted for the possession of such liquor or intoxicating drugs for *bona fide* private consumption or use.
No fee to be charged for license for possession for private consumption.

Sec. 10. The words "no ganja plant shall be cultivated" which occurred after the word "manufactured" were omitted and Sub-sec. (2) was added by Sec. 3 of Act I of 1104.

(2) Nothing in this Section extends to any foreign liquor in the possession of any common carrier or warehouseman as such or purchased by any person for his *bona fide* private consumption and not for sale.

Proviso as regards foreign liquor.

12. Our Government may

(a) establish a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under Section 10 on such conditions as Our Government deem fit to impose ;

Establishment of public distilleries and of warehouses.

(b) discontinue any public distillery so established ;

(c) license at or in connection with any licensed distillery or elsewhere a private warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ;

(d) establish a public warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ; and

(e) discontinue any public warehouse so established.

Public warehouses shall be for the general accommodation of persons desiring to warehouse liquor or intoxicating drugs subject to duty pending removal for local consumption or for export.

13. No liquor or intoxicating drug shall be sold without a license from the Division Peishkar :

Sale of liquor or intoxicating drug without license prohibited.

Provided that a person having the right to the toddy drawn from any tree may sell the same without a license to a person licensed to manufacture or sell toddy under this Act. [***]

Sec. 13. The words which occurred within brackets *viz.*, "and a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a license those portions of the plant from

which the intoxicating drug is manufactured or produced to any person licensed under this Regulation to sell, manufacture or export intoxicating drugs:" were omitted by Sec. 4, Act I of 1104.

Provided also that Our Government may, from time to time, by Notification, suspend in any local area any or all of the provisions relating to toddy contained in this Act.

Power to exempt toddy.

14. Our Government may grant to any person or persons, on such conditions and for such period as may seem fit, the exclusive or other privilege

Exclusive privileges of manufacture, etc., may be granted.

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail,

any country liquor or intoxicating drugs within any local area.

No grantee of any privilege under this Section shall exercise the same until he has received a license in that behalf from the Division Peishkar.

In such cases, if Our Government shall by Notification so direct, the provisions of Section 10 relating to toddy and toddy-producing trees shall not apply.

V. DUTIES.

15. A duty shall, if Our Government so direct, be levied on all liquor and intoxicating drugs—

Duty on liquor or intoxicating drugs.

(a) permitted to be imported under Clause (b) of Section 6 ; or

(b) permitted to be exported under Section 7 ; or

(c) manufactured under any license granted under Section 10 ; or

(d) manufactured at any distillery established under Section 12 ; or

(e) permitted under Section 9 to be transported ; or

(f) sold in any part of Travancore ;

of such amount as Our Government may, from time to time, prescribe :

Provided that it shall be lawful for Our Government to exempt any liquor or intoxicating drug from any duty to which the same may be liable under any of the provisions of this Act.

16. Such duty may be levied in one or more of the following ways—

How duty may be imposed. (a) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of the distillery or brewery, as the case may be; or in accordance with such scale of equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as Our Government may prescribe;

(b) in the case of intoxicating drugs, by a duty to be rateably charged on the quantity produced or manufactured;

(c) by payment of a sum in consideration of the grant of any exclusive or other privilege

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail,

any country liquor or intoxicating drug in any local area and for any specified period of time;

(d) by fees on licenses for manufacture or sale;

(e) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as Our Government may direct; or

(f) by transport duties assessed in such manner as Our Government may direct.

17. All or any of the duties leviable under this Act in any local area may be farmed,

Duties may be farmed. subject to such payment and on such other conditions as Our Government shall prescribe. Farmers of duties

22. The Division Peishkar may, with the previous sanction of Our Government, cancel or suspend any license or permit granted under this Act,

Power to recall licenses, etc.

- (a) if any fee or duty payable by the holder thereof be not duly paid ; or
- (b) in the event of any breach, by the holder of such license or permit, or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such license or permit ; or
- (c) if the holder thereof is convicted of any offence against this Act or of any cognizable and non-bailable offence ; or
- (d) where a license or permit has been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act, on the requisition in writing of such person ; or
- (e) if the condition of the license or permit provide for such cancelment or suspension at will.

VII. GENERAL PROVISIONS.

23. Every person who manufactures liquor or sells country liquor under a license granted under this Act shall be bound—

Certain licensees required to keep instruments for testing, etc.

- (a) to supply himself with such of the prescribed measures for the sale of country liquor and with such of the prescribed instruments for testing the strength of such liquor as Our Government may by Rule direct, and to keep the same in good condition ; and
- (b) on the requisition of any Abkari Officer duly empowered in that behalf at any time to measure out or to test the strength of any such liquor in his possession in such manner as the said Abkari Officer may require.

24. All duties, taxes, fines and fees payable to Government direct under any of the provisions of this Act or of any license or permit issued under it, and all amounts due to Government by any grantee of a privilege, or by any farmer under this Act or by any person on account of any contract relating to the Abkari revenue may be recovered from the person primarily liable to pay the same, or from his surety (if any), as if they were arrears of Land Revenue, and in case of default made by a grantee of a 'privilege or by a farmer, the Division Peishkar may, with the previous sanction of Our Government, take the grant or farm under management at the risk of the defaulter, or may declare the grant or farm forfeited and resell it at the risk and loss of the defaulter. When a grant or farm is under management under this Section, the Division Peishkar may recover any moneys due to the defaulter by any lessee or assignee as if they were arrears of Land Revenue.

25. All amounts due to a grantee, farmer, lessee or assignee of an exclusive privilege under this Act may be recovered from the person primarily liable to pay the same or from his surety, if any, as if they were arrears of Land Revenue.

Recovery of amounts due to grantees, farmers, etc.

If the amount claimed is disputed, the Division Peishkar shall summarily enquire into and decide the same, subject to the right of the party dissatisfied with the decision to establish his claim by a suit.

26. Our Government may, from time to time, frame Rules :—

Power to frame Rules. (a) regulating the mode in which toddy may be supplied to licensed vendors of the same or to persons who distil spirits from it or who use it in the manufacture of bread ;

(b) for determining the number of licenses of each description to be granted in any District or place ;

(c) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery ;

- (d) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith ;
- (e) prescribing the measures to be used for the sale of country liquor ;
- (f) fixing for any local area the minimum price below which any country liquor shall not be sold ;
- (g) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export ;
- (h) for the inspection and supervision of stills, distilleries, private warehouses and breweries ;
- (i) for the management of any public distillery or public warehouse established under Section 12 ;
- (j) for placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as may be deemed necessary for the purposes of this Act ;
- (k) prohibiting the use of any article which the Government shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug ;
- (l) for the grant of batta to witnesses, and of compensation for loss of time to persons released by any Abkari Officer under Section 36 (3), of this Act, on the ground that they have been improperly arrested, and to persons charged before a Magistrate with offences under this Act and acquitted ;
- (m) regulating the power of Abkari Officers to summon witnesses from a distance under Section 40 ;

- (n) for the disposal of articles confiscated and of the proceeds thereof ;
- (o) generally, to carry out the provisions of this Act.

VIII. POWERS AND DUTIES OF OFFICERS, &c.

27. If any Magistrate, upon information given by any Abkari or Police Officer or any other person, and after such inquiry as he thinks necessary, has reason to believe that an offence under Section 51, or Section 53 or Section 54 of this Act has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Magistrate may issue a search-warrant on application.

Before issuing such warrant, the Magistrate shall examine the informant on oath or affirmation, and the examination shall be reduced into writing and be signed by the informant, and also by the Magistrate.

28. Whenever the Division Peishkar or any Abkari Officer [not below the rank of a Petty Officer] or officer in charge of a Police station has reason to believe that an offence under Section 51, or 53 or 54 of this Act has been committed and that the delay occasioned by obtaining a search-warrant under the preceding Section will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act, and may detain and search and, if he think proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act :

Power to certain Abkari and Police Officers to search houses etc., without warrant.

Sec. 28. The bracketed words were substituted for the words "whose monthly salary is not less than Rs. 20" by Sec. 2, Act VI of 1114.

Provided that every person arrested under this Section shall be admitted to bail by such officer as afore-said if sufficient bail be tendered for his appearance before a Magistrate.

29. The Division Peishkar or such Abkari or Police Officer may enter and inspect any place in which any licensed manufacturer carries on the manufacture of any liquor or intoxicating drug, or draws toddy, or stores any liquor, or intoxicating drug or toddy, and may enter and inspect, at any time during which the same may be open, any place in which any liquor or intoxicating drug is kept for sale by any licensed person ; and may examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, liquor or intoxicating drugs found in such place.

30. Any Officer of the Abkari, Salt, Police, Land Revenue or Customs Department may arrest without warrant in any public thoroughfare or open place other than a dwelling-house any person found committing an offence punishable under Section 51, or Section 53 or Section 54 of this Act ; and in any such thoroughfare or place, may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in, or upon which, he may have reasonable cause to suspect any such liquor, drug or other article to be, or to be concealed :

Provided that every person arrested under this Section shall be admitted to bail by such officer as afore-said, if sufficient bail be tendered for his appearance before a Magistrate.

31. Any person who may be accused or reasonably suspected of committing an offence under this Act and who, on demand of any Officer of the Abkari, Salt, Police, Land Revenue or Customs Department, refuses to give his name and residence

Arrest of persons refusing to give name or giving false name.

or who gives a name or residence which such Officer has reason to believe to be false, may be arrested by such Officer in order that his name and residence may be ascertained.

32. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure.

Searches how to be made.

33. All Officers of the Departments of Police, Customs, Salt and Land Revenue shall be legally bound to assist any Abkari Officer in carrying out the provisions of this Act.

Officers of certain Departments bound to assist.

34. Every Officer employed by Government other than an Abkari Officer shall be bound to give immediate information to an Abkari Officer,

Offenders to be reported, etc.

and every Abkari Officer shall be bound to give immediate information to his immediate official superior,

of all breaches of any of the provisions of this Act which may come to his knowledge ; and all such Officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which, they may know or have reason to believe, are about or likely to be committed.

35. All proprietors, tenants, under-tenants and cultivators who own or hold land on which there shall be [any cultivation of the ganja or the coca plant or] any manufacture of liquor or intoxicating drugs not licensed under this Act shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to an Officer of the Abkari, Salt, Police, Customs or Land Revenue Department immediately the same shall have come to their knowledge.

Land-holders and others to give information.

36. (1) When any person is arrested under the provisions of Section 28, or Section 30 or Section 31 of this Act the person arresting him shall, unless bail shall have been accepted under the provisions of Section 28 or 30, forthwith forward him to an

Persons arrested how to be dealt with.

Sec. 35. The words within of Act I of 1104. brackets were added by Sec. 5

Abkari Inspector, or, if there be no such officer within a distance of ten miles from the place at which such arrest took place, to the nearest Police-station with a report of the circumstances under which such arrest was made.

(2) On any such person being brought to a Police-station as aforesaid, the officer in charge thereof shall either admit him to bail to appear when summoned before the Abkari Inspector as aforesaid within the limits of whose jurisdiction the offence with which he is charged is suspected to have been committed, or, in default of bail, shall forward him in custody to such officer.

(3) On any such person being brought in custody before such Abkari Inspector as aforesaid or appearing before him on bail, such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before, the Magistrate having jurisdiction to try the case.

37. It shall be the duty of any officer arresting any person under the powers given by Section 28 of this Act and of any Police Station-Officer, or Abkari Officer before whom a person arrested is brought or appears under the provisions of Section 36, to release such person on bail if sufficient bail be tendered for his appearance before an Abkari Inspector or before a Magistrate as the case may be.

38. Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Abkari Inspector before whom he was bailed to attend or by the Magistrate, as the case may be :

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

Our Government may, from time to time, determine the form of the bond.

39. When, by reason of default of appearance of a person bailed to appear before an Abkari Inspector, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

40. Any Abkari Officer holding an inquiry in the manner provided in Section 36 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such Abkari Officer shall summon any person to appear at a greater distance from the usual place of residence of such person than Our Government may, from time to time, by Rule direct.

41. Every summons issued under the last preceding Section shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

42. Persons so summoned shall attend as required and shall answer truly all questions relating to such inquiry put to them by such officer other than questions the answers to which would have a tendency to expose them to a criminal prosecution or to a penalty or forfeiture. Such answers shall be reduced into writing and signed by such officer. Such answers shall also be signed by such persons but shall not be used as evidence in any criminal proceeding other than a proceeding on a charge of perjury against such persons :

Provided that no prosecution for giving false evidence in respect of any statement made under this Section shall be instituted without the previous sanction of Our Government.

43. It shall be lawful for an Abkari Inspector, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom, by reason of rank or sex, it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry ; and such person shall be bound so to answer accordingly, and the provisions of Section 42 shall apply to such answers.

44. Any Abkari Inspector may, after recording his reasons in writing summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed, by Sections 36 to 43 inclusive of this Act shall become applicable :

Provided that such person may decline to answer any question put to him.

45. The law for the time being in force as to summonses and compelling the attendance of persons summoned in Criminal Courts shall, so far as the same may be applicable, apply to any summons issued by an Abkari Inspector and to any person summoned by him to appear under the provisions of this Act.

Law relating to Criminal Courts as to summoning of witnesses to apply.

46. When an Abkari Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report, the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure.

Report of Abkari Inspector gives jurisdiction to a competent Magistrate.

47. When an Abkari Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal Procedure on an officer in charge of a Police-station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

Powers of Abkari Inspector to cause attendance of witnesses before Magistrate.

48. No person accused or suspected of having committed an offence under this Act shall be detained for a longer period than under all the circumstances of the case is reasonable: and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where an Abkari Inspector may be, and from thence to the Court having jurisdiction to try the case.

49. All officers in charge of Police-stations shall take charge of and keep in safe custody, pending the orders of a Magistrate or of an Abkari Inspector, all articles seized under this Act which may be delivered to them; and shall allow any Abkari Officer who may accompany such articles to the Police-station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the Police-station.

50. It shall be lawful for the Magistrate of the District by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any Police-Officer who is present, to require such shop to be kept closed for such period as may be necessary.

IX. PENALTIES.

51. Whoever, in contravention of this Act, or of any Rule or order made under this Act, or of any license or permit obtained under this Act—

(a) imports, exports, transports or possesses liquor or any intoxicating drug; or

- (b) Manufactures liquor or any intoxicating drug ; or
 (c) cultivates the ganja [or the coca] plant ; or
 (d) taps any toddy-producing tree ; or
 (e) draws toddy from any tree ; or
 (f) constructs or works any distillery or brewery ;
 or
 (g) uses, keeps, or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug ; or
 (h) sells liquor or any intoxicating drug ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

[51-A. Whoever renders or attempts to render fit for human consumption any spirit, whether manufactured in Travancore or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall on conviction before a Magistrate be liable to imprisonment for a term which may extend to three months or to fine which may extend to one thousand rupees or both.

For the purpose of this Section it shall be presumed unless and until the contrary is proved that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.]

52. Whoever, being the holder of a license or permit granted under this Act—

For misconduct by licensee, etc.

- (a) fails to produce such license or permit on the demand of any Abkari Officer or of any other officer duly empowered to make such demand ; or

Sec. 51 (c). The bracketed words were added by Sec. 6, Act I of 1104. Sec. 51-A. This was added by Sec. 3, Act XXI of 1118.

- (b) does any act in breach of any of the conditions of his license or permit not otherwise provided for in this Act ; or
- (c) wilfully contravenes any Rule made under Section 24 of this Act ; or
- (d) permits drunkenness, riot or gaming in any place in which any liquor or intoxicating drug is sold or manufactured ; or
- (e) permits persons of notoriously bad character to meet or remain in any such place ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment which may extend to three months, or with both.

53. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act—
 For adulteration, etc., by licensed vendor or manufacturer.

- (a) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any Rule made under Section 26, Clause (k), when such admixture shall not amount to the offence of adulteration under Section 272 of the Indian Penal Code ; or
- (b) sells, or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor ; or
- (c) marks the cork of any bottle, or any bottle, case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof, with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under Section 482 of the Indian Penal Code ; or

(d) sells, or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trademark under Section 486 of the Indian Penal Code ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

54. Whoever without lawful authority has in his possession any quantity of liquor or of any intoxicating drug knowing the same to have been unlawfully imported, transported or manufactured, or knowing the prescribed duty not to have been paid therefor, shall, on conviction before a Magistrate, be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

55. Any Abkari Officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any closed place ;

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ;

or vexatiously and unnecessarily detains, searches, or arrests any person ;

or in any other way vexatiously exceeds his lawful powers ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

56. Any officer exercising powers under this Act who vexatiously and unnecessarily delays forwarding to an Abkari Inspector or to the officer in charge of the nearest Police-Station, as required by Section 36 of this Act, any person arrested, or any articles seized under this Act, shall, on conviction before a Magistrate, be punished with fine which may extend to two hundred rupees.

57. Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act; or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkari Revenue may be defrauded,

and any officer of any other Department referred to in Section 33 who abets the commission of any offence against this Act in any place,

shall, on conviction before a Magistrate, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

58. Any Abkari officer who, without lawful excuse, shall cease or refuse to perform, or shall withdraw himself from, the duties of his office, unless expressly allowed to do so in writing by Our Government or any officer specially empowered in that behalf, or unless he shall have given to his superior officer two months' notice in writing of his intention to do so; or

who shall offer any unwarrantable violence to any person in his custody; or

who shall be guilty of cowardice;

shall, on conviction before a Magistrate, be punished with fine which may extend to six months' pay or with imprisonment which may extend to three months, or with both.

59. Whoever is guilty of any act or intentional omission in contravention of any of the provision of this Act or of any Rule or order made under this Act and not otherwise provided for in this Act shall, on conviction before a Magistrate, be punished for each such wilful act or omission with fine which may extend to two hundred rupees.

60. [In prosecutions under Section 51, it shall be presumed, until the contrary is proved, that the accused person has committed an offence under that Section in respect of any liquor or intoxicating drug, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily.]

The holder of a license or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under Section 51, or Section 52, or Section 53 or Section 54 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Sec. 60. The bracketed para was inserted by Act IV of 1074. The Sec. thus amended is exactly similar to Sec. 64 of the Madras Act. The Official member in introducing the Amending Bill said:— "The Regulation (IV of 1073) has been in force for some time and it has been brought to the notice of Government that the absence of the provision renders it difficult to enforce the Regulation criminally, and that any failure of the law to deal with Abkari offences

would not only affect the revenue of this State, but also re-act on the neighbouring territories and facilitate smuggling. I may here point out that such a legal presumption is provided for in almost every Revenue Regulation here and in British India. I would refer you to Sec. 7 of the Opium and Bhang Regulation VI of 1063 and Sec. 52 of the Forest Regulation II of 1068, and it does not appear that the Rule has in any case worked practical hardship." *L. C. P., dated 3-12-1898.*

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

61. In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement or apparatus in respect of which an offence has been committed shall be liable to confiscation.

What things liable to confiscation.

Any liquor or intoxicating drug lawfully imported, exported, transported, manufactured, had in possession, or sold, or toddy lawfully drawn, or tapped along with, or in addition to, any liquor, intoxicating drug, or toddy liable to confiscation under this Section, and

the receptacles, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, implement or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found,

shall likewise be liable to confiscation.

62. When the offender is convicted or when the person charged with an offence under this Act is acquitted but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the Magistrate.

Confiscation how ordered.

Whenever confiscation is authorised by this Act, the Magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Division Peishkar, or by any other officer authorised by Our Government in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of two months from the date of seizing the

things intended to be confiscated, or without hearing the persons, if any, claiming any right thereto, and evidence if any, which they produce in support of their claims :

Provided further that, if any person claiming any right to the property appears after the expiry of two months but before the order of confiscation is passed, he shall be heard.

63. Any Abkari Officer specially empowered in that behalf may accept from any person whose license or permit is liable to be cancelled or suspended under Clauses (a) and (b) of Section 22 or who is reasonably suspected of having committed an offence under Section 52 or Section 59, a sum of money not exceeding two hundred rupees in lieu of such cancelment or suspension or by way of compensation for the offence which may have been committed as the case may be ; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

64. The provisions of the Criminal Procedure Code relating to execution so far as the same are applicable shall apply to all offences committed and to all persons punished under the provisions of this Act.

Provisions of the Criminal Procedure Code to apply to cases under this Act.

X. MISCELLANEOUS.

65. All Rules made under this Act shall be made and issued by publication in the Gazette, provided that the draft of all such Rules whereby the doing or the not doing of anything is made punishable, shall be published in three successive issues of the Gazette. All such Rules shall, thereupon, have the force of law and be

Publication of Rules.

read as part of this Act, and may in like manner be varied, suspended, or annulled.

66. All Notifications and orders conferring powers, imposing duties and making appointments under this Act may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles, and all Courts shall take judicial notice thereof.

67. [(1)] Nothing in the foregoing provisions of this Act applies to the manufacture, possession, sale or supply of any, *bona fide* medicated article for [*bona fide*] medicinal purposes by Medical Practitioners, chemists, druggists, apothecaries or keepers of dispensaries; [* *] or to the possession by any person of such articles lawfully supplied by them.

[(2) It shall be lawful for Our Government at any time by Notification in Our Government Gazette to prohibit the import, export, transport, manufacture, possession, sale or supply (whether for medicinal purposes or otherwise) of any liquor or intoxicating drug otherwise than in accordance with such Rules and conditions (if any) as may be prescribed by Our Government in that behalf and in like manner to cancel such prohibition.

(3) It shall be lawful for Our Government at any time by Notification in Our Government Gazette to exempt, subject to such conditions (if any) as Our Government

Sec. 67. The following amendments were made by Sec. 7, Act I of 1104. (1) In Sub-sec. 1, the words "*bona fide*" were inserted between the words "article for" and "medicinal purposes", (2) The words "but it shall be lawful for Our Government at any time by Notification to prohibit the sale of any such article within any defined local area,

except under a license which shall be granted on payment of such fees and subject to such conditions as Our Government may deem fit to prescribe" which occurred after the word "dispensaries" were omitted. (3) The words "or to the possession.....by them" were added and (4) Sub-secs. (2) to (4) were added.

may impose, any specified article or class of articles or any specified person or class of persons from the operation of all or any of the provisions of this Act or of the Rules made or prohibitions notified thereunder, and in like manner to cancel such exemption.

(4) It shall also be lawful for Our Government to permit, subject to such restrictions and conditions as Our Government may in each case or class of cases prescribe, the possession by medical practitioners of liquor, ganja, bhang and coca and the preparation by them of medicines containing the same for use in their practice.]

68. No action shall lie against Our Government, or against any Abkari Officer, for damages
Bar of actions. in any Civil Court for any act *bona fide* done or ordered to be done in pursu-

ance of this Act;

and all prosecutions of any Abkari Officer, and all actions which may be lawfully brought against Our Government or against any Abkari Officer, in respect of anything done or alleged to have been done, in pursuance of this Act, shall be instituted within six months from the date of the act complained of.

69. Nothing in this Act shall apply to trees tapped or to toddy drawn in pots or other receptacles freshly coated internally with
Exemption of sweet toddy and manufacture of jaggery. lime for the purpose of sweet toddy or of the manufacture of jaggery:

Provided that all or any of the provisions of this Act may be applied by a Notification of Our Government to any local area for the sole purpose of regulating and controlling the tapping of trees or the drawing of toddy for purposes aforesaid under licenses or permits (which shall not be liable to duty) subject to such Rules as may be passed by Our Government from time to time.

ACT VI OF 1073.

THE DEPARTMENTAL ENQUIRIES ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Commencement.
2. Power to issue summons in preliminary enquiries.
Particulars of summons.
Provisos.
3. Person summoned bound to appear and answer truly.
Statements of witnesses not to be used in subsequent proceeding.
- 4-6. [Repealed by Section 24, Act XI of 1122.]

An Act to invest Officers holding Departmental Enquiries into the conduct of public servants with certain powers.

Passed by His Highness the Maha Raja of Travancore on the 29th May 1898 corresponding with the 17th Edavom 1073 under Section 9 of Act II of 1063.

Whereas it is expedient to invest Officers holding Departmental Enquiries into the conduct of public servants with certain powers; We are hereby pleased to enact as follows:—

Year.	No.	Short Title.	How affected by subsequent legislation.
1073	VI	Departmental Enquiries Act.	Repealed in part by Sec. 24, Act XI of 1122.

With a view to afford protection to public servants against dismissal or suspension except on certified grounds and conditions, Government Proceedings No. 5740 M 2393 dated 13-11-1891 were passed. (T. G. G. dated 17-11-1891). The Rules contained in the proceedings

were superseded by Rules dated 12-12-1896. (T. G. G. dated 22-12-1896). These Rules regulated enquiries into the conduct of public servants.

Act VI of 1073. Objects and Reasons.—"Section 2 of the Bill which I beg to introduce empowers officers of high rank,

ACT VI OF 1703.

such as "Heads" of Departments, Dewan Peishkars, District Judges, to summon witnesses in preliminary enquiries. The second para is so worded as the summons may be to appear before an officer other than the officer issuing the summons where such a step may be deemed necessary.

Under the recent Rules of Government, the formal examination of witnesses in preliminary enquiry is not necessary, but they should not be allowed to make false statements with impunity, to the great injury and annoyance of the public servant whose conduct may form the subject of enquiry. It is, accordingly, provided in Section 3 that the person examined should speak truth. This provision is taken from the Madras Act V of 1893 (*see* Section 4) which, I must add, applies only to preliminary enquiries, formal and public enquiries being governed by Act XXXVII of 1850. Similar provision is found in Para 2 of Section 143 of the Criminal Procedure Code which applies to investigations by the Police. The Officer that conducts preliminary enquiries is, as a rule, superior in position and rank to the Officer in charge of a Police-Station. Injury done to a public servant by false statements in preliminary and departmental enquiries is often greater than what might result from the like statements made to a Police-Officer investigating into a case of public nuisance, petty theft or hurt. False statements, if allowed to be

made "with impunity in such preliminary enquiries, would also hold out a high premium to false accusations and to subornation of witnesses in formal public enquiries. The interests of public service and morality alike require the imposition of the obligation to speak the truth upon witnesses examined in preliminary enquiries.

Section 4 empowers the Officers holding formal enquiries to exercise the powers of a Civil Court in summoning and enforcing the attendance of witnesses, their examination on commission or otherwise, and causing the production of documents or other material objects producible as evidence. The late Departmental Bill, which was approved by this Council, proposed to confer on these officers all these powers with the exception of the power of *enforcing* the attendance of witnesses whose omission, I have reason to believe, was not intentional. Similar powers are now exercised by the Conservator of Forests, his Deputies and Assistants (*see* Sections 8 and 9 of the Forest Regulation II of 1068 and Rule 54 issued by Government) and also by the District Registrars under Section 69 of Regulation I of 1070. The Officers who will be appointed to hold formal enquiries will not certainly be inferior to the Assistant Conservators of Forests and District Registrars. In British India, Officers appointed to hold a public or formal enquiry exercise the powers of a Civil Court.

SEC. 1. THE DEPARTMENTAL ENQUIRIES ACT.

1. This Act shall come into force on the first day of Commencement. Chingam 1074.

2. Heads of Departments drawing a salary not less than Rs. 300, Dewan Peishkars, District or Sessions Judges, District Magistrates, and such other Officers as may be specially authorised by Our Government by a Notification in Our Government Gazette, may summon any person to appear or to produce any document or other material object producible as evidence in his possession, in any preliminary enquiry held with a view to ascertain whether there exist any grounds for a formal enquiry into the conduct of a public servant. Such summons shall state the time and place at which, and the Officer before whom, the person summoned should appear.

Particulars of summons. Provided that persons exempted from personal appearance in Civil Courts, and women who according to the usages of the country, do not appear in public, shall not be required to attend at any public office or place:

Provisos. Provided also that no person shall be required to attend unless he resides within a distance of 50 miles from the place where his attendance is required.

Section 5 permits one of the Officers appointed to hold a formal enquiry to issue summonses and other processes. This will obviate the delay which would result from the requisition that every process should be signed by all the Officers appointed to hold the enquiry.

Section 6 simply indicates the mode of serving processes issued under this Regulation.

In conclusion, I may state that the Rules recently passed by His Highness' Government and the provisions of the Bill now introduced will place the servants of this State on the same footing on which Her Majesty's servants are in India in respect of departmental enquiries into the accusations that may be made against them—S. O. & R., T. G. G. dated 21-9-1897.

3. Any person summoned under the second Section of this Act shall be bound to appear before the Officer named in the summons and answer truly all questions, other than questions the answers to which would have a tendency to expose him to a criminal charge, or to a penalty or forfeiture.

Person summoned bound to appear and answer truly.

No statement taken from the person so summoned in the absence of a public servant whose conduct is under enquiry, shall be used as evidence against such public servant in any subsequent proceeding.

Statements of witnesses not to be used in subsequent proceeding.

4-6. [*Repealed by Section 24, Act XI of 1122*].

For legislative proceedings see T. G. G. dated 21-9-1897; 30-11-1897 and 24-5-1898.

The Act was published in T. G. G. dated 31-5-1898.

The Act is based on the British Indian Act XXXVII of 1850 and the Madras Act V of 1893.

Secs. 4-6. These Secs. were repealed by Sec. 24, Act XI of 1122 [The Public Servants (inquiries) Act]. The repealed Secs. ran as follow:—

"4. *Powers of Officers hold ing formal enquiries.* Any Officer authorised to hold a formal enquiry into the conduct of any public servant may exercise the powers of a Civil Court in the following matters :

(a) Summoning and enforcing the attendance of witnesses.

(b) Causing the production of documents or other material objects producible as evidence,

(c) Administering of oaths to witnesses.

(d) Examination of persons summoned as witnesses or present in Court.

(e) Issuing commissions for examination of persons exempted from personal appearance in Civil Courts or residing at a distance of more than 50 miles from the place where the formal enquiry is held, and of women who, according to the usages of the country, do not appear in public.

5. *Issuing of processes when two or more Officers hold a formal enquiry.* Where two or more Officers are authorised to hold a formal enquiry, any one of them may issue the necessary processes in the exercise of the powers vested in them by Section 4 of this Act.

6. *Service of processes.* Processes issued under the provisions of this Act shall be served in the manner prescribed in the Code of Civil Procedure."

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An Act to provide a General Penal Code.

Passed by His Highness the Maha Raja of Travancore on the 17th September 1898 corresponding with the 2nd Kanni 1074 under Section 13 of Act V of 1073.

Whereas it is expedient to provide a general Penal Code for Travancore; We are hereby pleased to enact as follows:—

Preamble.

CHAPTER I.

INTRODUCTION.

1. This Act shall be called the Travancore Penal Code, and shall take effect on and from the 1st day of Makaram 1074 throughout the whole of Travancore.
- Title and extent.

Year.	No.	Short title.	How affected by subsequent Legislation.
1074	I	Penal Code	Repealed and amended in part by Act II of 1117. Repealed in part by Act I of 1110. Amended by Acts I of 1089, IV of 1094, IX of 1097, III of 1107, III of 1114, II of 1117, XXII of 1117 (Secs. 24 and 25) and Proclamation dated 11-11-1944. See also Acts I of 1114, X of 1114, X of 1115 and XVII of 1115.

Act I of 1074:—Objects and Reasons.—(1) In applying for permission to introduce a Bill to amend the Penal Code, the Official Member in charge (the Chief Justice) spoke as follows:

“Act No. III of 1894 recently passed by the Government of India amending certain Sections of the Indian Penal Code and Criminal Procedure Code, recognises certain grave offences

committed in Native States, as committed within British India in order to facilitate the arrest and conviction of fugitive offenders who take refuge in British India, after committing offences in Native States. Offenders against law and society being enemies of mankind, it behoves this Government to cooperate cordially with, and reciprocate the action of, the British Government in the adoption of

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measures for the repression of grave crimes wherever they may be committed. To do this, our criminal law needs amendment on the lines of the Act above referred to.

We have no penal law of our own. Regulation II of 1056 introduced into Travancore, *mutatis mutandis*, the Indian Penal Code and the Whipping Act, as they stood in British India in July 1881. Since then, the Penal Code has been amended by the British Legislature, by half a dozen enactments, viz., Acts Nos. VIII of 1882, X of 1886, I and IV of 1889, II of 1891 (the Age of Consent Act) and III of 1894. As the amendments made by these enactments supply many defects which the working of the Indian Penal Code, as it stood before July 1881, brought to light, they have to be introduced into our law. There are many Sections in the Indian Penal Code which are not quite applicable to our conditions. They require amendments with a view to adapt them to our circumstances. We have a few Sections in the Code which relate wholly to offices and institutions which do not, and could never exist, in Travancore. They have to be expunged from our Code.

The working of the laws of Travancore has also disclosed a few defects which demand enactment of some new penal provisions not to be found in the Indian Penal Code. To meet all these objects, I deemed it advisable to draft a Penal Code for Travancore on the basis of the Indian Penal Code and the Whipping Act, as they now

stand in British India, with the necessary amendments and additions indicated above and to lay it before the Council.

I will next proceed to point out briefly the amendments I have made in the Penal Code and the Whipping Act. The Chapters and Sections referred to in the following remarks are those of these two enactments.

Secs. 3, 4, 13, 14, 15, 16, 17, 18, 58, 59, 137, 139, 226 and 229 Illustrations (a) and (c) under Sec. 19, the Illustration under Sec. 20, and Illustrations (a) under Sec. 81, (b) under Sec. 161 (a) under Sec. 174 and (b) under Sec. 177 and also the Explanation I under Sec. 193, are omitted as they are wholly inapplicable to Travancore."

"I have added an Explanation to Section 21 (Indian Code) so as to include certain classes of the servants of Her Majesty the Queen-Empress of India, in the definition of Public servants. In Travancore there are many servants of the British Government on duty, in connection with the Imperial Post and Telegraph Offices, the Subsidiary Force at Quilon and the Residency. The late Cash-keeper of the Residency Treasury was, at the instance of the Madras Government, tried by our Courts for criminal breach of trust, under Section 408 of the Penal Code, on account of the doubt felt as to whether a charge under Section 409 of the Code will stand against one who was not a public servant of this State. Similar cases may arise in future. It is necessary that *when British Servants are, at the instance of their Government,*

brought for trial before our Courts, for offences committed in their official capacity, they should be treated as "public servants" in the same way as they would be treated in British India. There are also offences which the subjects of this State may commit against British servants. I need hardly say that offences committed against public servants are graver than those of the same class committed against ordinary persons. We have also offences which could be committed only against public servants, such as bribery. A subject of this State who offers a bribe to a British Officer in Travancore, would escape punishment, if such officer is not a public servant according to our law. To avoid this contingency and to meet the other objects above hinted, a new explanation is added to Sec. 21, to the effect that British servants *who may be handed over for trial by our Courts or against whom any offence may be committed by the subjects of this State, in Travancore*, are public servants for purposes of the Code. It will be observed that this addition in no way interferes with the existing privileges, rights and jurisdictions and that its sole object is to enable our Courts to deal satisfactorily with the cases coming before them in *due* course. The other amendments in this Section involve no question of principle and partake of the nature of verbal alterations made with a view to express the existing arrangements under which the servants of the Travancore Government are appointed."

"Clause 5 of Sec. 375 (Indian Code) which defines the offence of rape virtually legalises *illicit* intercourse with a girl under the age of 16 years, if such intercourse takes place with her consent. This is opposed to the spirit of Secs. 361 and 366 (Secs. 362 and 367), which make the seduction of a female under 16 years of age for purpose of illicit intercourse, an offence punishable with imprisonment for a term of ten years and fine. To remove this contradiction and to make the law uniform, it is proposed to substitute 'sixteen' for 'ten' in the 5th Clause of Sec. 375. A minor girl could not, except through her guardian enter into civil contracts even as regards the most ordinary concerns of life. To empower her to give consent to her *dishonour* which will often mar all her good prospects of life is, to say the least, most inadvisable. The limit of 16 years imposed by Sec. 361 seems to be reasonable and is adopted in the 5th Clause of Sec. 375.

"The amendment made by the Act of 1891 known as the "Age of Consent Act" in the Exception to Sec. 375, is not adopted, as the evil which gave rise to it does not exist in this country. When the husband commits rape on his wife, the persons who could be expected to complain of it, are the near relations of the wife. The indissoluble character of the marriage tie, the damaging effect of the conviction on the prospects of the offender in finding any honourable employment and the life-long animosities which the

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preferring of the charge would certainly create between husband and wife, would naturally induce the relatives to maintain silence and to thwart the attempts of the Police to bring the offence to light. The practical effect of the amendment of the "Exception" on the lines of the "Age of Consent Act" would therefore be an intolerable annoyance resulting from an inquisitorial Police investigation without any commensurate advantage. These considerations have induced me to leave the Exception to Sec. 375 as it stood before the Age of Consent Act. To remove the doubt that may be entertained regarding the application of the Exception to the followers of Marumakkathayam Law, I have added an Explanation to the effect that among them, the relationship of husband and wife is created by the customary presentation of cloth."

"The 24th Chapter of the Bill contains the Sections of the Indian Whipping Act relating to punishments, viz., 2, 3, 4 and 5 and part of Sec. 11 which exempts females and certain classes of male offenders from whipping. The other provisions of the Act which form part of procedure have already been incorporated into the Travancore Code of Criminal Procedure (Regulation V of 1067). Sec. 3 requires that the offence subsequently committed should be the same as the previous one to warrant the whipping of the offender. The practical effect of this provision is that a thief who is subsequently convicted

of the offence of theft in a building under Sec. 380 is not liable to the punishment of whipping, if his previous offence was one of simple theft under Sec. 367. But, if the subsequent offence happens to be simple theft instead of theft in a building, he would be liable to the punishment prescribed in Sec. 3. In short, the person whose subsequent offence is graver than that of the previous one, receives lighter punishment than the person whose subsequent offence is the same as the previous one. This anomaly ought to be removed. The offences mentioned in Sec. 2 are offences against property, connected with theft in some way or other. Whipping has a greater deterrent effect upon confirmed thieves and robbers than imprisonment. To remove the anomaly above pointed out and to subject old offenders to sentences of whipping I have in lieu of the word 'same' in Sec. 3, inserted the words 'the same offence or of any other offence specified in the last preceding Section'."

He finally said:—"In other respects, the Bill closely follow the British Code as it now stands with the necessary adaptations, such as the substitution of the word or words 'Imprisonment' for 'Transportation', 'Travancore' for 'India', 'Sircar coin' for 'Queen's coin.'—L. C. P. dated 14-4-1894.

For Report of the Select Committee see T. G. G. dated 10-3-1896.

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For legislative proceedings see *T. G. G. dated 17-4-1894, 9-10-1894, 18-6-1895, 12-11-1895, 23-6-1896, 7-7-1896, 30-11-1896 and 24-5-1898.*

The Act was published in *T. G. G. dated 20-9-1898.*

Act I of 1089. Objects and Reasons.—"The Travancore Penal Code, Regulation I of 1074, was passed as law in the country as early as 1st Makaram 1074. It is considered desirable that Sections 113 and 117 of the Travancore Penal Code should be brought into conformity with Sections 121-A and 124-A of the British Indian Penal Code as amended by Acts XXVII of 1870 and IV of 1898" *S. O. & R. T. G. G. dated 10-9-1912.*

For Select Committee Report see *T. G. G. dated 21-1-1913.*

For legislative proceedings see *T. G. G. dated 22-10-1912, 4-3-1933 and 30-9-1913.*

The Act was published in *T. G. G. dated 28-10-1913.*

Act IV of 1094. Objects and Reasons.—In introducing the Bill, the Member in charge said:—"With the exception of Secs. 85 and 195 taken from the New York Code, Sec. 164 from the German Code and Sec. 449 from the Baroda Code, the Travancore Penal Code follows closely the British Indian Penal Code. Though, after the passing of Regulation I of 1074, the British Indian Penal Code has undergone several amendments, very few of them have been adopted in the Regulation. It is therefore deemed expedient to bring the Regulation into

conformity with the corresponding British Indian Code by adopting the subsequent amendments to the same." *L. C. P. dated 25-6-1917.*

For legislative proceedings see *T. G. G. dated 7-8-1917, 22-1-1918 and 22-10-1918.*

The Act was published in *T. G. G. dated 10-12-1918.*

Act IX of 1097. This Act deals with Election Offences and Enquiries. It amends Sec. 15 of the Code and adds Chapt. IX-A. See also notes under Act IX of 1097.

Act III of 1107. Objects and Reasons.—"Although traffic in women and children cannot be said to be very prevalent in Travancore, it cannot be said to be totally absent and in any event it is considered that unless some special provisions are made in Travancore as in British India and elsewhere for preventing and suppressing the immoral traffic, Travancore might become a centre or asylum for such traffic. This Bill has accordingly been drafted to incorporate some special provisions in the Travancore Penal Code." *S. O. & R., T. G. G. dated 7-4-1931.*

In introducing the Bill, the Official Member in charge said:—"* Briefly put, and in general terms, the provisions of the Bill are designed to suppress the traffic in women and girls and to prevent and punish the keeping of brothels and the aiding of the business of prostitution". In the course of discussion, the Member read what was said in a paper called

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“Srimati” about the export of women from Travancore for immoral purposes and the necessity for legislation on the matter, and said :—“The Commissioner of Police has also reported that there have been instances of women migrating from Travancore for immoral and unlawful purposes and settling down outside Travancore for the purpose of prostitution. There is another imperative reason why we should have legislation on this point. Although this immoral traffic in women is not very prevalent in this country it is prevalent in other countries. It was so prevalent that it became a subject-matter of International Conferences and in 1920 and 1922 certain International agreements were come to. * India was a party to the 1922 Conference and legislation has been undertaken in British India on this point. It will be conceded that Travancore being a part of the British Empire must move in line with the rest of the Empire at least to help the other parts of the Empire in suppressing this traffic. If there is no law in Travancore, it will become an asylum for such purposes and there would be no law for suppressing it. While legislation was undertaken on this point I took the occasion as a fitting one for making provisions in regard to brothels also and I have made certain provisions on the lines of the Madras Act.

That is why you find certain provisions to punish the keeping of brothels and also the aiding of the business of prostitution. Clauses 2 and 3 of the

Bill add certain provisions to Section 366 of the Penal Code and make the compulsion of adults to prostitution an offence and also the procuring of minor girls, and the importation of minor girls for immoral purposes, an offence. Clause 4 only raises the age of minority. Clause 7 incorporates certain provisions of the Madras Suppression of Brothels Act. That Clause is intended to prevent the keeping of brothels and to prevent the aiding of the business of prostitution. These are the substantial provisions of the Bill.” *L. C. P. dated 11-8-1931.*

For Select Committee Report see *T. G. G. dated 24-11-1931.*

For legislative proceedings see *L. C. P. Vol. XIX Pp. 1083-1099; Vol. XX Pp. 15-20 and Vol. XXI Pp. 304-305.*

The Act was published in *T. G. G. dated 27-9-1932.*

Act I of 1110. Objects and Reasons.—“Certain enactments whereby breaches of contract by labourers were made punishable under the Criminal Law, viz., the Workman’s Breach of Contract Act (XIII of 1859) and Sections 490 and 492 of the Indian Penal Code were repealed in British India by Act III of 1925. The question of repealing the corresponding provisions in Travancore has been under consideration since then.

The International Labour Conference of June 1930 has expressed the view that forced or compulsory labour should as a rule be abolished as early

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as practicable and this principle has been generally accepted by the Indian Legislatures in 1931. It is proposed by this Bill to repeal the Travancore Breach of Contract Regulation of 1080 as amended by Regulation V of 1087 and Sections 493 and 495 of the Travancore Penal Code. The corresponding provisions of British India have been repealed as stated above, by Act III of 1925. Similar action has recently been taken in Mysore also. In moving the Bill, the official member in charge said, "The object of the Bill, is to repeal certain enactments which provide for punishment of breaches of contract by labourers. There are two enactments that are in force in Travancore. One is Regulation II of 1080, as subsequently amended by Regulation V of 1087 which provides for the punishment of certain breaches of contract committed by artisans, labourers and other workmen. The other is the Penal Code. Sections 493 and 495 provide for the punishment of certain breaches of contract. In British India they had enactments corresponding to these and they have repealed them by Act III of 1925. The International Labour Conference has also expressed the view that forced or compulsory labour should, as a rule, be abolished as early as practicable and this principle has been generally accepted in British India. The enactments referred to are in spirit against the convention adopted by the International Labour Conference. I may add that in the sister State of

Mysore also they took steps to repeal this and have done so by Act IV of 1933. The Breach of Contract Regulation was passed in Travancore, generally speaking, in support of the planting community. Therefore the views of Mr. Lampard were ascertained and he has written that there is no objection to the proposed Bill." *A. P. Vol. IV, P. 323.*

For legislative proceedings see *A. P. Vol. IV, Pp. 323-328 and Vol. V, P. 22; C. P. Vol. IV, Pp. 109-111.*

The Act was published in the *T. G. G. dated 12-3-1935.*

Act III of 1114. *Objects and Reasons.* See Notes under Secs. 117 and 294-A.

For legislative proceedings see *A. P., Vol. XI, Pp. 465-481; Vol. XII, Pp. 291-297; C. P. Vol. XII, P. 534.*

The Act was published in *T. G. G. dated 27-9-1938.*

Act II of 1117. *Objects and Reasons.*—The Indian Penal Code "on which is based the Travancore Penal Code has undergone material alterations made from time to time by the British Indian Legislature. The question of adopting similar changes in the Travancore Penal Code was under consideration for some time past. The subjoined notes on Clauses explain briefly the extent to which these changes are proposed to be adopted." *S. O. & R., T. G. G. dated 18-3-1941.*

See also Notes under Secs. 50, 51, 98-A, Chap. V-A. Secs. 113, 182, 290, 291, 406 and 514.

On and after the said date, Act II of 1056 shall stand repealed, except as regards offences committed before the said date.

2. Every person shall be liable to punishment under this Code and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within Travancore on or after the said 1st day of Makaram 1074.

3. [Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of any special or local law.]

Certain laws not to be affected by this Act.

For Report of the Select Committee see *T. G. G. dated 17-6-1941.*

For legislative proceedings see *A. P. Vol. XVII, Pp. 403, 404; Vol. XVIII, P. 951; C. P. Vol. XVIII Pp. 442, 443.*

The Act was published in *T. G. G. dated 2-9-1941.*

Act XXII of 1117. This Act deals with Trade marks and amends Secs. 481 and 483 of the Penal Code. See also Notes under Act XXII of 1117.

Penal Code Amendment Proclamation dated 11-11-1944. This Proclamation substituted the penalty of imprisonment for life with or without forfeitures of property for the penalty of death provided for in Secs. 188, 301, 302, 305, 307 and 396 of the Penal Code. It also substituted Sec. 3 of the Code.

This Proclamation was published in the Extraordinary Gazette dated 11-11-1944.

Act I of 1114. This Act provides for the prohibition of unlawful Associations danger-

ous to public peace and also empowers Government to attach printing presses used for the purpose of furthering the objects of such associations. This Act has been amended by Acts X of 1114 and XVII of 1115.

Act X of 1115. This Act besides amending the Criminal Procedure Code (Act V of 1067) and Act I of 1114, provides for dealing with offences committed by Travancoreans outside the State and penalises persons wearing uniforms signifying their association with notified political organisations or taking part in the control of such organisations.

Sec. 3. This Section was substituted by para 3 of the Proclamation dated 11-11-1944 thus bringing it into line with Section 5 of the Indian Penal Code. The Original Section ran as follows:—

“3. *Certain laws and customs not to be affected by this Regulation.* Nothing in this Regulation is intended to repeal, vary, suspend, or affect any of

CHAPTER II.

GENERAL EXPLANATIONS.

4. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions" though those exceptions are not repeated in such definition, penal provision, or illustration.

Definitions in the Code to be understood subject to exceptions.

Illustrations.

(a) The Sections in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a Police officer without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement, for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

5. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Expression once explained is used in the same sense throughout the Code.

6. The pronoun "he" and its derivatives are used of any person, whether male or female.

Gender.

7. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

the provisions of any special or local law, or the customary law which exempts Brahmins and women of all classes from capital punishment, and which

prohibits the award of capital punishment to more than one person convicted of the same offence."

8. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.

9. The word "person" includes any Company or Association or body of persons, whether incorporated or not.

10. The word "public" includes any class of the public or any community.

11. The words "Her Majesty the Queen Empress of India" denote the Sovereign for the time being of the United Kingdom of Great Britain and Ireland and Emperor or Empress of India, as the case may be.

12. The words "British India or India" denote the territories which are or may become vested in Her Majesty the Queen-Empress of India, by Statute 21 and 22, Victoria, Chapter 106, entitled "An Act for the better Government of India."

13. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give in any legal proceeding, Civil or Criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Secs. 11 and 12. These Sections are additions not found in the Indian Penal Code.

Sec. 13. Illustration (c) is an addition not found in the Indian Penal Code. This was put in by the Select Committee "to show that a Division Peish-

kar settling claims for compensation under the Land Acquisition Regulation is a Judge. He exercises judicial powers in settling these claims."—S. C. R.

Illustration (d) was added by Section 2., Act IV of 1094.

Illustrations.

- (a) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.
- (b) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.
- (c) A Division Peishkar deciding claims for compensation under the Land Acquisition Act, III of 1067, is a Judge.
- [(d) A Judge of a Village Panchayat Court, which has power under Act I of 1090 to try and determine suits, is a Judge within the meaning of this Section.]

14. The words "Court of Justice," denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

[A Village Panchayat Court acting under Act I of 1090, having power to try and determine suits, is a Court of Justice.]

15. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely:—

First:—Every Officer appointed by Us or under Our sanction :

Second :—Every servant appointed by Us or under Our sanction or by Our officers under the authority conferred on them by the Acts or Rules now in force or hereafter to be sanctioned by Us :

Third :—Every Member of the Legislative Council, every Member of a Town Improvement Committee, and every Thadastar assisting a public servant :

Fourth :—Every servant of the Pagoda of Sri Padmanabhaswami at Trivandrum or of any institution under the control or management of Our Government :

Sec. 14. The Illustration was added by Section 3, Act IV of 1094.

Sec. 15. Section 3, Act IX of 1097 added the sixth clause as also *[Explanation III]*.

Fifth :—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority :

[*Sixth* :—Every person who holds any office in virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election.]

[*Seventh*]:—Every person who has any public duty to perform.

Explanation I.—Wherever the words “public servant” occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

Explanation II.—Every servant of Her Majesty the Queen-Empress of India against whom any offence may be committed in Travancore by Our subjects in relation to the exercise of his functions as such servant, or who may be tried for offences committed by him as such servant in Travancore by Our Courts at the instance of Her Majesty’s Government, is a public servant within the meaning of this Section.

[*Explanation III.*—The word ‘election’ denotes an election for the purpose of selecting members of any legislative, municipal or other public authority of whatever character, the method of selection to which is by, or under, any law prescribed as by election.]

16. The words “movable property” are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to anything which is attached to the earth.

17. “Wrongful gain” is gain by unlawful means of property to which the person gaining is not legally entitled.

“Wrongful loss” is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

“Wrongful gain” includes wrongful retention of property. “Wrongful loss” includes the being wrongfully kept out of property.

18. Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing “dishonestly.”

19. A person is said to do a thing “fraudulently,” if he does that thing with intent to defraud, but not otherwise.

20. A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing, but not otherwise.

21. When property is in the possession of a person's wife, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Property in possession of wife, clerk or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

22. A person is said to “counterfeit”, who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation I.—It is not essential to counterfeiting that the imitation should be exact.

Explanation II.—When a person causes one thing to resemble another and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing

the one thing to resemble the other thing, intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.

23. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation I.—It is immaterial by what means, or upon what substance, the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A cheque upon a banker is a document.

A power-of-attorney is a document.

A map or plan which is intended to be used, or which may be used, as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation II.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

24. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a bill of exchange. As the effect of his endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security".

25. The words "a Will" denote any testamentary document.
"A Will"
26. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.
Words referring to acts include illegal omissions.
27. The word "act" denotes as well a series of acts as a single act; the word "omission" denotes as well a series of omissions as a single omission.
"Act" "Omission"
28. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.
Each of several persons liable for an act done by all in like manner as if done by him alone.
29. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.
30. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.
Effect caused partly by act and partly by omission.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

31. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Co-operation by doing one of several acts constituting an offence.

Illustrations.

- (a) A and B agree to murder Z by, severally and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.
- (b) A and B are joint Jailers, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.
- (c) A, a Jailer, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food, in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death, A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B, A is guilty only of an attempt to commit murder.

32. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

33. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means he knew, or had reason to believe, to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

34. The word "offence" denotes a thing made punishable by this Code, or by any special or local law.

Sec. 34. The corresponding Section 40 of the Indian Penal Code runs as follows:—

"40. Except in the Chapters and Sections mentioned in clauses two and three of this Section, the word "offence" denotes a thing made punishable by this Code.

In Chapter IV, Chapter V-A and in the following Sections, namely, Sections 64, 65, 66, 67, 71, 109, 110, 112, 114, 115, 116, 117, 187, 194, 195, 203, 211, 213, 214, 221, 222, 223, 224, 225, 327,

328, 329, 330, 331, 347, 348, 388, 389 and 445, the word "offence" denotes a thing punishable under the Code, or under any special or local law as herein-after defined:

And in Sections 141, 176, 177, 201, 202, 212, 216 and 441, the word "offence" has the same meaning when the thing punishable under the special or local law is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine."

35. A "special law" is a law applicable to a particular subject.
 "Special law."
36. A "local law" is a law applicable only to a particular part of Travancore.
 "Local law."
37. The word "illegal" is applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a Civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.
 "Illegal."
 "Legally bound to do."
38. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.
 "Injury."
39. The word "life" denotes the life of a human being, unless the contrary appears from the context.
 "Life."
40. The word "death" denotes the death of a human being, unless the contrary appears from the context.
 "Death."
41. The word "animal" denotes any living creature, other than a human being.
 "Animal."
42. The word "vessel" denotes anything made for the conveyance by water of human beings, or of property.
 "Vessel."
43. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the Malayalam Calendar.
 "Year."
 "Month."
44. The word "section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.
 "Section."
45. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.
 "Oath."

46. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention.

CHAPTER III.

OF PUNISHMENTS.

47. The punishments to which offenders are liable under the provisions of this Code are :—

First—Death ;

Secondly—Imprisonment, which is of two descriptions namely :—

(1) Rigorous, that is, with hard labour ;

(2) Simple ;

Thirdly—Forfeiture of property ;

Fourthly—Fine ; and

Fifthly—Whipping.

48. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years.

Fractions of terms of punishment.

49. In every case in which an offender is punishable with imprisonment for life, or imprisonment for a specified term which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

Sec. 47. As the punishments of Transportation and Penal servitude would not be carried out in Travancore, they are omitted and whipping is added with a view to incorporate the provisions of the whipping Act with the Penal Code. Sections 54-56 of the Indian Penal Code deal with commutation of sentence of death, transportation for life, saving royal

prerogative and sentence of Europeans and Americans to Penal servitude. The first and third were included in the original Bill but were omitted as exactly similar provisions are contained in the Criminal Procedure Code (Secs. 302 and 303 of the repealed Code corresponding to Secs. 332-333 of Act VIII of 1117).

50. } [Omitted by Section 2, Act II of 1117.]
 51. }

52. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

53. In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, Sentence of imprisonment in default of payment of fine.

and in every case of an offence punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine,

it shall be competent to the Court which sentences such offender to direct by the sentence that, in default

Secs. 50 and 51. These Sections were omitted by Section 2, Act II of 1117. See Notes under Sections 112 and 114. The omitted Sections read as follow:—

“ 50. *Sentence of forfeiture of property.* In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Our Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted under Our Code of Criminal Procedure, or until he shall have been pardoned.

Illustration.

A, being convicted of waging war against Us, is liable to forfeiture of all his property. After the sentence, and, whilst the same is in force,, A's father

dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Our Government.

51. *Forfeiture of property in respect of offenders punishable with death or imprisonment.* Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, movable and immovable, shall be forfeited to Our Government; and whenever any person shall be convicted of any offence for which he shall be sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his movable and immovable estate during the period of his imprisonment shall be forfeited to Our Government, subject to such provision for his family and dependents as Our Government may think fit to allow during such period”.

of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence under Our Code of Criminal Procedure.

54. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

55. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Description of imprisonment for such default.

56. If the offence be punishable with fine only, the imprisonment which the Court imposes in default of payment of the fine shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

57. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Such imprisonment to terminate upon payment of the fine.

58. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Termination of such imprisonment upon payment of proportional part of fine.

Illustration.

A is sentenced to a fine of one hundred rupees, and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

59. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Fine may be levied within six years or at any time during the term of imprisonment.

Death of offender not to discharge his property from liability.

60. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence which is made up of several offences.

Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, or

where several acts, of which one or more than one would by itself or themselves constitute an offence, constitute, when combined, a different offence,

the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

Illustrations.

- (a) A gives Z fifty strokes with a stick. Here, A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.
- (b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

61. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

Punishment of a person found guilty of one of several offences, the judgment stating that it is doubtful of which.

62. Whenever any person is convicted of an offence for which, under this Code, the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say—

Solitary confinement.

a time not exceeding one month if the term of imprisonment shall not exceed six months ;

a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year ;

a time not exceeding three months if the term of imprisonment shall exceed one year.

63. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such period ; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Limit of solitary confinement.

64. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, and having suffered in whole, or in part, the sentence passed on such conviction, shall thereafter be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a

Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment.

Sec. 64. The corresponding Section of the Indian Penal Code is as follows :

"Whoever having been convicted.

(a) by a Court in British India, of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, or

(b) by a Court or tribunal in the territories of any Native Prince or State in India acting under the general or special

authority of the Governor General in Council or of any Local Government, of an offence which would, if committed in British India, have been punishable under those Chapters, of this Code with like imprisonment for the like term,

shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to transportation for life, or to imprisonment of either description for a term which may extend to ten years".

term of three years or upwards, shall be subject for every such subsequent offence to imprisonment for life, or to imprisonment of either description for a term which may extend to ten years.

Explanation—A person who before the commencement of this Code has been convicted in this State of an offence which, if it had been committed after the commencement of this Code, would have been punishable under Chapter XII or Chapter XVII of this Code, and a person convicted anywhere out of this State of an offence which, if it had been committed in this State after the commencement of this Code, would have been punishable under Chapter XII or Chapter XVII of this Code, shall be liable to enhanced punishment under this Section.

CHAPTER IV.

GENERAL EXCEPTIONS.

65. Nothing is an offence which is done by a person who is, or who, by reason of a mistake

Act done by a person bound, or by mistake of fact believing himself bound, by law.

of fact and not by reason of a mistake of law, in good faith believes himself to be, bound by law to do it.

Illustrations.

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

66. Nothing is an offence which is done by a Judge when acting judicially in the exercise

Act of Judge when acting judicially.

of any power which is, or which in good faith he believes to be, given to him by law.

67. Nothing which is done in pursuance of, or which is warranted by the judgment or order

Act done pursuant to the judgment or order of a Court of Justice,

of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction

to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

68. Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law, in doing it.

Act done by a person justified, or by mistake of fact believing himself justified, by law.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

69. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge, in the doing of a lawful act in a lawful manner, by lawful means, and with proper care and caution.

Accident in the doing of a lawful act.

Illustration.

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

70. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Act likely to cause harm, but done without a criminal intent and to prevent other harm.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

- (a) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat, B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course he must incur risk of running down a boat, C, with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C, by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.
- (b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

71. Nothing is an offence which is done by a child under seven years of age.

Act of a child
under seven years
of age.

72. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a child
above seven and
under twelve years
of age, who has
not sufficient
maturity of under-
standing.

73. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or

Act of a person
of unsound mind.

contrary to law.

74. Nothing is an offence which is done by a person who at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

75. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

76. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agreed to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

77. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

73. Nothing which is done in good faith, for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person:

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

Provided.—*First.*—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death :

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity :

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity :

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

79. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception ; or

Consent known to be given under fear or misconception.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or

Consent of a child or person of unsound mind.

unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

80. The exceptions in Sections 76, 77 and 78 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person consenting, or on whose behalf the consent is given.

Acts which are offences independently of harm caused to the person consenting, are not within the exceptions in Sections 76, 77 and 78.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

81. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit :

Act done in good faith for the benefit of a person without consent.

Provided—*First*.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death :

Provisos.

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity :

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt :

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

- (a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.
- (b) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

- (c) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.
- (d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of Sections 77, 78 and 81.

82. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Communication
made in good
faith.

offence by reason of any harm to the
person to whom it is made, if it is made
for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

83. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation I.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of decoits, knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation ¶II.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

84. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any slight harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

85. Nothing is an offence which is done to a person who is, if a male, of the age of sixteen years or less, and if a female, of the age of twelve years or less, by or by consent, express or implied, of the guardian or other person having lawful charge of that person, in correcting or punishing that person in any manner which is not excessive, cruel, or unusual.

Sec. 85. There is no corresponding Section in the Indian Penal Code. The reason for including such a provision was stated as follows:—

“Exception is taken to Section 85 of the Bill on the ground that it is superfluous. It may be that no sensible Magistrate will punish a schoolmaster for correcting a pupil by the application of the cane in the usual way. But we should not forget that the absence of a clear provision on the point often misleads the pupil or his advisers into the erroneous belief that a prosecution for assault will be successful. One of the main objects of this Section is to remove this misapprehension. Moreover, a

clear provision of law will be a great help to the Criminal Courts who, in its absence, will be called upon to decide the question of privilege upon an elaborate consideration of first principles. It will prevent much waste of public time and secure uniformity in the administration of Criminal Justice. For the sake of clearness, superfluity is often necessary. The Select Committee took it from the New York Code which enjoys a high reputation in legal circles. I may also mention here that, in the draft Penal Code prepared by Sir Fitz James Stephen for Great Britain and Ireland, similar provision is made.”—

L. C. P. dated 20-6-1896.

OF THE RIGHT OF PRIVATE DEFENCE.

86. Nothing is an offence which is done in the exercise of the right of private defence.
 Nothing done in private defence is an offence.

87. Every person has a right, subject to the restrictions contained in Section 89, to defend.—
 Right of private defence of the body and of property.
First.—His own body, and the body of any other person, against an offence affecting the human body :

Secondly.—The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

88. When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations.

- (a) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.
- (b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A or a housebreaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

89. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Acts against which there is no right of private defence.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Extent to which the right may be exercised.

Explanation I.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation II.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows or has reason to believe, that the person doing the act is acting by such direction; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

90. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

When the right of private defence of the body extends to causing death.

after enumerated, namely—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault :

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault :

Thirdly.—An assault with the intention of committing rape :

Fourthly.—An assault with the intention of gratifying unnatural lust :

Fifthly.—An assault with the intention of kidnaping or abducting :

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

91. If the offence be not of any of the descriptions enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 89, to the voluntary causing to the assailant of any harm other than death.

When such right extends to causing any harm other than death.

92 The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed ; and it continues as long as such apprehension of danger to the body continues.

Commencement and continuance of the right of private defence of the body.

93. The right of private defence of property extends, under the restrictions mentioned in Section 89, to the voluntary causing of death or of any other harm to the wrongdoer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery :

Secondly.—House-breaking by night :

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property :

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

94. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 89, to the voluntary causing to the wrongdoer of any harm other than death.

95. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Commencement and continuance of the right of private defence of property.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death, or hurt, or wrongful restraint, or as long as the fear of instant death, or of instant hurt, or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

96. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if, by so firing, he harms any of the children.

CHAPTER V.

OF ABETMENT.

97. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing: or,
Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing: or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation I.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorised by a warrant from a Court of Justice to apprehend Z. B, knowing that fact, and also that C is not Z, wilfully represents to A that C is Z and thereby intentionally causes A to apprehend C. Here, B abets by instigation the apprehension of C.

Explanation II.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

98. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Abettor.

Explanation I.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation II.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

- (a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.
- (b) A instigates B to murder D. B, in pursuance of the instigation, stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation III.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

- (a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.
- (b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence and had committed murder, and he is therefore subject to the punishment of death.
- (c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.
- (d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation IV.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder, and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation V.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section, and is liable to the punishment for murder.

[98-A. A person abets an offence within the meaning of this Code, who in Travancore, abets the commission of any act without and beyond Travancore which would constitute an offence, if committed in Travancore.

A b e t m e n t
in Travancore of
offences outside it.

abets the commission of any act without and beyond Travancore which would constitute an offence, if committed in Travancore.

Illustration.

A in Travancore instigates B in Tinnevelly to commit a murder in Tinnevelly. A is guilty of abetting murder.]

Sec. 98A. This was added by Section 3, Act II of 1117. This corresponds to Section 108-A of the Indian Penal Code.

“It merely puts in statutory form a principle which is being followed in Travancore”. S. O. & R., T. G. G. dated 18-3-1941.

99. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

Explanation I.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations:

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in Section 153.
- (b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence and is liable to the same punishment as B.
- (c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B, in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Explanation II.—Offence in this Section includes any act committed at any place out of Travancore, which, if committed within Travancore, would be punished under this Code.

Sec. 99. Explanation II is an addition not found in the Indian Code.

100. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

101. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it :

Liability of abettor when one act is abetted and a different act is done. Proviso.

Provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations.

- (a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was, under the circumstances, a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.
- (b) A instigates B to burn Z's house. B sets fire to the house, and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act and not a probable consequence of the burning.
- (c) A instigates B and C to break into an inhabited house at mid-night for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

102. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

103. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

104. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor present when offence is committed.

105. Whoever abets the commission of an offence

Abetment of an offence punishable with death or imprisonment for life, if the offence be not committed in consequence of the abetment. If act which causes harm be done in consequence of the abetment.

punishable with death or imprisonment for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or imprisonment for life. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine; and if any hurt be done to Z in consequence of the abetment he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

106. Whoever abets an offence punishable with imprisonment shall, if that offence be not

Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.

committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest

term provided for that offence, or with such fine as is provided for that offence, or with both;

and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for that offence; or with both.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

Illustrations.

- (a) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this Section.
- (b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this Section, and is punishable accordingly.
- (c) A, a Police Officer whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.
- (d) B abets the commission of a robbery by A, a Police Officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

107. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Abetting the commission of an offence by the public, or by more than ten persons.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this Section.

108. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,
- shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years ;
- If the offence be committed.
- or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years ; and, in either case, shall also be liable to fine.
- If the offence be not committed.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

109. Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence, the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,
- shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ;
- If the offence be committed.
- A public servant concealing a design to commit an offence which it is his duty to prevent.

or, if the offence be punishable with death or imprisonment for life, with imprisonment of either description for a term

If the offence be punishable with death, etc.

If the offence be not committed.

which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of Police being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provisions of this Section.

110. Whoever, intending to facilitate, or knowing it to be likely that he will thereby

Concealing a design to commit an offence punishable with imprisonment.

facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design,

shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which

If the offence be committed.

If not committed.

may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

[CHAPTER V-A.

CRIMINAL CONSPIRACY.

110-A. When two or more persons agree to do, or cause to be done—

Definition of criminal conspiracy. (i) an illegal act, or
(ii) an act which is not illegal, by illegal means, such an agreement, is designated a criminal conspiracy :

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement or is merely incidental to the object.

110-B. (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.

(2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid, shall be punished with imprisonment of either description for a term not exceeding six months, or with fine, or with both.]

Chap. V-A. "It is modelled on Chapter V-A of the Indian Penal Code. As in the British Indian Law a safeguard is provided in that in the case of conspiracies other than a conspiracy to commit an offence, some overt act is necessary to bring the conspiracy within

the purview of the Criminal Law". S. O. & R., T. G. G. dated 18-3-1941.

This Chapter was added by Section 4, Act II of 1117 and consists of Sections 110-A and 110-B which correspond to Sections 120-A and 120-B of the Indian Code.

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

111. Whoever commits, or attempts to commit, regicide or attempt at regicide, shall be punished with death.

Whoever assaults, or restrains, or confines, or causes hurt to the person of the Sovereign of this kingdom, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

112. Whoever wages war against the Sovereign of this kingdom or Her Majesty the Queen-Empress of India, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life, and [shall also be liable to forfeiture of his property.]

Illustration.

A joins an insurrection against the Sovereign. A has committed the offence defined in this Section,

Sec. 111. This Section is an addition made by the Select Committee.

Secs. 112 & 114. The words within brackets were substituted for the words "shall forfeit all his property" by Section 5, Act II of 1117 thus bringing Secs. in line with Sections 121 and 122 of the Indian Penal Code as amended by Act XVI of 1921. The Statement of Objects and Reasons appended to the Bill says:—

"The law of forfeiture of the property of convicted persons is now contained in Sections 50, 51, 112 and 114. These correspond to Sections 61, 62, 121 and 122 respectively of the

Indian Penal Code. The provisions of Sections 61 and 62 were repealed and the provisions contained in Sections 121 and 122 relating to compulsory forfeiture substantially altered by Act XVI of 1921 of British India. In England forfeiture was abolished as early as 1870 and the general trend of legislation is in favour of exempting from direct liability the properties of the offender except for purpose of recovery of fines. Clause 2 proposes to omit Sections 50 and 51 from the Code and Clause 5 proposes to make it optional for the Court to order forfeiture." S. O. & R., T. G. G. dated 18-3-1941.

113. Whoever [within or without Travancore] conspires to commit any of the offences punishable by Section 112, or to deprive the Sovereign of this kingdom of the Sovereignty of Travancore, or of any part thereof, [or Her Majesty the Queen-Empress of India of the Sovereignty of British India or any part thereof] or conspires to overawe, by means of criminal force or the show of criminal force, the Sovereign of this kingdom [or His Government, or the Government established by law in British India,] shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, [and shall also be liable to forfeiture of his property.]

Explanation.—To constitute a conspiracy under this Section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.

114. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war, with the intention of either waging or being prepared to wage war against the Sovereign of this kingdom or Her Majesty the Queen-Empress of India, shall be punished with imprisonment for life, or imprisonment of either description for a term not exceeding ten years, and [shall also be liable to forfeiture of his property.]

Sec. 113. Sec. 2, Act I of 1089 inserted the words "or Her Majesty....." and "or His Government" appearing within the brackets. The words "within or without Travancore" and the words "and shall ..." appearing within the brackets were inserted by Sec. 6, Act II of 1117. The statement of Objects and Reasons appended to the Bill which was passed as Act II of 1117 says :

"The amendment extends the application of Sec. 113 of the Code to conspiracies even when they take place beyond the limits of Travancore. The Clause prescribes for a sentence of forfeiture of property of the offender so as to make it conform to the provisions of Sections 112 and 114." S. O. & R., T. G. G. dated 18-3-1941. The corresponding Section of the Indian Code imposes only fine in addition to imprisonment.

115. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Sovereign of this kingdom or Her Majesty the Queen-Empress of India, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

116. Whoever, with the intention of inducing or compelling the Dewan to exercise or refrain from exercising in any manner any of the lawful powers of the Dewan, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes by means of criminal force or the show of criminal force, or attempts so to overawe the Dewan, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

117. Whoever by words, either spoken or [written,] or by signs, or by visible representation, or otherwise, [brings or attempts to bring into hatred or contempt, or] excites or attempts to excite [* *] disaffection [towards the Sovereign of this kingdom, or His Government, or Her Majesty the Queen-Empress of

Sec. 117. Sec. 3, Act I of 1089 introduced the following amendments:—

(1) The word “written” was substituted for the words “intended to be read”.

(2) The words “brings etc.contempt, or” appearing in brackets were inserted.

(3) The words “feeling of” which occurred between the words ‘excite’ and ‘disaffection’ were omitted.

(4) The words “towards the SovereignIndia” were substituted for the words “to Our Government”.

(5) The word “shorter” was inserted.

Sec. 4, Act I of 1089 substituted the three *Explanations* for the one which read as follows:—

“Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience

India,] or the Government established by law in British India, [or any Indian Prince recognised for the purpose of this Section by a notification by Our Government in Our Government Gazette, or the Government of any such Indian Prince,] shall be punished with imprisonment for life, or for any [shorter] term to which fine may be added, or with fine.

[*Explanation I.*—The expression ‘disaffection’ includes disloyalty and all feelings of enmity.]

[*Explanation II.*—Comments expressing disapprobation of the measures of the Sovereign of this kingdom or of His Government, or of the Government established by law in British India, [or of any Indian Prince recognised as aforesaid, or of the Government of any such Indian Prince] with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this Section.]

[*Explanation III.*—Comments expressing disapprobation of the administrative or other action of the Sovereign of this kingdom, or of His Government, or of the Government established by law in British India, [or of any Indian Prince recognised, or of the Government of

to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore, the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation, is not an offence within this Section.”

The words “or any Indian Prince.....such Indian Prince” appearing within brackets were inserted by Sec. 2, Act III of 1114. The same amending Section inserted the bracketed portions in *Explanations II* and

III. The Objects and Reasons appended to the Bill says:—

“This Bill proposes two amendments in the Travancore Penal Code. One is in respect of Section 117 and is intended to penalise sedition against any recognised Indian Prince. Having regard to the close connection between Cochin and Travancore, such a provision is considered necessary to prevent sedition against the Cochin Government. The amendment is however worded generally. Cochin has passed a similar provision by Act II of 1111 by agreement with Travancore, S. O. & R., T. G. G. dated 26-10-1937.

any such Indian Prince,] without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this Section.]

118. Whoever wages war against the Government of any Native State under the suzerainty of Her Majesty the Queen-Empress of India, or attempts to wage such war, or abets the waging of such war, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.

Waging war against any Native State.

119. Whoever commits depredation, or makes preparations to commit depredation in British India or on the territories of any Native State under the Suzerainty of Her Majesty the Queen-Empress of India, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used, in committing such depredation, or acquired by such depredation.

Committing depredation on the territories of any Native State.

120. Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in Sections 118 and 119, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Receiving property taken by war or depredation mentioned in Sections 118 and 119.

121. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or War in his custody to escape.

122. Whoever, being a public servant, and having the custody of any State prisoner or prisoner of War, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

123. Whoever knowingly aids or assists any State prisoner or prisoner of War in escaping from lawful custody or rescues, or attempts to rescue any such prisoner, or harbours, or conceals any such prisoner who has escaped from lawful custody, or offers, or attempts to offer any resistance to the recapture of such prisoner, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of War who is permitted to be at large on his parole within certain limits in Travancore, is said to escape from lawful custody, if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY, [NAVY AND AIR FORCE.]

124. Whoever abets the committing of mutiny by an officer, [soldier, sailor or airman] in the [Army, Navy, or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces] or attempts to seduce any such officer, [soldier, sailor or airman] from his allegiance or his duty, shall be

Chapter VII. Heading. The words in brackets were added by Sec. 7, Act II of 1117.

Sec. 124. The words 'soldier sailor or airman' were substituted for the words 'or soldier', for the word 'army' the words 'Army, Navy or Air Force' were

substituted, the expression "Our State Forces" was substituted for "our Nayar Brigade or Bodyguard" and in the *Explanation* the words within brackets were substituted for the words 'and soldier' by Sec. 8, Act II of 1117.

punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation :—In this Section, the words ‘officer,’ [‘soldier,’ ‘sailor’ and ‘airman’] include any person subject to the Articles of War.

125. Whoever abets the committing of mutiny by an officer, [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces] shall, if mutiny, be committed in consequence of that abetment, be punished with death or with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

126. Whoever abets an assault by an officer, [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces] on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

127. Whoever abets an assault by an officer, [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India or in [Our State Forces,] on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished

Secs. 125, 130 and 132. Sec. 9, Act II of 1117 made the following amendments to these Sections :—(i) The words “soldier, sailor or airman” were substituted for the words “or soldier” (ii) the words “army, Navy or air force” were substituted for

the words “army” and (iii) the words “Our State Forces” were substituted for the words “Our Nayar Brigade or Body guard”. There is no Section in the Indian Code corresponding to Sec. 132.

with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

128. Whoever abets the desertion of any officer [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces], shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Abetment of the desertion of a soldier, [sailor or airman.]

129. Whoever, except as hereinafter excepted knowing or having reason to believe that an officer, [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces], has deserted, harbours such officer, [soldier, sailor or airman] shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring a deserter.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

130. Whoever abets what he knows to be an act of insubordination by an officer, [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces] shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Abetment of act of insubordination by a soldier, [sailor or airman].

131. Whoever, not being a soldier, [sailor or airman] in the Military service of Her Majesty the Queen-Empress of India, or in [Our State Forces] wears any garb, or carries any token resembling any garb or token used by

Wearing the dress of a soldier, [sailor or airman].

Sec. 131. Sec. 10, Act II of 1117 added the words "sailor or airman" occurring within brackets after the word "soldier" and substituted the expression "Our State Forces" for "Our Nayar Brigade or Body guard."

such a soldier, [sailor or airman] with the intention that it may be believed that he is such a soldier, [sailor or airman] shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

132. Whoever purchases or otherwise acquires, permanently or temporarily, arms, ammunition or military accoutrements from an officer, [soldier, sailor or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen-Empress of India, or in [Our State Forces] shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to two thousand rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

133. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, any public servant, in the exercise of the lawful power of such public servant : or,

Second.—To resist the execution of any law, or of any legal process : or,

Third.—To commit any mischief or criminal trespass, or other offence : or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other

Sec. 133. In Sec. 141 of the Indian Penal Code the first clause contains in addition the expression "the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant Governor, or" before the words "any public servant."

incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right : or,

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

134. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Being a member of an unlawful assembly.

135. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Punishment.

136. Whoever being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining an unlawful assembly armed with a deadly weapon.

137. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.

138. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Force used by one member in prosecution of common object.

139. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for rioting.

140. Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Rioting armed with a deadly weapon.

141. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

142. Whoever hires, or engages, or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Hiring, or conniving at hiring, of persons to join an unlawful assembly.

143. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 133, the offender will be punishable under Section 137.

144. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

145. Whoever maliciously or wantonly, by doing any thing which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both, and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

[145-A. Whoever, by words either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between the several classes of people in Our territory, shall be punished with imprisonment of either description which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this Section to point out, without malicious intention and with an honest view to their removal,

Sec. 145-A. This was added to Sec. 153-A. of the Indian Penal Code as amended by Act IV of 1898 and corresponds with verbal changes IV of 1898.

matters which are producing, or have a tendency to produce, feelings of enmity or hatred between the several classes of people in Our territory.]

146. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land

Owner or occupier of land on which an unlawful assembly is held.

upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with

fine not exceeding one thousand rupees,

if he, or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof, in his or their power, to the principal officer at the nearest Police-station,

and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power, to disperse or suppress the riot or unlawful assembly.

147. Whenever a riot is committed for the benefit or on behalf of any person who is the owner

Liability of person for whose benefit a riot is committed.

or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave

rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine,

Sec. 147. The corresponding section 155 of the Indian Code is as follows :—

“Whenever a riot is committed for.....any benefit therefrom such person shall be punishable with fine if he or *his agent or manager*, having reason to believe.. likely to be held shall not *respectively* use all lawful means, in his or *their* power.....and dispersing the same.”

The reason for omitting the italicised expressions in adapting the Section is given as follows :—

“I would ask the careful attention of the Council to the wording. The owner or occupier, why—even a person claiming any interest, is made criminally liable not only for his own wilful and negligent acts but also for such acts of ‘the

if he, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such assembly or riot from taking place and for suppressing and dispersing the same.

148. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom,

the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

agent or manager', and the liability is apparently absolute—I mean, irrespective of any consideration as to whether the principal had any cognizance of the agent's acts or not. I believe no man can be held criminally responsible for the acts committed by another, unless the former has had the opportunity or means of shaping or controlling those acts. Considerations of benefit, interest, etc. are, I take it, merely *evidentiary* of such a connection, so far as the delinquency of the agency is concerned. Cases may be easily conceived in which a riot on a particular estate may be furthered by the agent in charge, perhaps for his own illicit gain, without the remotest knowledge on the part of the owner; and even under circumstances where if the principal had intimation he

would have checked the conduct of the agent. It may often happen that the agent or manager takes every precaution to prevent any information reaching the principal. No land-lord or respectable land-owner is safe. He may be brought into trouble any moment by a mischievous or corrupt agent colluding with the rioters. It is, I believe, a recognised principle of law that the agent's wrongful act does not affect the principal 'unless it is shown that the principal directed the agent so to act, or really meant he should so act, or afterwards ratified the illegal act.' * * The principal's liability for his personal guilt is left intact, and as for the manager and agent there is a separate Section (148) providing for their punishment."—*L. C. P., dated 27-6-1896.*

149. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged or employed or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

150. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do, or assist in doing any of the acts specified in Section 133, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both ;

and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

151. When two or more persons, by fighting, in a public place, disturb the public peace, they are said to "commit an affray."

152. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

153. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing

or forbearing to show in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with Our Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations—“Expecting to be a public servant.” If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

“Gratification.” The word “gratification” is not restricted to pecuniary gratifications, or to gratifications estimable in money.

“Legal remuneration.” The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

“A motive or reward for doing”. A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

- (a) A, a Munsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favour of Z. A has committed the offence defined in this Section.
- (b) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this Section.

154. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of

such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person, with Our Government or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

155. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant, to do or to forbear to do any official act,

or in the exercise of the official functions of such public servant, to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with Our Government or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An advocate who receives a fee for arguing a case before a Judge : a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist ; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

156. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for abetment by public servant of the offences above defined.

extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years or with fine, or with both.

157. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate,

or from any person whom he knows to be interested in or related to the person so concerned,

shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustrations.

- (a) A, a Tahsildar, hires a house of Z, who has a case pending before him. It is agreed that A shall pay five rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay twenty rupees a month. A has obtained a valuable thing from Z without adequate consideration.
- (b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government promissory notes at a discount when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

- (c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

158. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant disobeying a direction of the law, with intent to cause injury to any person.

disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this Section.

159. Whoever, being a public servant and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant framing an incorrect document with intent to cause injury.

as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be

likely that he may thereby cause, injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

160. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully engaging in trade.

legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may

extend to one year, or with fine, or with both.

161. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

162. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

163. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

164. Whoever, being a public servant, and having as such public servant, in his charge, or under his custody or control, a woman, or being in any way employed in or about any hospital, prison, lock-up or other place in which a woman is, or is kept or confined, has sexual intercourse with such woman, or assists any other person to

Sec. 164. There is no corresponding provision in the Indian Code. This was put in by the Select Committee from the German Code.

commit sexual intercourse with such woman, if such intercourse does not amount to any more serious offence under this Code or any other law for the time being in force, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

[CHAPTER IX-A.

OF OFFENCES RELATING TO ELECTION.

164-A. For the purpose of this Chapter :—

(a) "Candidate" means a person who has been nominated as a candidate at any election and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate thereat : provided that he is subsequently nominated as a candidate at such election :

"Candidate", &
"Electoral right"
defined.

(b) "Electoral right" means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.

164-B. (1) Whoever :—

Bribery. (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right ;
or

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right ;

commits the offence of bribery :

Provided that a declaration of public policy or a promise of public action shall not be an offence under this Section.

Chapter IX-A. This Chapter was added by S. 2, Act IX of 1097.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

(3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

164-C. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

(2) Without prejudice to the generality of the provisions of Sub-section (1), whoever—

(a) threatens any candidate or voter or any person in whom a candidate or voter is interested, with injury of any kind, or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of Sub-section (1).

(3) A declaration of public policy or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this Section.

164-D. Whoever at an election applies for a voting paper or votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name,

and whoever abets, procures or attempts to procure the voting by any person in any such way,

commits the offence of personation at an election.

164-E. Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both :

Provided that bribery by treating shall be punished with fine only.

Explanation.—‘Treating’ means that form of bribery where the gratification consists in food, drink, entertainment or provision.

164-F. Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

164-G. Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, shall be punished with fine.

164-H. Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to five hundred rupees :

Provided that, if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

164-I. Whoever being required by any law for the time being in force or any Rule having the force of law to keep accounts of expenses incurred at, or in connection with, an election fails to keep such accounts shall be punished with fine which may extend to five hundred rupees.]

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY
OF PUBLIC SERVANTS.

165. Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

166. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant, legally competent, as such public servant to issue such summons, notice or order, or intentionally prevents the lawful affixing to any place, of any such summons, notice or order,

or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed,

or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

167. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order or proclamation proceeding from any public servant legally competent as such public servant, to issue the same,

Non-attendance in obedience to an order from a public servant.

intentionally omits to attend at that place or time, or departs from the place where he is bound to attend, before the time at which it is lawful for him to depart,

shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the summons, notice, order or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration.

A, being legally bound to appear before a Zillah Judge, as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this Section.

168. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

Omission to produce a document to a public servant by a person legally bound to produce such document.

or, if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Illustration.

A, being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same. A has committed the offence defined in this Section.

169. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both ;

or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

[or, if the notice or information required to be given is required by an order passed under the first para of Section 434 of the Code of Criminal Procedure (Act V of 1067) with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.]

170. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a

Sec. 169. The last paragraph within brackets was added by Section 434 of the Criminal Procedure Code (Sec. 474 of Act II of 1117. Non-compliance with an order under Act VIII of 1117) is made specifically penal.

term which may extend to six months, or with fine which may extend to one thousand rupees, or with both ;

or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—In Section 169 and in this Section, the word “offence” includes any act committed at any place out of Travancore, which, if committed, within Travancore, would be punishable under any of the following Sections, namely, 301, 303, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 436, 437, 451, 452, 459, 460, 461 and 462 ; and the word “offender” includes any person who is alleged to have been guilty of any such act.

Illustration.

A, a land-holder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this Section.

171. Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing oath when duly required to take oath by a public servant.

172. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant, in the exercise, of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Refusing to answer a public servant authorised to question.

173. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

174. Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorised by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

175. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit, if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person,

shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Sec. 174. The words "or oath" in the Indian Act by the affirmation" were inserted after Indian Oaths Act X of 1873. the words "to administer such

Illustrations.

- (a) A informs a Magistrate that Z, a Police-Officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.
- (b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false and, knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.
- (c) A falsely informs a Policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information, the Police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this Section.

176. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Resistance to the taking of property by the lawful authority of a public servant.

177. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

178. Whoever at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

179. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

180. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both ;

and if such assistance be demanded of him by a public servant legally competent to make such demand for the purpose of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

181. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,

shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both ;

and if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawfully empowered, to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

182. Whoever disobeys any direction [contained

Disobedience to an order of Government relating to places of worship.	(i) in any Royal Proclamation, or
	(ii) in any Rule or Notification made by Our Government and published in Our Government Gazette],

Sec. 182. This provision is not found in the Indian Penal Code. The words in the first pair of brackets were substituted for "given by Our Government in any Proclamation or Rule published in the Government Gazette." The words in the second pair of brackets

were substituted for the words "creation and use of new places" The words in the third pair were substituted for the words "or the conduct of processions." In *Explanation I* the bracketed words were inserted. *Explanations III and IV* were added. All these amendments were

regulating the [creation or use of any place] of public worship [or cemetery or crematorium,] shall be punished with fine not exceeding five hundred rupees.

Explanation I. A building [or any part thereof] consecrated or set apart for habitual use by a religious community or sect, for purposes of common worship, is a place of public worship within the meaning of this Section.

Exception.—A private residence or school not so set apart, shall not be deemed a place of public worship within the meaning of this Section, merely by reason of prayers or services being held there.

Explanation II.—The conversion of a building which has not been used as a place of public worship into a place of public worship is within the meaning of this Section.

[*Explanation III.*—‘Cemetery’ includes any place set apart for the disposal of dead bodies of human bodies by burial.

Explanation IV.—‘Crematorium’ means any place set apart for the disposal of dead bodies of human bodies by burning.]

183. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

made by Sec. 12, Act II of 1117. The Objects and Reasons appended to the Bill says:—

“The decisions bearing on the provisions of Sec. 182 are conflicting and have rendered the provisions of the Sections practically ineffective and a comprehensive amendment re-

lating to cemetery and crematorium alike is proposed. The provision in the Section relating to public procession has been omitted as there is ample provision for it in the Police Act.” S. O. & R., T. G. G. dated 18-3-1941.

184. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application, for protection against any injury, to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

person to refrain or desist from making a legal application, for protection against any injury, to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with

imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

185. Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Giving false evidence.

the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false

and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

Explanation I.—A statement is within the meaning of this Section whether it is made verbally or otherwise.

Explanation II.—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

- (a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.
- (b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the hand-writing of Z, when he does not believe it to be the hand-writing of Z. Here A states that which he knows to be false, and therefore gives false evidence.

- (c) A, knowing the general character of Z's hand-writing, states that he believes a certain signature to be the hand-writing of Z, A in good faith believing it to be so. Here A's statement is merely as to his belief and is true as to his belief, and therefore, although the signature may not be the hand-writing of Z, A has not given false evidence.
- (d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day not knowing anything upon the subject. A gives false evidence whether Z was at the place on the day named or not.
- (e) A, an interpreter or translator, gives or certifies, as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

186. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

- (a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.
- (b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

- (c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's hand-writing, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the Police are likely to search. A has fabricated false evidence.

187. Whoever intentionally gives false evidence in any stage of a judicial proceeding or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation I.—A trial before a Court Martial is a judicial proceeding.

Explanation II.—An investigation directed by law preliminary to a proceeding before a Court of Justice is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an inquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation III.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an inquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, A has given false evidence.

188. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine ;

and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

If innocent person be thereby convicted and executed.

189. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is not capital, but punishable with imprisonment for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is imprisonment for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A therefore, is liable to such imprisonment, with or without fine.

190. Whoever corruptly uses or attempts to use as true or genuine evidence, any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated, false evidence.

Sec. 188. The penalty of imprisonment for life with or without forfeitures of property was substituted for the penalty of death provided for in this Sec. by para 2 of Proclamation dated 11-11-1944.

191. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

192. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

193. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

194. Whoever corruptly uses or attempts to use as true any such declaration knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 193 and 194.

195. Whoever accepts or obtains, or agrees to accept or attempts to obtain, any gratification other than the travelling and other expenses, according to the scale prescribed by a competent authority, as an inducement to his giving or withholding evidence, or as a reward for his having given or

Sec. 195. There is no corresponding provision in the Indian Code. It is taken from the New York Code.

withheld evidence, shall be punished with simple imprisonment for a term not exceeding six months, or with fine not exceeding two hundred rupees, or with both ; or if his evidence is to be, or has been, given or withheld in any stage of a judicial proceeding, with imprisonment of either description for a term not exceeding two years, or with fine, or with both.

196. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false,

shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and, if the offence is punishable with imprisonment for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine ;

If punishable with imprisonment for life. If punishable with less than ten years' imprisonment. and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

197. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

198. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—In Sections 196 and 197 and in this Section, the word “offence” includes any act committed at any place out of Travancore which, if committed in Travancore, would be punishable under any of the following Sections, namely, 301, 303, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 436, 437, 451, 452, 459, 460, 461 and 462.

199. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

200. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or

criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

201. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

202. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

203. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a

decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

204. Whoever, fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Dishonestly making false claim in a Court of Justice.

205. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently obtaining a decree for a sum not due.

206. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person,

False charge of offence made with intent to injure.

shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

and if such criminal proceeding be instituted on a false charge to an offence punishable with death, imprisonment for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

207. Whenever an offence has been committed, who-
 ever harbours or conceals a person
 Harbours an offender. whom he knows or has reason to believe
 to be the offender, with the intention
 of screening him from legal punishment,

shall, if the offence is punishable with death, be
 punished with imprisonment of either
 If a capital offence. description for a term which may extend
 to five years, and shall also be
 liable to fine ;

and if the offence is punishable with imprisonment for
 life, or with imprisonment which may
 If punishable with imprisonment. extend to ten years, shall be punished
 with imprisonment of either descrip-
 tion for a term which may extend to
 three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment
 which may extend to one year and not to ten years, shall
 be punished with imprisonment of the description pro-
 vided for the offence for a term which may extend to one-
 fourth part of the longest term of imprisonment provided
 for the offence, or with fine, or with both.

“Offence” in this Section includes any act committed
 at any place out of Travancore, which, if committed with-
 in Travancore, would be punishable under any of the
 following Sections, namely, 301, 303, 382, 392, 393, 394,
 395, 396, 397, 398, 399, 402, 436, 437, 451, 452, 459, 460,
 461 and 462 ; and every such act shall, for the purposes
 of this Section, be deemed to be punishable as if the
 accused person had been guilty of it in Travancore.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to imprisonment for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

208. Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

209. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment,

shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—The provisions of Sections 208 and 209 do not extend to any case in which the offence may lawfully be compounded.

210. Whoever takes, or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

211. Whenever any person convicted of or charged with an offence, being in a lawful custody for that offence, escapes from such custody,

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered.

or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say:—

if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

if the offence is punishable with imprisonment for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine ;

and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for such offence, or with fine or with both.

“Offence” in this Section includes also any act or omission of which a person is alleged to have been guilty out of Travancore which, if he had been guilty of it in Travancore, would have been punishable as an offence, and for which he is, under any law or usage relating to extradition, or otherwise, liable to be apprehended or detained in custody in Travancore ; and every such act or omission shall, for the purposes of this Section, be deemed to be punishable as if the accused person had been guilty of it in Travancore.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

212. Whoever, knowing or having reason to believe that any persons are about to commit robbery or have recently committed robbery or dacoity, harbours them or any of them with the intention of facilitating the commission of such robbery or dacoity, or screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years and shall also be liable to fine.

Explanation.—For the purposes of this Section, it is immaterial whether the robbery or dacoity is intended to be committed or has been committed within or without Travancore.

Exception.—This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

213. In Sections 207, 211 and 212, the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance or the assisting a person in any way to evade apprehension.

214. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment or subject him to a less punishment than that to which he is liable, or with

Sec. 213. The corresponding Sec. 216-B of the Indian Act was repealed by Act VIII of 1942. The same amending Act inserted Sec. 52-A in the Indian Act defining the term 'harbour' as follows:—
"52-A. Except in Section 157, and in Section 130 in the case in which the harbour is given by the wife or husband of the

person harboured the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this Section or not, to evade apprehension."

intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

215. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record, or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent

Public servant framing an incorrect record or writing, with intent to save person from punishment or property from forfeiture.

thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

216. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Public servant in a judicial proceeding corruptly making an order, report, etc., which he knows to be contrary to law.

217. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine or with both,

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

218. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with death ; or

with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for life, or imprisonment for a term which may extend to ten years ; or

with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

219. Whoever, being a public servant, legally bound, as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for an offence or lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:—

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice.

with imprisonment for life, or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement or who ought to have been apprehended, is under sentence of death ; or

with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to imprisonment for life, or imprisonment for a term of ten years or upwards ; or

with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a Court of Justice, to imprisonment for a term not exceeding ten years, or if the person was lawfully committed to custody.

220. Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

221. Whoever intentionally offers any resistance or obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Secs. 221, 222 and 224. These Sections differ from the corresponding Sections of the Indian Code in that the word "illegal" occurs there before the word "obstruction."

Explanation.—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged; or of which he was convicted.

222. Whoever intentionally offers any resistance or obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

Resistance or obstruction to the lawful apprehension of another person.
Punishment.

or, if the person to be apprehended, or the person rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with imprisonment for life, or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to imprisonment for life, or to imprisonment for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ;

or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with imprisonment for life, or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

223. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in Section 218, Section 219, or Section 220, or in any other law for the time being in force, omits to apprehend that person, or suffers him to escape from confinement, shall be punished—

(a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

224. Whoever, in any case not provided for in Section 221 or Section 222, or in any other law for the time being in force, intentionally offers any resistance or obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

225. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

226. Whoever intentionally offers any insult or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

227. Coin is metal used for the time being as money, and stamped and issued by the authority of some State or Sovereign Power in order to be used.

Coin stamped and issued by Our authority or by the authority of Her Majesty the Queen-Empress of India or by the authority of the Government of India or of the Government of any Presidency in India, or of any Government in the dominions of Her Majesty the Queen-Empress of India, is the Sirkar coin.

Any piece of metal which has at any time been the Sirkar coin as above defined shall be deemed to be the Sirkar coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money.

Sec. 227. The first para of this Section is the same as that of the corresponding Sec. 230 of the Indian Code. The other paras of the Section in that Code run as follow:—

"Queen's coin is metal stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presi-

dency, or of any Government in the Queen's dominions in order to be used as money; and

Metal which has been so stamped and issued shall continue to be the Queen's coin for the purposes of this Chapter, notwithstanding that it may have ceased to be used as money."

Illustrations.

- (a) Cowries are not coin.
- (b) Lumps of unstamped copper, though used as money, are not coin.
- (c) Medals are not coin, inasmuch as they are not intended to be used as money.
- (d) The coin denominated as the British or Company's rupee is the Sirkar coin.

228. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence, who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

229. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, the Sirkar coin, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

230. Whoever makes, or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

231. Whoever makes, or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Sirkar coin.

Sirkar coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

232. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ;

and if the coin to be counterfeited is the Sirkar coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

233. Whoever, being within Travancore, abets the counterfeiting of coin out of Travancore shall be punished in the same manner as if he abetted the counterfeiting of such coin within Travancore.

234. Whoever imports into Travancore, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

235. Whoever imports into Travancore, or exports therefrom, any counterfeit coin which he knows, or has reason to believe, to be a counterfeit of the Sirkar coin, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

236. Whoever, having any counterfeit coin which at

Delivery to another of coin, possessed with the knowledge that it is counterfeit.

the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

237. Whoever, having any counterfeit coin which is a counterfeit of the Sirkar coin, and

Delivery of Sirkar coin, possessed with the knowledge that it is counterfeit.

which at the time when he became possessed of it he knew to be a counterfeit of the Sirkar coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

238. Whoever delivers to any other person as genuine or attempts to induce any other person

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit.

to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration.

A, a coiner, delivers counterfeit Company's rupees to his accomplice B, for the purpose of uttering them. B sells the rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the rupees for goods to D, who receives them not knowing them to be counterfeit. D, after receiving the rupees, discovers that they are counterfeit and pays them away as if they were good. Here, D is punishable only under this Section, but B and C are punishable under Section 236, or Section 237, as the case may be.

239. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

240. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Sirkar coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of Sirkar coin by a person who knew it to be counterfeit when he became possessed thereof.

241. Whoever being employed in any mint lawfully established in Travancore, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in a mint causing coin to be of a different weight or composition from that fixed by law.

242. Whoever, without lawful authority, takes out of any mint lawfully established in Travancore, any coining tool or instrument shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

243. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity, alters the composition of that coin.

244. Whoever fraudulently or dishonestly performs on any of the Sirkar coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Sirkar coin.

245. Whoever performs on any coin any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

246. Whoever performs on any of the Sirkar coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of the Sirkar coin with intent that it shall pass as a coin of a different description.

247. Whoever, having coin in his possession with respect to which the offence defined in Section 243 or 245 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

248. Whoever, having coin in his possession with respect to which the offence defined in

Delivery of Sirkar coin possessed with the knowledge that it is altered.

Section 244 or 246 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with in-

intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

249. Whoever, fraudulently or with intent that fraud may be committed, is in possession of

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

coin with respect to which the offence defined in either of the Sections 243 or 245 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be pun-

ished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

250. Whoever, fraudulently or with intent that fraud may be committed, is in possession of

Possession of Sirkar coin by a person who knew it to be altered when he became possessed thereof.

coin with respect to which the offence defined in either of the Sections 244 or 246 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be

punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

251. Whoever delivers to any other person as genuine or as a coin of a different description

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Section 243, 244, 245, or 246, has been performed, but in respect of

which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

252. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Our Government or by the Government of India for the purpose of revenue, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation I.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Explanation II.—The word “stamp” in this Section includes British Postage or Telegraph stamps or Our Anchal stamps and British Postal or Anchal covers or cards.

253. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Our Government or by the Government of India for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

254. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Our Government or by the Government of India for the

purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

255. Whoever sells, or offers for sale, any stamp, which he knows or has reason to believe to be a counterfeit of any stamp issued by Our Government or by the Government of India for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

256. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Our Government or by the Government of India for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government stamp.

257. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Our Government or by the Government of India for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Using as genuine a Government stamp known to be counterfeit.

258. Whoever, fraudulently or with intent to cause loss to Our Government or to the Government of India, removes or effaces from any substance bearing any stamp issued by Our Government or by the Government of India for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document, a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document,

Effacing any writing from a substance bearing a Government stamp, or removing from a document stamp used for it, with intent to cause loss to Government.

shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

259. Whoever, fraudulently or with intent to cause loss to Our Government or the Government of India, uses for any purpose a stamp issued by Our Government or by the Government of India for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

260. Whoever, fraudulently or with intent to cause loss to Our Government or the Government of India, erases or removes from a stamp issued by Our Government or by the Government of India for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

261. (1) Whoever—

(a) makes, knowingly utters, deals in or sells any fictitious stamp or knowingly uses for any Postal or Anchal purpose any fictitious stamp, or

(b) has in his possession without lawful excuse any fictitious stamp, or

(c) makes, or without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

shall be punished with fine which may extend to two hundred rupees.

Sec. 261. The words "and in the brackets were deleted by also in Sections 252 to 260 both Sec. 5, Act IV of 1094. inclusive" which occurred with-

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and shall be forfeited.

(3) In this Section, 'fictitious stamp' means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose.

(4) In this Section [* * *] the word 'Government', when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall be deemed to include the person or persons authorised by law to administer executive Government in any part of India or in any of the British Dominions or in any foreign country.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

262. Whoever fraudulently uses any instrument for weighing which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false instrument for weighing.

263. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

264. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

265. Whoever makes, sells, or disposes of, any instrument for weighing, or any weight, or any measure of length or capacity, which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

266. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity or which must necessarily cause injury, obstruction, danger or annoyance, to persons who may have occasion to use any public right.

Public nuisance.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

267. Whoever unlawfully or negligently does any act, which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Negligent Act likely to spread infection of any disease dangerous to life.

268. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Malignant act likely to spread infection of any disease dangerous to life.

269. Whoever knowingly disobeys any Rule made and promulgated by Our Government, the Government of India or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

270. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

271. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

272. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

273. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medical purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

274. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

275. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

276. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general, dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred rupees.

277. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash driving or riding on a public way.

278. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Rash navigation of a vessel.

279. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exhibition of a false light, mark or buoy.

280. Whoever knowingly or negligently conveys or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state, or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

281. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.

Danger or obstruction in a public way or navigation.

Sec. 281. The corresponding Section of the Indian Code does not contain the *Explanation*.

Explanation.—The word 'obstruction' in this Section includes partial obstruction of any public way or public line of navigation.

282. Whoever does, with any 'poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such 'order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description 'for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to any poisonous substance.

283. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession, as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to fire or any combustible matter.

284. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to any explosive substance.

285. Whoever does, with any machinery, an act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

286. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

287. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Negligence with respect to any animal.

288. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

Punishment for public nuisance.

289. Whoever repeats or continues a public nuisance having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

290. [Whoever—

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation or for purposes of sale, hire, distribution, public exhibition, or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever, or

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation, or

(c) takes part in, or receives profits from any business in the course of which he knows or has reason to believe that such obscene objects are for any of the purposes aforesaid, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation, or

Secs. 290 and 291. These were substituted by Secs. 13 and 14 of Act II of 1117. The statement of Objects and Reasons appended to the Bill states:—

“These Secs. are modelled after Secs. 292 and 293 of the Indian Penal Code. The latter were enacted in their present form by the Obscene Publication Act, 1925 with a view to give effect to the International convention for the suppression of circulation and traffic in obscene publications drafted by the International conference which met at Geneva under the auspices of the League of Nations on 31st August, 1923.”

S. O. & R., T. G. G. dated 18-3-1941.

The original Sections read as follows:—

“290. *Sale etc. of obscene books.* Whoever sells, or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this Section, or that any such obscene object can be procured from or through any person, or

(e) offers or attempts to do any act which is an offence under this Section,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine or with both.

Exception—This Section does not extend to any book, pamphlet, writing, drawing or painting kept or used bonafide for religious purposes or any representation, sculptured, engraved, painted or otherwise represented, on or in any temple, or any car used for the conveyance of idols or kept or used for any religious purpose.]

291. [Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene objects as is referred to in the last preceding Section, or offers or attempts so to do, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.]

292. Whoever, to the annoyance of others,
Obscene acts and songs. (a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

291. *Having in possession obscene books for sale or exhibition.* Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section, for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both."

293. Whoever keeps any office or place for the purpose of drawing any lottery not authorised by [Our] Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to one thousand rupees.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

294. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

[294-A. Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of Our subjects, by words, either spoken or written, or by visible representation, insults, or attempts to insult, the religion or religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Sec. 293. The word 'Our' was inserted by Sec. 6, Act IV of 1094.

Sec. 294-A. This Sec. was added by Sec. 3, Act III of 1114.

The statement of Objects and Reasons appended to the Bill says:—"The other amendment proposes the insertion of a new

295. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing a religious assembly.

296. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby,

commits any trespass in any place of worship, or on any place of sepulchre, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies,

shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

297. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

provision namely, Section 294-A, to punish insults of the religion or religious beliefs of any class of people. There have been complaints of such insults. The provision proposed is on a line with Section

295-A of the Indian Penal Code. Cochin also has recently enacted a similar provision, by Regulation XVI of 1110."

S. O. & R., T. G. G. dated 26-10-1937.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

298. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations.

- (a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.
- (b) A knows Z to be behind a bush. B does not know it. A, intending to cause or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence but A has committed the offence of culpable homicide.
- (c) A, by shooting at a fowl with intent to kill and steal it, kills B who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation I.—A person who causes bodily injury to another who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation II.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation III.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living

child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

299. Except in the cases hereinafter excepted, culpable homicide is murder,—
Murder.

1stly.—if the act by which the death is caused is done with the intention of causing death, or—

2ndly.—if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly.—if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly.—if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

- (a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.
- (b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

- (c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.
- (d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception I.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following Provisos :—

First—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person:

Secondly—That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant:

Thirdly—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

- (a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.
- (b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

- (c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.
- (d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.
- (e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.
- (f) Z strikes B. B is by this provocation excited to violent rage. A, a by-stander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception II.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm, than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A, draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception III.—Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception IV.—Culpable homicide is not murder if it is committed without premeditation, in a sudden fight in the heat of passion upon a sudden quarrel and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception V.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death, with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

300. If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

301. Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

302. Whoever being under sentence of imprisonment for life, commits murder, shall be punished with death.

Secs. 301, 302, 305, and 307. substituted for the penalty of The penalty of imprisonment for life with or without forfeitures of property has been death provided in these Secs. by para 2 of Proclamation dated 11-11-1944.

303. Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death ;

or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely, to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death.

304. Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide shall be punished with death, or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

307. Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ; and if hurt is

caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

When any person offending under this Section is
 Attempts by life-convicts. under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

Illustrations.

- (a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.
- (b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.
- (c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.
- (d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not committed the offence defined in this Section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this Section.

308. Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Attempt to commit culpable homicide.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this Section.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

310. Whoever at any time after the passing of this Act shall have been habitually associated with any other or others for the purpose of committing robbery or child stealing by means of or accompanied with murder, is a Thug.

311. Whoever is a Thug shall be punished with imprisonment for life, and shall also be liable to fine.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTH.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this Section.

313. Whoever commits the offence defined in the last preceding Section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

314. Whoever, with the intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine ;

and if the act is done without the consent of the woman, shall be punished either with imprisonment for life, or with the punishment above mentioned.

If act done without woman's consent.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

316. Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing death of a quick unborn child by an act amounting to culpable homicide.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die ; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this Section.

317. Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This Section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

318. Whoever by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF HURT.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

320. The following kinds of hurt only are designated as "grievous."

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or
 Voluntarily causing hurt. with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt.”

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows
 Voluntarily causing grievous hurt. himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt.”

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt,
 Punishment for voluntarily causing hurt. shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by
 Voluntarily causing hurt by dangerous weapons or means. means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of

fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

325. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for voluntarily causing grievous hurt.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property or to constrain to an illegal act.

328. Whoever administers to, or causes to be taken by, any person any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

- (a) A, a Police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.
- (b) A, a Police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

- (c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.
- (d) A, a land-holder, tortures a ryot in order to compel him to pay his rent. A is guilty of an offence under this Section.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term

which may extend to ten years, and shall also be liable to fine.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Voluntarily causing hurt on provocation.

335. Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Voluntarily causing grievous hurt on provocation.

Explanation.—The last two Sections are subject to the same Provisos as Exception I, Section 299.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

Punishment for act which endangers life or the personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path, Z is thereby prevented from passing. A wrongfully restrains Z.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Wrongful confinement.

Illustrations.

- (a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.
- (b) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month; or with fine which may extend to five hundred rupees, or with both.

Punishment for wrongful restraint.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for wrongful confinement.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for three or more days.

344. Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for ten or more days.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

Wrongful confinement of person for whose liberation a writ has been issued.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement in secret.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined, or any person interested in such person, to

Wrongful confinement for the purpose of extorting property, or constraining to an illegal act.

do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body or with anything which that other is wearing or carrying or with anything so situated that such contact affects that other's sense of feeling: Provided that the person causing the motion, or change of motion, or cessation of motion causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:—

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change or cessation of motion takes place without any further act on his part or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

350. Whoever intentionally uses force to any person, without that person's consent, in order
Criminal force. to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

- (a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here, A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z.
- (b) Z is riding in a chariot. A lashes Z's horses and thereby causes them to quicken their pace. Here, A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z.
- (c) Z is riding in a palanquin. A, intending to rob Z seizes the pole and stops the palanquin. Here, A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally without Z's consent in order to the commission of an offence, A has used criminal force to Z.
- (d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z.

- (e) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby, to injure, frighten or annoy Z, he has used criminal force to Z.
- (f) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her.
- (g) Z is bathing. A pours into the bath water which he knows to be boiling. Here, A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z or with other water so situated that such contact must affect Z's sense of feeling. A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force.
- (h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely
 Assault. that such gesture or preparation will
 cause any person present to apprehend
 that he who makes that gesture or preparation is about to
 use criminal force to that person, is said to commit an
 assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

- (a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z, to believe that A is about to strike Z. A has committed an assault.

- (b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.
- (c) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or

if the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

355. Whoever assaults or uses criminal force to any person intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force with intent to dishonour a person otherwise than on grave provocation.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force in attempting to commit theft of property carried by a person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Assault or use of criminal force in attempting wrongfully to confine person.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Assaulting or using criminal force on grave provocation.

Explanation.—The last Section is subject to the same Explanation as Section 352.

OF KIDNAPPING, ABDUCTION, SLAVERY AND
FORCED LABOUR.

359. Kidnapping is of two kinds; kidnapping from Travancore, and kidnapping from lawful guardianship.

Kidnapping.

360. Whoever conveys any person beyond the limits of Travancore without the consent of that person or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from Travancore.

Kidnapping from Travancore.

361. Whoever takes or entices any minor under fourteen years of age if a male or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Kidnapping from lawful guardianship.

Explanation.—The words “lawful guardian” in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Abduction.

363. Whoever kidnaps any person from Travancore or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for kidnapping.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting, in order to murder.

Illustrations.

- (a) A kidnaps Z from Travancore, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.
- (b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this Section.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting with intent secretly and wrongfully to confine a person.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine,

Kidnapping or abducting a woman to compel her marriage, &c.

[and whoever, by means of criminal intimidation as defined in this Code, or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person, shall also be punishable as aforesaid.]

Sec. 366. The second para within brackets was added by Sec. 2, Act III of 1107.

[366-A. Whoever, by any means whatsoever, induces any girl under the age of eighteen years to go from any place or to do any act with intent that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

366-B. Whoever, imports into Travancore from any country outside the Continent of India any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely, that she will be, forced or seduced to illicit intercourse with another person,

and whoever with such intent or knowledge imports into Travancore from British India, or any State in the Continent of India, any such girl who has with the like intent or knowledge been imported into the Continent of India whether by himself or by another person, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—'The Continent of India' means British India as defined in Section 12 of this Code together with any territories of any Indian Prince or State in alliance with His Majesty the King Emperor of India.]

367. Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Secs. 366-A and 366-B. These Sections were added by Sec. 3, Act III of 1107.

368. Whoever, knowing that any person has been kidnapped, or has been abducted, wrongfully conceals or keeps such person in confinement, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

369. Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting child under ten years with intent to steal movable property from the person of such child.

370. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with imprisonment for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Habitual dealing in slaves.

372. Whoever sells, lets to hire, or otherwise disposes of any [person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution, or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to

Selling of any minor for purposes of prostitution &c.

Secs. 372 and 373. The that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or of sixteen years with intent

be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[*Explanation I.*—When a girl under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of the girl shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

Explanation II.—For the purpose of this Section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a quasi-marital relation.]

373. Whoever buys, hires, or otherwise obtains possession of any [person under the age of eighteen years, with intent that such person shall at any age be employed or used for the purpose of prostitution, or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be] employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

[*Explanation I.*—Any prostitute, or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a girl under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such girl with the intent that she shall be used for the purpose of prostitution.

Explanation II.—Illicit intercourse has the same meaning as in Section 372.]

knowing it to be likely that such minor will be’ by Sec. 4, Act III of 1107. The *Explanations* to Sec. 372 were added by

Sec. 5. Act III of 1107 and the *Explanations* to Sec. 373 were added by Sec. 6, Act III of 1107.

374. Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Unlawful compulsory labour.

OF RAPE.

375. A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under [fourteen] years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under [thirteen] years of age, is not rape.

376. Whoever commits rape shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Sec. 375. In clause *fifthly* the word 'fourteen' was substituted for 'twelve' by Sec. 15 of Act II of 1117. The word "ten" occurred in the *Exception* as originally enacted. This was substituted by the word 'twelve' by Section 7, Act IV of 1094. Sec. 15, Act II of 1117 substituted the word 'thirteen' for 'twelve'.

Sec. 376. In the corresponding Section of the Indian Penal Code at the end the following words also occur: "*unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both*".

OF UNNATURAL OFFENCES.

377. Whoever voluntarily has carnal intercourse against the order of nature with any Unnatural offences. man, woman, or animal, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

CHAPTER XVII.

OF OFFENCES AGAINST PROPERTY.

OF THEFT.

378. Whoever, intending to take dishonestly any Theft. movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation I.—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation II.—A moving effected by the same act which effects the severance, may be a theft.

Explanation III.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation IV.—A person who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation V.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

- (a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.
- (b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.
- (c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.
- (d) A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.
- (e) Z, going on a journey, entrusts his plate to A, the keeper of a ware-house, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft though he may have committed criminal breach of trust.
- (f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.
- (g) A finds a ring lying on the high road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.
- (h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.
- (i) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand and

carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

- (j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.
- (k) Again if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.
- (l) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.
- (m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.
- (n) A asks charity from Z's wife. She gives A money, food and clothes which A knows to belong to Z, her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.
- (o) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.
- (p) A, in good faith believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for theft.

380. Whoever commits theft in any building, tent or vessel, which building, tent or vessel is used as a human dwelling or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft in a dwelling house, &c.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Theft after preparation made for causing death, hurt, or restraint, in order to the committing of the theft.

Illustrations.

- (a) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z, in case Z should resist. A has committed the offence defined in this Section.
- (b) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion".

Extortion.

Illustrations.

- (a) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.
- (b) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A, a promissory note binding Z to pay certain moneys to A. Z signs and delivers the note. A has committed extortion.
- (c) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.
- (d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Putting person in fear of injury, in order to commit extortion.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Extortion by putting a person in fear of death or grievous hurt.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with imprisonment for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under Section 377, may be punished with imprisonment for life.

Extortion by threat of accusation of an offence punishable with death or imprisonment.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed, or attempted to commit, an offence punishable with death, or with imprisonment for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be punishable under Section 377, may be punished with imprisonment for life.

Putting person in fear of accusation of offence, in order to commit extortion.

OF ROBBERY AND DACOITY.

390. In all robbery there is either theft or extortion.

Robbery.

Theft is "robbery", if, in order to the committing of the theft, or in committing the theft,

When theft is robbery. or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death, or of instant hurt, or of instant wrongful restraint.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

When extortion is robbery. that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

- (a) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes without Z's consent. Here, A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.
- (b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here, A has extorted the purse from Z by putting him in fear of instant hurt, being at the time of committing the extortion in his presence. A has therefore committed robbery.
- (c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z in consequence, delivers his purse. Here, A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

- (d) A obtains property from Z by saying—'Your child is in the hands of my gang and will be put to death unless you send us ten thousand rupees.' This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding is said to commit "dacoity."

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway, between sunset and sunrise, the imprisonment may be extended to fourteen years.

Punishment for robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Attempt to commit robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

395. Whoever commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

396. If any one of five or more persons, who are jointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Sec. 396. The penalty of imprisonment for life with or without forfeitures of property was substituted for the penalty of death provided for in this Sec. by para 2 of the Proclamation dated 11-11-1944.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY.

403. Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest mis-appropriation of property.

Illustrations.

- (a) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.
- (b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.
- (c) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

Explanation I.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this Section.

Explanation II.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence, but he is guilty of the offence above defined if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

Illustrations.

- (a) A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here, A has not committed the offence defined in this Section.
- (b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.
- (c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

- (d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.
- (e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.
- (f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this Section.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and, if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this Section.

405. Whoever wilfully and without authority, express or implied,—

Opening letters without authority.

(a) opens, or reads, or causes to be opened or read, a closed letter, or telegraphic message or any other closed document, which is not addressed to or intended for him, or

(b) publishes the whole or any portion of such a letter, message or document, knowing it to have been opened or read without authority, express or implied,

shall be punished with fine which may extend to five hundred rupees.

Sec. 405. There is no corresponding Section in the Indian Code. It was taken from the New York and German Codes.

OF CRIMINAL BREACH OF TRUST.

406. Whoever, being in any manner entrusted with property, or with any dominion over property, or dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

- (a) A being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.
- (b) A is a ware-house-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for ware-house-room. A dishonestly sells the goods. A has committed criminal breach of trust.
- (c) A, a Revenue Officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.
- (d) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.
- [(e) A, residing in Kottayam is agent for Z residing at Trivandrum. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lakh of rupees to A with direction to A to invest the same in Treasury Bills. A dishonestly disobeys the direction and employs the money in his own business. A has committed criminal breach of trust.

Sec. 406. *Illustrations (e) and (f)* were added by Sec. 16 of Act II of 1117.

- (f) But if A in the last illustration not dishonestly but in good faith believing that it will be more for Z's advantage to hold shares in Government Debentures, disobeys Z's directions and buys Government Debentures for Z, instead of buying Treasury Bills, here, though Z should suffer loss and should be entitled to bring a civil action against A on account of that loss, yet A not having acted dishonestly has not committed criminal breach of trust.]

407. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for criminal breach of trust.

408. Whoever being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by carrier, etc.

409. Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

410. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant, or in the way of his business as a banker, merchant, factor, broker, attorney or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant or agent.

OF THE RECEIVING OF STOLEN PROPERTY.

411. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, or in respect of which criminal breach of trust has been committed, is designated as "stolen property," whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without Travancore. But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Explanation.— Property transferred by an act which would otherwise be theft, extortion, robbery, criminal misappropriation or criminal breach of trust, but is not theft, extortion, robbery, criminal misappropriation or criminal breach of trust, by reason of such act being committed by a person governed by Section 71, 72, 73 or 74, is stolen property within the meaning of this Section.

412. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

413. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged, to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Sec. 411. The Section corresponding to this in the Indian Code does not contain the *Explanation*.

414. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

415. Whoever voluntarily assists in concealing, or disposing of, or making away with, property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Assisting in concealment of stolen property.

OF CHEATING.

416. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat."

Cheating.

Explanation.—A dishonest concealment of facts is deception within the meaning of this Section.

Illustrations.

- (a) A, by falsely pretending to be in the public service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.
- (b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.
- (c) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

- (d) A, by tendering in payment for an article a bill on a house with which A keeps no money and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.
- (e) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.
- (f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.
- (g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats: but if A, at the time of obtaining the money intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.
- (h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z; which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.
- (i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage-money from Z. A cheats.

417. A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Cheating by personation.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

- (a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.
- (b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

418. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for cheating

419. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates he was bound either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

420. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

421. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating and dishonestly inducing a delivery of property.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.

422. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

423. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

other person from being made available according to law for payment of his debt or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

424. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

or instrument which purports to transfer or subject to any charge, any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge or relating to the per-

son or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

425. Whoever dishonestly or fraudulently conceals or removes any property of himself or any

Dishonest or fraudulent removal or concealment of property.

other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is

entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF MISCHIEF.

426. Whoever, with intent to cause, or knowing that

Mischief.

he is likely to cause, wrongful loss or damage to the public or to any person,

causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

Explanation I.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation II. Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

- (a) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.
- (b) A introduces water into an ice-house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.
- (c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.
- (d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.
- (e) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the under-writers. A has committed mischief.
- (f) A causes a ship to be cast away intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.
- (g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.
- (h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

427. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months or with fine, or with both.

Punishment for committing mischief.

428. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of fifty rupees.

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of ten rupees.

430. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by killing or maiming cattle, &c., or any animal of the value of fifty rupees.

431. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

432. Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, river or channel.

433. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

434. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

435. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, or (where the property is agricultural produce) ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

437. Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship, or as a human dwelling, or as a place for the custody of property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

438. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

439. Whoever commits or attempts to commit by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

440. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

441. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

OF CRIMINAL TRESPASS.

442. Whoever enters into or upon property in the possession of another with intent to commit an offence, or to intimidate, insult or annoy any person in possession of such property ;

or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence,

is said to commit "criminal trespass."

443. Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

444. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

445. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

Lurking house-trespass by night.

446. A person is said to commit "house-breaking," who commits house-trespass if he effects House-breaking. his entrance into the house or any part of it in any of the six ways hereinafter described ; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say :—

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance ; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

Illustrations.

- (a) A commits house-trespass by making a hole through the wall of Z's house and putting his hand through the aperture. This is house-breaking.
- (b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

- (c) A commits house-trespass by entering Z's house through a window. This is house-breaking.
- (d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.
- (e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.
- (f) A finds the key of Z's house-door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.
- (g) Z is standing in his door-way. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.
- (h) Z, the door-keeper of Y, is standing in Y's door-way. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

447. Whoever commits house-breaking after sunset and before sunrise is said to commit House-breaking by night. "house-breaking by night."

448. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

449. Whoever commits criminal trespass in respect of land,—

Punishment for trespass on land delivered in execution of decree. (a) from which he or any person in whom he is interested, or from whom he derives title, has been ousted in due course of law, or

(b) after the right of himself or any such person to possess the same has been negated by a Court of competent jurisdiction, or has ceased under the operation of any law regarding the acquisition of land for public purposes, shall be punished with imprisonment of either

Sec. 449. The Section is Code. There is no corresponding taken from the Baroda Penal ing Section in the Indian Code.

description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

450. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for house-trespass.

451. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with imprisonment for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with death.

452. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with imprisonment for life.

453. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment.

454. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault or of wrongful restraint, shall be punished with imprisonment which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

455. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

456. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

457. Whoever commits lurking house-trespass or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

458. Whoever commits lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night.

459. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

460. Whoever committs lurking house-trespass by night or house-breaking by night,

Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

461. Whoever, whilst committing lurking house-trespass or house-breaking, causes

Grievous hurt [grievous] hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

462. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of

All persons jointly concerned in house-breaking, etc., to be punishable for death or grievous hurt caused by one of their number. such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

463. Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any

Dishonestly breaking open any closed receptacle containing or supposed to contain property. closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Sec. 461. The word 'grievous' was inserted by Sec. 17, Act II of 1117.

464. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

465. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

466. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations.

- (a) A has a letter of credit, upon B for rupees 10,000 written by Z. A, in order to defraud B, adds a cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.
- (b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.
- (c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.
- (d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorises B to fill up the cheque by inserting a sum not exceeding ten thousand rupees, for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.
- (e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.
- (f) Z's Will contains these words.—'I direct that all my remaining property be equally divided between A, B and C.' A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.
- (g) A endorses a Government promissory note and makes it payable to Z or his order, by writing on the bill the words 'Pay to Z or his order,' and signing the endorsement. B dishonestly erases the words 'Pay to Z or his order,' and thereby converts the special endorsement into a blank endorsement. B commits forgery.

- (h) A sells and conveys an estate to Z. Afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.
- (i) Z dictates his Will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the Will according to his instructions, induces Z to sign the Will. A has committed forgery.
- (j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here as A made a false document in order to induce Z to part with property, A has committed forgery.
- (k) A, without B's authority, writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

- (a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.
- (b) A writes the word 'accepted' on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.
- (c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.

- (d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.
- (e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation II.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

467. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for forgery.

468. Whoever forges a document purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power-of-attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of a record of a Court of Justice, or of a public Register of Birth, etc.

469. Whoever forges a document which purports to be a valuable security, or a Will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, movable property or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

470. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

471. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

472. A false document made wholly or in part by forgery is designated 'a forged document'.

473. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

474. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 469, or with such intent has in his possession any such seal, plate or other instrument, knowing the

same to be counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

475. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 469, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

476. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 468, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in Section 469, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

477. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in Section 469, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been

counterfeited, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

478. Whoever counterfeits upon or in the substance of any material, any device or mark used for the purpose of authenticating any document other than the document described in Section 469, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

479. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is or purports to be a Will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

480. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, paper, writing, valuable security, or account which belongs to or is in the possession of his employer or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits, or alters or abets the omission or alteration of any

material particular from or in, any such book, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—It shall be sufficient in any charge under this Section to allege a general intent to defraud, without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed.

OF TRADE AND PROPERTY MARKS.

481. [For the purpose of this Code, the expression "trade-mark" includes a trade-mark registered under the Travancore Trade Marks Act, 1117, and any mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right to use the mark.]

482. A mark used for denoting that movable property belongs to a particular person, is called a "property-mark."

483. Whoever marks any goods, or any case, package, or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, in a manner reasonably calculated to cause it to be believed that the goods so marked, or any goods contained in any such receptacle so marked, [have a connection in the course of trade with a person with whom they have not any such connection], is said to use a false trade-mark.

Sec. 481. The Section was substituted by Sec. 24, Act XXII of 1117. The original Section read as follows:—

"481. *Trade-mark.* A mark used for denoting that goods are the manufacture or the merchandise of a particular person is called a trade mark."

Sec: 483. The bracketed words were substituted for the words "are the manufacture or merchandise of a person whose manufacture or merchandise they are not" by Sec. 25, Act. XXII of 1117.

484. Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property-mark.

485. Whoever uses any false trade-mark or any false property-mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

486. Whoever counterfeits any trade-mark or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

487. Whoever counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

488. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a trade-mark or property-mark, or has in his possession a trade-mark or property-mark for the purpose of denoting that any goods are the manufacture or merchandise of a person whose manufacture or merchandise they are not, or that they belong to a person to

whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

489. Whoever sells, or exposes, or has in possession for sale or any purpose of trade or manufacture, any goods or things with a counterfeit trade-mark or property-mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—

Selling goods marked with a counterfeit trade-mark or property-mark.

- (a) that, having taken all reasonable precautions against committing an offence against this Section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark, and
- (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things, or
- (c) that otherwise he had acted innocently,

be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

490. Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Making a false mark upon any receptacle containing goods.

491. Whoever makes use of any such false mark in any manner prohibited by the last foregoing Section shall, unless he proves that he acted without intent to defraud, be punished as if he had committed an offence against that Section.

Punishment for making use of any such false mark.

492. Whoever removes, destroys, defaces or adds to any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Tampering with property-mark with intent to cause injury.

[OF CURRENCY-NOTES AND BANK-NOTES.]

492-A. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any currency-note or bank-note, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Counterfeiting currency-notes or bank-notes.

Explanation.—For the purposes of this Section and Sections 492-B, 492-C and 492-D, the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for, money.

492-B. Whoever sells to, or buys or receives from, any other person, or otherwise traffics in or uses as genuine, any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Using as genuine forged or counterfeit currency-notes or bank-notes.

Secs. 492-A-492-D. The heading “Of Currency-Notes and Bank-Notes” and these Secs. were inserted by Sec. 8, Act IV of 1094. In the Indian Act after Sec. 489-D corresponding to Sec. 492-D of our Act, Sec. 489-E penalising the making or using of documents resembling currency or Bank-notes was inserted by Act VI of 1943.

492-C. Whoever has in his possession any forged or counterfeit currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

492-D. Whoever makes or performs any part of the process of making, or buys, or sells, or disposes of, or has in his possession, any machinery, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any currency-note or bank-note, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.]

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

493. [*Repealed by Section 2, Act I of 1110.*]

Sec. 493. This Sec. was repealed by Sec. 2, Act I of 1110. The repealed Sec. read as follows:—

“493. *Breach of contract of service during a voyage or journey.* Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or

ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees or with both.

Illustrations.

- (a) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

494. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

495. [Repealed by Section 2, Act I of 1110.]

- (b) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this Section.

legally made with any person, either expressly, or impliedly, by the person who is to perform the service.

Illustration.

- (c) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

A contracts with a Dak Company to drive their carriage for a month. B employs the Dak Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section."

- (d) A, by unlawful means, compels B, a cooly, to carry his baggage. B, in the course of the journey, puts down the baggage, and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Sec. 495. This Section was omitted by Sec. 2, Act I of 1110. It read as follows:—

"495. *Breach of contract to serve at a distant place to which the servant is conveyed at the master's expense.* Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman or labourer, for a period not more than three years, at any place within Travancore to which by virtue of the contract he has been or is to be conveyed at the expense of such other,

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

496. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

497. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marrying again during the lifetime of husband or wife.

Exception.—This Section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction ;

nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of

either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both ; unless the employer has ill-treated him or neglected to perform the contract on his part."

498. Whoever commits the offence defined in the last preceding Section, having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.

499. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful marriage.

500. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Adultery.

501. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals, or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Enticing or taking away or detaining with a criminal intent a married woman.

CHAPTER XXI.

OF DEFAMATION.

502. Whoever, by words either spoken or intended to be read, or by signs or by, visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation I.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation II.—It may amount to defamation to make an imputation concerning a Company, or an association, or collection of persons as such.

Explanation III.—An imputation in the form of an alternative, or expressed ironically, may amount to defamation.

Explanation IV.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

- (a) A says,—“Z is an honest man; he never stole B's watch”; intending to cause it to be believed that Z did steal B's watch. This is defamation unless it fall within one of the exceptions.
- (b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.
- (c) A draws a picture of Z running away with B's watch intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Imputation of any truth which the public good requires to be made or published.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no farther.

Public conduct of public servants.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question and respecting his character so far as his character appears in that conduct, and no farther.

Conduct of any person touching any public question.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Publication of reports of proceedings of Courts of Justice.

Explanation.—A Justice of the Peace or other officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Merits of a case decided in a Court of Justice; or conduct of witnesses and others concerned therein.

Illustrations.

- (a) A says, "I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.
- (b) But if A says, "I do not believe what Z asserted at that trial, because, I know him to be a man without veracity;" A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no farther.

Merits of a public performance.

Explanation :—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

- (a) A person who publishes a book, submits that book to the judgment of the public.
- (b) A person who makes a speech in public, submits that speech to the judgment of the public.
- (c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

- (d) A says of a book published by Z, "Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.
- (e) But if A says, "I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine," A is not within this exception inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Censure passed in good faith by a person having lawful authority over another.

Illustration.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a Head of a Department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a school-master, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Eighth Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of the accusation.

Accusation preferred in good faith to a duly authorised person.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Imputation made in good faith by a person for the protection of his or other's interests.

imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

- (a) A, a shopkeeper, says to B who manages his business—
“Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty.” A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.
- (b) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth Exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Caution intended for the good of the person to whom it is conveyed or for the public good.

caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

503. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment for defamation.

504. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

505. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE.

506. Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a Civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

507. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

508. [Whoever makes, publishes or circulates any statement, rumour or report,—
(a) with intent to cause or which is likely to cause, any officer, [soldier, sailor, or airman] in the [Army, Navy or Air Force] of Her Majesty the Queen Empress of India, or in the Imperial Service Troops, or

Sec. 508. The Sec. as it was enacted read as follows :—

“508 *Circulating false report with intent to cause mutiny, or an offence against the State etc.* Whoever circulates or publishes any statement, rumour or report which he knows to be

false, with intent to cause any officer or soldier in the Army of Her Majesty the Queen Empress of India, or in Our Nayar Brigade or Body Guard, to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce

in [Our State Forces], to mutiny or otherwise disregard or fail in his duty as such ; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public, whereby any person may be induced to commit an offence against the State or against the public tranquillity; or

(c) with intent to incite, or which is likely to incite any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this Section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true, and makes, publishes or circulates it without any such intent as aforesaid.]

509. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both ;

Punishment for criminal intimidation.

and if the threat be to cause death or grievous hurt, or to cause destruction of any property

If threat be to cause death or grievous hurt, etc.

by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

This was substituted by Sec. 9 of Act IV of 1094. In the Section so substituted, Sec. 9 of Act II of 1117 made the

following amendments :—

(1) The words within the first pair of brackets were substituted for the words 'or soldier', (2) For the word 'Army' the words "Army, Navy or Air Force" were substituted and (3) For the words "Our Nayar Brigade or Body Guard" the expression "Our State Forces" was substituted.

510. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

511. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested, will become or will be rendered by some act of the offender an object of Divine displeasure, if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

- (a) A sits dharna at Z's door with the intention of causing it to be believed that by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this Section.
- (b) A threatens Z that unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this Section.

512. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

513. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten rupees, or with both.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

514. Whoever attempts to commit an offence punishable [by this Code] with imprisonment, or to cause such an offence to be committed [and in such attempt does any act towards the commission of the offence] shall, where no express provision is made for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term of imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Sec. 514. The words in brackets (in both places) were inserted and the *Explanations* were omitted by Sec. 18, Act II of 1117, thus bringing it in conformity with the corresponding Sec. 511 of the Indian Code. The *Explanations* ran as follows:—

Explanation I.—An attempt means any act done with the intention of committing an offence or of causing an offence to be committed and tending but failing to effect its commission,

Explanation II.—In every attempt punishable by this Code, there must be an outward visible act done towards the

commission of a particular offence. The procuring or arranging the means or measures necessary for the commission of an offence is not an act done towards the commission of that offence.

Explanation III.—There may be an attempt to commit an offence, although the object of the intended offence be absent.

Explanation IV.—There may be an attempt to commit an offence though the means employed be relatively insufficient. There cannot be an attempt to commit an offence when such means are absolutely insufficient."

Illustrations.

- (a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this Section.
- (b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this Section.

[CHAPTER XXIV.

WHIPPING.

515. Whoever commits any of the following offences, namely :—

Offences punishable with whipping in lieu of other punishment.

- (a) theft, as defined in Section 378 of this Code other than theft by a clerk or servant of property in possession of his master ;
- (b) theft in a building, tent or vessel, as defined in Section 380 of this Code ;

Sections 515 to 518. This Chapter was substituted by Section 10, Act IV of 1094. The original Sections 515-519 extracted below were modelled on the lines of the Whipping Act of 1864 (VI of 1864). This latter Act was repealed by Act IV of 1909. The present Sections have been substituted on the lines of those contained in Act IV of 1909.

"515. *Offences punishable with whipping in lieu of other punishment prescribed by this Code.* Whoever commits any of the following offences may be punished with whipping in lieu of any punishment to which he may for such offence be liable under the preceding Chapters of this Code, that is to say :—

(1) Theft, as defined in Section 378 of this Code,

(2) Theft in a building tent, or vessel as defined in Section 380 of this Code,

(3) Theft by a clerk or servant, as defined in Section 381 of this Code,

(4) Theft after preparation for causing death or hurt, as defined in Section 382 of this Code,

(5) Extortion by threat, as defined in Section 388 of this Code.

(6) Putting a person in fear of accusation in order to commit extortion, as defined in Section 389 of this Code.

(7) Dishonestly receiving stolen property, as defined in Section 412 of this Code,

(c) theft after preparation for causing death or hurt, as defined in Section 382 of this Code ;

(d) lurking house-trespass, or house-breaking, as defined in Sections 444 and 446 of this Code, in order to the committing of any offence punishable with whipping under this Section ;

(e) lurking house-trespass by night, or house-breaking by night, as defined in Sections 445 and 447 of this Code, in order to the committing of any offence punishable with whipping under this Section ;

may be punished with whipping in lieu of any punishment to which he may for such offence be liable under this Code.

516. Whoever—

Offences punishable with whipping in lieu of or in addition to other punishment.

(a) abets, commits or attempts to commit, rape, as defined in Section 375 of this Code ;

(b) compels, or induces any person by fear of bodily injury, to submit to an unnatural offence, as defined in Section

377 of this Code ;

(c) voluntarily causes hurt in committing or attempting to commit robbery, as defined in Section 390 of this Code ;

(8) Dishonestly receiving property stolen in the commission of a dacoity as defined in Section 413 of this Code,

(9) Lurking house-trespass, or house-breaking, as defined in Sections 444 and 446 of this Code, in order to the committing of any offence punishable with whipping under this Section,

(10) Lurking house-trespass by night, or house-breaking by night, as defined in Sections 445 and 447 of this Code, in order to the committing of any offence punishable with whipping under this Section.

516. *On second conviction of any offence mentioned in last Section whipping may be added to other punishment.* Whoever, having been previously convicted of any one of the offences specified in the last preceding Section, and having suffered in whole or in part the sentence passed on such conviction, shall be convicted of the same offence, or of any other offence specified in the last preceding Section, may be punished with whipping in lieu of or in addition to any other punishment to which he may for such offence be liable under the preceding Chapters of this Code.

(d) commits dacoity, as defined in Section 391 of this Code ;

may be punished with whipping in lieu of or in addition to any other punishment to which he may, for such offence, abetment or attempt, be liable under this Code.

517. Any juvenile offender who abets, commits or attempts to commit—

Juvenile offenders when punishable with whipping. (a) any offence punishable under this Code, except offences specified in Chapter VI and in Sections 145-A and 508 of this Code and offences punishable with death, or

(b) any offence punishable under any other law with imprisonment which Our Government may, by Notification in Our Government Gazette, specify in this behalf,

may be punished with whipping in lieu of any other punishment to which he may, for such offence, abetment or attempt, be liable.

517. *Offences punishable in case of second conviction, with whipping in addition to other punishment.* Whoever having been previously convicted of any one of the following offences, and having suffered in whole or in part, the sentence passed on such conviction, shall be again convicted of the same offence, or of any offence included in the same group of offences may be punished with whipping in addition to any other punishment to which he may be liable under the preceding Chapters of this Code, that is to say :—

GROUP A.

(1) Giving or fabricating false evidence in such manner as to be punishable under Section 187 of this Code.

(2) Giving or fabricating false evidence with intent to

procure conviction of a capital offence as defined in Section 188 of this Code.

(3) Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment, as defined in Section 189 of this Code.

GROUP B.

(4) Falsely charging any person with having committed an unnatural offence, as defined in Sections 206 and 377 of this Code.

GROUP C.

(5) Assaulting or using criminal force to any woman with intent to outrage her modesty, as defined in Section 354 of this Code.

(6) Rape, as defined in Section 375 of this Code.

(7) Unnatural offences, as defined in Section 377 of this Code.

Explanation.—In this Section, the expression “juvenile offender” means an offender whom the Court, after making such enquiry (if any) as may be deemed necessary, shall find to be under sixteen years of age, the finding of the Court in all cases being final and conclusive.

518. No female shall be punished with whipping, nor shall any person who may be sentenced to death or to imprisonment for more than five years, or males whom the Court considers to be more than forty-five years of age be punished with whipping.]

GROUP D.

(8) Robbery, or dacoity, as defined in Sections 390 and 391 of this Code.

(9) Attempting to commit robbery, as defined in Section 393 of this Code.

(10) Voluntarily causing hurt in committing robbery, as defined in Section 394 of this Code.

GROUP E

(11) Habitually receiving or dealing in stolen property, as defined in Section 414 of this Code.

GROUP F.

(12) Forgery, as defined in Section 465 of this Code.

(13) Forgery of a document, as defined in Section 468 of this Code.

(14) Forgery of a document, as defined in Section 469 of this Code.

(15) Forgery for the purpose of cheating as defined in Section 470 of this Code.

(16) Forgery for the purpose of harming the reputation of any person, as defined in Section 471 of this Code.

GROUP G.

(17) Lurking house-trespass, or house-breaking, as defined in Sections 444 and 446

of this Code, in order to the committing of any offence punishable with whipping under this Section.

(18) Lurking house-trespass by night or house-breaking by night, as defined in Sections 445 and 447 of this Code, in order to the committing of any offence punishable with whipping under this Section.

518. *Juvenile offender punishable with whipping for offences not punishable with death.* Any person under sixteen years of age who commits any offence which is not by this Code punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of any other punishment to which he may for such offence be liable under this Code.

519. *Punishment not to be inflicted on females etc.* No female shall be punished with whipping, nor shall any person who may be sentenced to death or to imprisonment for more than seven years, or males whom the court considers to be more than forty-five years of age, be punished with whipping.”

PLACES OF PUBLIC WORSHIP.

PROCLAMATION

By His Highness the Maha Raja of Travancore, issued under date the 13th Vrischikom 1074 corresponding with the 27th November 1898.

Whereas it is necessary to regulate the erection and use of new places of Public Worship; We are pleased to declare as follows:—

1. This Proclamation shall come into force on the 1st Makarom 1074.

2. Proclamation dated 23rd Makarom 1004 is hereby repealed.

The Proclamation was published in T. G. G. dated 29-11-1898. For the words "60 days" which occurred in para 8 the words "90 days" were substituted by Proclamation dated 3rd November 1910. The words "within half a mile" which occurred in column 5 of Form A were substituted by the words "within one mile" by Proclamation dated 26th March 1946.

With reference to the Proclamation of 1004 it is stated in the Land Revenue Manual as follows:—

"By a Royal Proclamation, dated 23-6-1004 M. E., it was laid down that no place of public worship should be erected without obtaining the previous sanction of the Sirkar. The prohibition applied to all classes of subjects. The Sirkar undertook to enquire carefully into such applications and provide the various communities with suitable sites for the erection of temples, churches and mosques in such localities as would not interfere with the interests of others in the matter of religion. This Proclamation declared the policy of religious toleration pursued by the Sirkar."—

L. R. M. Vol. I, P. 280.

Clause 4 of the Proclamation of 1004 which deals with places of public worship runs as follows:—

“രഹമത് നമുടേ രംജ്യത്തുള്ള പ്രജകൾ അവരവരുടെ മതമന്ത്രം അനുസരിച്ചു യാതൊരു വ്യത്യാസം കൂടാതെ നടക്കുന്നതിനും ആയതിന്റെ മുറകൾ ന്യായപ്രകാരം ആയാളികൾ ശരിയായിട്ടു നടത്തുന്നതിനും വേണ്ടുന്ന അനുകൂലങ്ങൾ ചെയ്യുകൊടുക്കുന്നതിനും നമുക്കു മനസ്സാകുന്നു എങ്കിലും ഏതു മതത്തിൽ ചേർന്നവരായാലും ഏതു ജാതിയിൽ ചേർന്നവരായാലും അവരവർക്ക് ബോധിച്ചിരുന്നിട്ടും കേൾവുങ്ങളും കിരസ്തു മാറ്റത്തിൽ ചേർന്ന പള്ളികളും പള്ളിക്കൂട്ടങ്ങളും തുലക്കമാറ്റത്തിൽ ചേർന്ന പള്ളികളും മറ്റും ഇതിനുള്ളും കർമ്മം കഴിക്കുന്ന സ്ഥലങ്ങൾ മുറപ്രകാരം പണ്ടാരവക ഉത്തരവുകൂടാതെ യാതൊരുത്തരും ഉണ്ടാക്കുകയും അരുത്. ആവക സ്ഥലങ്ങൾ ഉണ്ടാക്കുന്നതിന്നു ആവശ്യം ഉണ്ടായിരുന്നാൽ പണ്ടാരവക ഉദ്യോഗസ്ഥന്മാർ മുഖാന്തിരം മുറപ്രകാരം ബോധിപ്പിച്ചാൽ ആ സംഗതികൾ നല്ലവണ്ണം വിചാരിച്ചുനോക്കി മറ്റുള്ള ജാതിക്കാർക്കു ഒരു അസഖ്യത്തിനും ഇടയില്ലാതെ ഇരിക്കുന്ന സ്ഥലമായിട്ടു നിശ്ചയിച്ചുകൊടുക്കുകയും ചെയ്യും.”

Disobedience of any direction given in any Rule or Proclamation regulating the creation and

PROCLAMATION.

3. "Place of Public Worship" means a place of Public Worship as explained in Section 182 of the Travancore Penal Code (Act I of 1074).

4. No place of Public Worship shall be newly erected nor any existing building be converted into a place of Public Worship without the permission of Our Government in writing.

5. Every application for permission to build a place of Public Worship or to use an existing building as a place of Public Worship should be made in the Form A hereunto annexed, and presented in person or by a duly authorised agent to the Dewan Peishkar of the Division within which the site on which it is intended to erect such place of Worship or the building to be converted into a place of Public Worship, is situated.

use of any place of public worship is penalised by Section 182 of the Penal Code. The Official member (the Chief Justice) in charge of the Penal Code Bill in moving the same referred to the circumstances which led to the promulgation of the Proclamation of 1004. A portion of the speech is extracted below.

"In 1002 or about that time, a Christian church was built at Mavelikara, quite close to the place where the Aurat festival in honor of the local Hindu Diety had been annually celebrated from time immemorial. The authorities in charge of the Hindu temple brought to the notice of the Government, that the Aurat festival could not be performed at the usual place owing to the proximity of the Christian church which was open to all classes who embraced Christianity. The Government then selected another place for the performance of the

Aurat festival and handed it over to the Hindu institution. Feeling that it may not be always possible to make such arrangements on every similar occasion, the Government of Her Highness the Regent-Ranee Parvathi Boyee, during the time when Colonel Morison C. B., was the British Resident, issued the Proclamation now in force, prohibiting *all classes* of Her Highness' subjects from erecting places of worship without the previous sanction of Government. In the Proclamation, the Government have undertaken to *provide the various communities with suitable sites for erection of temples, churches &c.*, in such localities as may not interfere with the interests of others in the matter of religion. The sole object of the prohibition was to avoid conflicts between various communities in the exercise of their religious duties....."
L. C. P. dated 20-6-1896.

PLACES OF PUBLIC WORSHIP.

6. Immediately on receipt of such application, the Dewan Peishkar shall issue a Notification in the Form B, hereunto annexed ; copies thereof shall be affixed in a conspicuous part of the Proverti and Division Cutcherries and also be published by beat of tom-tom in the village or Proverti in which the site or building is situated, calling upon those who may have any objection to the grant of the application, to appear before him, or if expressly so ordered in the Notification, before the local Tahsildar, within a week from the date of the publication of the Notification and file their objections, if any, in writing. Objections received after this period will on no account be entertained. Should no objections be filed within the date fixed, the records should forthwith be forwarded by the Tahsildar to the Dewan Peishkar and by the Dewan Peishkar to the Dewan within 30 days at latest from date of receipt of application.

7. When objections shall have been entered, a day shall be fixed not later than 10 days from the date of the receipt of such objections, for hearing the same. The applicant and objectors shall be required to appear on that day either before the Tahsildar or the Dewan Peishkar. If a local enquiry would facilitate speedy disposal, it shall be the duty of the enquiring Officer to make such local enquiry in presence of both parties or such of them as may appear within the said time. In cases where the objections are heard or local enquiry is held by the Tahsildar, he shall submit the necessary papers to the Dewan Peishkar with his opinion so as to reach him without fail within one month from the date of the receipt of the application. The Dewan Peishkar shall submit to Government the application and the records of enquiry made, if any, with his opinion so as to reach the Dewan at the latest within 45 days from the date of the receipt of the application.

8. The Dewan shall communicate to the applicant the decision of the Government, and in case of refusal, the reasons for the same. If within [90 days] from the date of the presentation of the application to the Dewan Peishkar, the applicant receives no order either refusing or granting the permission solicited, he shall, notwithstanding anything said in Para 4, be at liberty to proceed to erect the place of Worship or to use it as such.

PROCLAMATION.

FORM A.

*Application for permission to build a place of Public
Worship or to use an existing building as such place.*

1. Name of the applicant and his full address.	
2. The Survey number of the land, the boundaries, the name of the Proverti and Taluk and Division within which such site or building is.	
3. Name of the community for whose benefit the proposed place of Worship is intended.	
4. Whether any cemetery will be attached to the place and if so a separate description of the place where it will be.	
5. Names of all places of Public Worship existing [within one mile] of the proposed site or building.	
6. Whether any religious procession passes by or in the vicinity of the intended place of Worship and the distance between the proposed place of Worship and the route of the procession.	
7. If the community to which the applicant belongs has in the place a public place of Worship, the reasons for creating the proposed place of Public Worship.	
8. Remarks.	

FORM B.

It is hereby notified that the Dewan Peishkar or Tahsildar ofwill receive on or beforeany objection which any person or body of persons may have to the grant of the following application.

(Here enter the application.)

ACT IV OF 1074.

An Act to amend the Abkari Act IV of 1073.

*Passed by His Highness the Maha Raja of Travancore,
on the 23rd March 1899 corresponding with the
11th Meenam 1074, under Section 13 of
Act V of 1073.*

Whereas it is expedient to amend Act IV of 1073;
We are hereby pleased to enact as follows:—

In Section 60, insert the following as the first para:—

“In prosecutions under Section 51, it shall be presumed, until the contrary is proved, that the accused person has committed an offence under that Section in respect of any liquor or intoxicating drug, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily.”

ACT V OF 1074.

LAND ACQUISITION FOR RAILWAYS.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Procedure for acquisition of land.
3. Declaration by Dewan when land is needed for Railway.
4. Provisions of Act III of 1067 applicable to acquisition under this Act.

An Act for the acquisition of land for Railways constructed by Companies.

*Passed by His Highness the Maha Raja of Travancore
on the 19th May 1899 corresponding with the 7th
Edavom 1074, under Section 14 of Act V of 1073.*

Whereas it is expedient to provide for the acquisition of land for Railways and for determining the amount of compensation to be made on account of such acquisition ; It is hereby enacted as follows :—

1. This Act may be called the "Land Acquisition for Railways Act"; and it shall come into force at once.
Short title and commencement.
2. Whenever it appears to Our Government that land in any locality is likely to be needed for purposes of a Railway to be constructed or in the course of construction by a Company, a Notification to that effect under the signature of the Dewan shall be published in the Gazette and the substance of such Notification shall also be published at convenient places in the said locality by beat of tom-tom.
Procedure for acquisition of land.

"This Act was passed direct by His Highness, the Maha Raja without the intervention of the Council and was intended to facilitate the commencement of work for the "Tinnevely-

Travancore and Shoranore-Cochin Railways during the year." A. R. 1074, P. 18.

The Act was published in T. G. G. dated 23-5-1899.

LAND ACQUISITION FOR RAILWAYS.

Thereupon it shall be lawful for any officer of such Company, either generally or specially authorized in this behalf, and for his servants and workmen to enter upon and survey and take levels of any land in such locality ; to dig or bore into the sub-soil ; to do all other acts necessary to ascertain whether the land is adapted for such purpose ; to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon ; to make such levels, boundaries and line by placing marks and cutting trenches, and, where otherwise the survey cannot be completed, and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle :

Provided that such officer shall offer payment for any damage which may be done by the acts aforesaid, and in case of dispute as to the sufficiency of the amount to be paid, he shall at once refer the dispute to the decision of the Division Peishkar. Such decision shall be final and payment shall be made accordingly :

Provided further that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

3. Whenever it appears to Our Government that any particular land is needed for the purpose of a Railway Company, a declaration shall be made to that effect under the signature of the Dewan.

Declaration by Dewan when land is needed for Railway.

4. The provisions of Section 2, paras 2 and 3 of Section 4 and Sections 5 to 26 (both inclusive) of Act III of 1067 shall apply to acquisition of land under this Act.

Provisions of Act III of 1067 applicable to acquisition under this Act.

Sec. 4. Act III of 1067 has been superseded by Act XI of 1089.

ACT VI OF 1074.

WILLS ACT.

CONTENTS.

PREAMBLE.

PART I.

PRELIMINARY.

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1. Short title.
Commencement.
2. Interpretation Clause.
"Will".
"Codicil".
"Minor".
"Executor".

PART II.

EXTENT OF TESTAMENTARY POWER.

3. Property that may be devised by Will.
4. Hindu co-parcener not to bequeath undivided interest.
5.)
6.) [*Repealed by Sec. 24 of Act II of 1100.*]
7.)
8. [*Repealed by Sec. 2 of Act V of 1108.*]
9. Testamentary power of persons following the Mahomedan law of inheritance.
10. Bequest of specific property not invalid if its value does not exceed a moiety of the aggregate value.
11. Testator's valuation not to be contested except in certain cases.

PART III.

OF WILLS AND CODICILS.

12. Persons capable of making Wills.
13. Will obtained by fraud, coercion or importunity.
14. Will may be revoked or altered.

THE WILLS ACT.

PART IV.

OF THE EXECUTION OF WILLS, THEIR REVOCATION ALTERATION AND REVIVAL.

15. Execution of Wills.
16. Wills to be registered, deposited or proved.
17. Revocation of Wills made by persons other than Hindus, Mahomedans or Parsees.
18. (a) Revocation of registered Wills and Codicils.
(b) Revocation of deposited Wills and Codicils.
Proviso.
19. Revocation of Wills other than those provided for by Section 18.
20. Effect of alteration in deposited and unregistered Wills.
21. Revival of revoked Wills and Codicils.
22. Wills not deposited nor registered nor proved have no effect.

PART V.

MISCELLANEOUS.

23. Saving of right of maintenance of persons entitled to it.
24. Saving of testamentary power, possessed before commencement of Act, except as regards immovable property within Travancore.
25. Wills by Europeans and Americans exempted.

ACT VI OF 1074.

An Act to enact and define the law relating to Wills.

Passed by His Highness the Maha Raja of Travancore on the 30th May 1899 corresponding with the 18th Edavam 1074, under Section 13 of Act V of 1073.

Whereas it is expedient to enact and define the law applicable to Wills in Travancore;
Preamble. It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be called "The Travancore Wills Act, 1074," and shall come into force on the 1st day of Mithunam 1074, commencement.

Year.	No.	Short title.	Effect of subsequent legislation.
1074	VI	Wills Act.	Repealed in part by Act II of 1100, S. 24 and Act V of 1108.

Act VI of 1074. Objects and Reasons. "The object of this Bill is to confer the power of testamentary disposition of property on certain classes of the people of this country who do not at present possess that privilege; to recognise the power with regard to certain other classes who already possess it; and to regulate the power with reference to them all, by the imposition of certain restrictions and the enactment of certain rules. Our neighbours in British India have exercised the testamentary power for several

years past and, in the opinion of an eminent authority, the exercise of the said power has produced in India the beneficial effects which it has produced in England and elsewhere 'by stimulating the circulation of property and quickening the stagnation of society'. It is highly desirable that the people of Travancore should also possess the power in question, and it is therefore proposed to pass a Regulation on the subject."—S. O. & R., T. G. G. dated 24-3-1896.

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

“Will” means the legal declaration of the intentions of the testator with respect to his property which he desires to be carried into effect after his death.

“Codicil” means an instrument made in relation to a Will, and explaining, altering, or adding to its dispositions. It shall be treated as forming a part of the Will.

“Minor” means any person who shall not have completed the age of eighteen years, and “Minority” means the status of such person.

“Executor” means a person to whom the execution of the last Will of a deceased person is by the testator’s appointment confided.

For legislative proceedings see *T. G. G. dated 5-3-1895; 24-3-1896; 2-6-1896; 1-12-1896; 8-6-1897; 21-9-1897; 5-10-1897; 30-11-1897 and 30-5-1899.*

The Act was published in *T. G. G. dated 30-5-1899.*

Act II of 1100. Sec. 24. The Select Committee observed “We propose to give the benefit of the provision for full testamentary power to all Hindus in view of the provision that on the death of a non-Nayar male leaving a Nayar widow and children, they shall be entitled to one-half of his self-acquired and separate property, the provisions in the wills Regulation VI of 1074 (Sections 5, 6 and 7) restricting this power have accordingly been proposed to be

repealed” *S. C. R. dated 1-4-1924.*

Act V of 1108. *Objects and Reasons.* “Section 8 of the Travancore Wills Regulation, VI of 1074, deals with the testamentary power of Marumakkathayam Mahomedans. The Muslim Succession Bill which has been already reported to the Council by its Select Committee takes away the Marumakkathayam law of inheritance prevalent among certain sections of the Muslims relating to properties subject to testamentary powers. When the Muslim Succession Bill becomes law, there will be no Muslim who follows Marumakkathayam inheritance as the Mahomedan law of inheritance takes the place of Marumakkathayam law

PART II.

EXTENT OF TESTAMENTARY POWER.

Subject to the limitations hereinafter prescribed, a person may devise by Will any property which is so completely under his control that he may give it away during his life-time.

Property that may be devised by Will.

4. A Hindu co-parcener shall not be entitled to dispose of by Will his undivided interest in the joint property which interest would otherwise devolve upon his co-parceners by right of survivorship.

Hindu co-parcener not to bequeath undivided interest.

5. }
 6. } [*Repealed by Section 24 of Act II of 1100.*]
 7. }
 8. [*Repealed by Section 2 of Act V of 1108.*]

of inheritance in the Muslim Succession Bill. Therefore Section 3 in the Wills Regulation dealing with the testamentary power of the Muslims following Marumakkathayam law becomes meaningless. Further, the presence of it in the Wills Regulation may give rise to unnecessary litigations. The Select Committee members on the Muslim Succession Bill have anticipated this difficulty and made observations in the report for the necessity of repealing Section 8 of the Wills Regulation. By this Bill, I am only carrying out the wishes of the Select Committee on the Muslim Succession Bill."—S. O. & R., T. G. G. dated 7-6-1932.

For legislative proceedings see L. C. P. Vol. XXI, P. 1419; Vol. XXII, Pp. 619, 620, 709 and 710.

The Act was published in T. G. G. dated 3-1-1933.

Secs. 5-8. "5 (a) No bequest made by a Makkathayam Hindu testator having children, wife, father, mother, or undivided brothers, who would otherwise inherit the property shall take effect, as against such children, wife, father, mother, or brothers, to a larger extent than one-half of the self-acquired property possessed by such testator at the time of his death and one-half of his separate property other than that which he got for his share of paternal property at a partition with his own son, grandson, great-grandson or father.

(b) No bequest made by a Makkathayam Hindu testatrix having children who would otherwise inherit the property shall take effect, as against such children, to a larger extent than one-half of the property possessed by her at the time of her death.

9. No person following the Mahomedan law of inheritance shall be competent to dispose of by Will except to the extent, and in favour of persons, allowed by that law.

Testamentary power of persons following the Mahomedan law of inheritance.

10. Nothing in Sections 5, 6, 7 and 8 shall be construed as rendering invalid the bequest of any specific property or properties, provided the value of the property or properties so bequeathed does not exceed a moiety of the aggregate value of the self-acquired and separate property of the testator at the time of his death.

Bequest of specific property not invalid if its value does not exceed a moiety of the aggregate value.

Explanation—The word 'children' in Clauses (a) and (b) includes grandsons and great-grandsons in the direct lineal descent in the male or female line."

"6. No bequest made by a Marumakkathayam Hindu having near relations shall take effect as against such relations to a larger extent than one-half of the self-acquired and separate property possessed by the testator or testatrix at the time of his or her death.

Explanation.—The expression 'near relations' means—brothers, sisters, sisters' children, mother, mother's brothers, mother's sisters, and the children of such sisters; and in the case of a testatrix, her children, the children of her daughter, and daughter's daughter, and the other relations above specified."

"7. In the case of Nambudiris, Pottis and others who

follow the impartible joint family system, no bequest shall take effect, as against a coparcener or coparceners, to a larger extent than one-half of the self-acquired and separate property possessed by the testator at the time of his death."

"8. *Testamentary power of Marumakkathayam Mahomedans.* Every person who is a Mahomedan by faith but who follows the Marumakkathayam law of inheritance may dispose of by Will his self-acquired and separate property subject to the conditions laid down in Section 6."

Secs. 5 to 7 were repealed by Sec. 24 of Act II of 1100. It may also be noted that the Nayar Act, I of 1088 had already repealed the provisions of Sec. 6 so far as they related to Nayars. Sec. 8 was omitted by Sec. 2, Act V of 1108,

11. The valuation made by the testator in his Will under Sections, 5, 6, 7 and 8 shall not be contested by the heir or the legatee or any other person interested under the Will, unless he can show that such valuation is incorrect to the extent of twenty-five per cent. of the proper value.

Testator's valuation not to be contested except in certain cases.

PART III.

OF WILLS AND CODICILS.

12. Every person of sound mind and not a minor is competent to make a Will.

Persons capable of making Wills.

Explanation I.—Persons who are deaf, or dumb, or blind are not hereby incapacitated from making a Will, if they are able to know what they do by it.

Explanation II.—One who is ordinarily insane may make a Will during an interval in which he is of sound mind.

Explanation III.—No person can make a Will while he is in such a state of mind, whether arising from drunkenness, or from illness, or from any other cause, that he does not know what he is doing.

13. A Will or any part of a Will, the making of which has been caused by fraud or coercion, or by such importunity as takes away the free agency of the testator, is void.

Will obtained by fraud, coercion, or importunity.

14. A Will is liable to be revoked or altered by the maker of it at any time when he is competent to dispose of his property by Will.

Will may be revoked or altered.

PART IV.

OF THE EXECUTION OF WILLS, THEIR REVOCATION, ALTERATION AND REVIVAL.

15. Every testator must execute his Will in writing according to the following Rules:—

Execution of Wills.

First.—The testator shall sign or shall affix his mark to the Will, or it shall be signed by some other person in his presence and by his direction.

Second.—The signature or mark of the testator or the signature of the person signing for him shall be so placed that it shall appear that it was intended thereby to give effect to the writing as a Will.

Third.—The Will shall be attested by two or more witnesses each of whom must have seen the testator sign or affix his mark to the Will, or have seen some other person sign the Will in the presence and by the direction of the testator, or have received from the testator a personal acknowledgment of his signature or mark or of the signature of such other person; and each of the witnesses must sign the Will in the presence of the testator; but it shall not be necessary that more than one witness be present at the same time and no particular form of attestation shall be necessary.

16. Every Will or Codicil made in Travancore shall be either registered in the manner provided in Part IX of Act I of 1070, or deposited under Part X of the said Act, or proved in the manner and within the time prescribed in the law, if any, for the time being in force relating to probate.

17. Every Will made by any person other than a Hindu or a Mahomedan or a Parsee shall be revoked by the marriage of the maker, except a Will made in exercise of a power of appointment, when the property over which the power of appointment is exercised would not, in default of such appointment, pass to his or her executor, or administrator, or to the person entitled in case of intestacy.

Explanation.—Where a man is invested with power to determine the disposition of property of which he is not the owner, he is said to have power to appoint such property.

18. (a) No registered Will or Codicil nor any part thereof shall be revoked otherwise than under the last preceding Section, or by some writing duly registered declaring an intention to revoke the same, or by a subsequent Will registered under Part IX of Act I of 1070.

Revocation of registered Wills and Codicils.

(b) No deposited Will or Codicil shall be revoked otherwise than under the last preceding Section, or by its withdrawal under Section 37 of Act I of 1070, or by a writing duly registered, or by a subsequent Will registered under Part IX of Act I of 1070.

Revocation of deposited Wills and Codicils.

Provided that in cases of revocation of such Wills or Codicils, no registration shall be required if the testator at the time of such revocation resides outside India.

Proviso.

19. No Will other than those provided for by the last preceding Section shall be revoked otherwise than as provided by Section 17, or by any other Will or Codicil, or by some writing declaring an intention to revoke the same and executed in the manner in which a Will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

Revocation of Wills other than those provided for by Section 18.

20. No obliteration, interlineation or alteration made in any deposited or unregistered Will after the execution thereof shall have any effect, except so far as the words or meaning of the Will shall have been thereby rendered illegible or undiscernible, unless such alterations shall be executed in like manner as hereinbefore required for the execution of the Will: save that the Will as so altered shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses be made in the margin or on some part of the Will opposite or near

Effect of alteration in deposited and unregistered Wills.

to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration and written at the end or some other part of the Will.

21. No Will or Codicil, nor any part thereof, which shall be in any manner revoked, shall be revived, otherwise than by the re-execution thereof, or by a Codicil executed in manner hereinbefore required, and showing an intention to revive the same; and when any Will or Codicil which shall be partly revoked and afterwards wholly revoked, shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary shall be shown by the Will or Codicil.

Revival of re-
voked Wills and
Codicils.

22. No Will not deposited nor registered nor proved as required by Section 16 shall take effect as a testamentary disposition so as to affect any property, movable or immovable, comprised therein.

Wills not de-
posited nor regis-
tered nor proved
have no effect.

PART V.

MISCELLANEOUS.

23. Nothing contained in this Act shall authorise a testator to deprive any persons of any right of maintenance of which, but for this Act, he could not deprive them.

Saving of right
of maintenance of
persons entitled to
it.

Explanation.—The word “maintenance” in this Section includes, among the Nanjanad Marumakkathayam Hindus, customary allotments known as “Nankudamah” and “Uganthudamah,” due respectively to wife and

Sec. 23. Under Section 20 of the Ezhava Act (III of 1100) and Sec. 27 of the Nanjanad Vellala Act (VI of 1101), full testamentary power over the whole of separate or self-acquired property is conferred notwithstanding any provision of the Wills Act. So also under Sec. 13 of the Krishna vaka Marumakkathayee Act (VII of 1108) and Sec. 20 of the Kshatriya Act (VII of 1115), full testamentary power over the whole of separate or self-acquired property is conferred.

children, and among Ezhavas who follow the mixed law of Makkathayam and Marumakkathayam, the customary portion allowed to wife and children. The word also includes the expenses necessary for the marriage of the unmarried daughters of a Makkathayam testator or the daughters of his son or grandson.

24. Nothing in this Act shall be taken to affect or curtail the extent of testamentary

Saving of testamentary power, possessed before commencement of Act, except as regards immovable property within Travancore.

power possessed by any person before this Act came into force, except in respect of immovable property situate within Travancore.

25. The provisions of this Act shall not apply to Wills executed by Europeans and Americans.

Wills by Europeans and Americans exempted.

ANJENAD AND KANNEN DEVAN HILLS

PROCLAMATION.

*By His Highness the Maha Raja of Travancore,
issued under date the 9th Kanni 1075 corres-
ponding with the 24th September 1899.*

Whereas We deem it expedient to clearly declare the position of this State in respect of the tract known as Anjenad and Kannen Devan Hills; We are pleased to declare as follows :—

1. The tract known as Anjenad and Kannen Devan Hills is an integral portion of Our territory, and all rights over it belong to and vest in Us.

2. The inhabitants of the said tract and all others whom it may concern are hereby informed and warned that they are not to pay any taxes, rents or dues, or make any other payment, to the Poonjat Chief or his representatives or to any person other than an Officer of Our Government authorised in this behalf, in respect of anything in, upon, or connected with the said tract, with the exception, however, of a payment of rupees three thousand per annum from the successors in interest of the late Mr. J. D. Munro of London and Peermade, now being paid to the said Chief in virtue of a lease-deed executed by the said Chief in favour of the said late Mr. J. D. Munro on the 11th July 1877, and which We are pleased to permit the said Chief to continue to receive.

3. The lands within the said tract will be dealt with by Our Government in the same manner as lands in other parts of Our territory with such modifications as the circumstances and conditions of the said tract may require; and all taxes, rents and dues hitherto paid, and that may

“The Government having come to an arrangement with the Poonjat Chief who had for a long time past been exercising certain proprietary rights over the tract known as Anjenad and Kannen Devan Hills, for the surrender of those

rights, a Royal Proclamation was issued under date the 24th September 1899 to give effect to the arrangement.”—A. R. 1073, Pr. 25.

The Proclamation was published in T. G. G. dated 26-9-1899.

ACT II OF 1075.

hereafter be imposed by Our Government shall, with the exception of the sum of rupees three thousand aforesaid, be paid by the occupants of lands within the said tract whose occupation has been or may be recognised or confirmed by Our Government, and of such portions of the said tract as may from time to time hereafter, with the permission of Our Government, be occupied, to the Officers of Our Government who may be authorised in this behalf.

4. This Proclamation shall have effect from the 1st day of Chingom 1075.

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THE NEGOTIABLE INSTRUMENTS ACT.

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CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Negotiable Instruments Act, 1075."

Short title.

It extends to the whole of Travancore ; but nothing herein contained affects any local usage relating to any instrument in an Asiatic language : Provided that such usages may be excluded by any words in the body of the instrument, which indicate an intention that the legal relations of the parties thereto shall be governed by this Act; and it shall come into force on the 1st Chingom, 1076.

Local extent.
Saving of usage relating to hundis, &c. C o m e n c e m e n t.

2. In this Act—

"Banker" includes also persons or a Corporation or Company acting as bankers ; and
Interpretation-
Clause. "Banker."

"Notary Public" includes also any person appointed by Our Government to perform the functions of a Notary Public under this Act.
"Notary Public."

material changes by the enactment of various amending Acts, such as Acts V of 1914, VIII of 1919, XXV of 1920, XII of 1921, XVIII of 1922, XXX of 1926, XXV of 1930 and XVII of 1934. The Travancore Banking Enquiry Committee have in paragraph 161 of their report recommended that the changes made in British India may be adopted here also as it is essential that there should be uniformity in this respect. Hence the Bill." S. O. & R., T. G. G. dated 7-2-1939.

For the report of the Select Committee see T. G. G. dated 30-5-1939.

For legislative proceedings see A. P. Vol. XIII, Pp. 105-106, 358-359 and C. P. Vol. XIII, P. 89.

The Act was published in T. G. G. dated 17-10-1939.

Sec. 1. This differs from the Indian Act in that in the 2nd para for the word "oriental" occurring there we have the word "Asiatic".

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

3. A “promissory note” is an instrument in writing (not being a bank-note or a currency-note) made on a specified date and containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

“Promissory Note.”

Illustrations.

A signs instruments in the following terms with date :—

- (a) “I promise to pay B or order Rs. 500.”
- (b) “I acknowledge myself to be indebted to B in Rs. 1,000 to be paid on demand, for value received.”
- (c) “Mr. B, I O U Rs. 1,000.”
- (d) “I promise to pay B Rs. 500 and all other sums which shall be due to him.”
- (e) “I promise to pay B Rs. 500, first deducting there-out any money which he may owe me.”
- (f) “I promise to pay B Rs. 500 seven days after my marriage with C.”
- (g) “I promise to pay B Rs. 500 on D’s death, provided D leaves me enough to pay that sum.”
- (h) “I promise to pay B Rs. 500 and to deliver to him my black horse on 1st January next.”

The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and (h) are not promissory notes.

4. A “bill of exchange” is an instrument in writing made on a specified date and containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

Secs. 3 and 4. The corresponding Secs. 4 and 5 of the British Indian Act do not contain the words “made on a specified date and”. The reason for the change is explained by the member in charge as follows:—

“Most of the foreign Codes require date to be given as a matter of necessity. The omission of date in a bill of exchange would cause difficulty, especially where a bill is expressed to be payable after date and also in cases where an

A promise or order to pay is not "conditional," within the meaning of this Section and Section 3, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain," within the meaning of this Section and Section 3, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person" within the meaning of this Section and Section 3, although he is misnamed or designated by description only.

5. A "cheque" is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

"Cheque."

6. The maker of a bill of exchange or cheque is called the "drawer"; the person thereby directed to pay is called the "drawee."

"Drawer."

"Drawee."

When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

"Drawee in case of need."

acceptance is undated. The Stamp Act, in some of its provisions for the valuation of duty, rules that the duty shall be calculated on the value at the current rate of exchange on the day of the date of the instrument. In consideration of the conditions under which valuable documents in this

country are usually written, and the convenience and safety secured by insisting on the dating of instruments, the necessary alterations have been made in the definitions of 'Promissory note' and 'Bills of exchange,' to serve this end."

L. C. P., dated 21-5-1898.

After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

When a bill of exchange has been noted or protested for non-acceptance or for better security, and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

7. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive and recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

8. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if [payable to order] before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

Sec. 8. The bracketed words were substituted for the words "payable to, or to the order of a payee" by Sec. 2 of Act VIII of 1115 thus bringing the Sec. in conformity with Sec. 9 of the Indian Act as amended by Act VIII of 1919. See also Notes under Sec. 12.

9. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

10. A promissory note, bill of exchange or cheque drawn or made in Travancore and made payable in, or drawn upon any person resident in Travancore, shall be deemed to be an "inland instrument."

11. Any such instrument not so drawn, made or made payable shall be deemed to be a "foreign instrument."

12. [(1) "A negotiable instrument" means a promissory note, bill of exchange or cheque payable either to order or to bearer.

Explanation 1.—A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

Sec. 12. This Section was substituted by Sec. 3, Act VIII of 1115 thus bringing it in line with the corresponding Sec. 13 of the Indian Act as amended by Acts V of 1914 and VIII of 1919. The original Section ran as follows:—

"12. "Negotiable instruments." "A negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to a specified person or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person or the bearer thereof".

The statement of Objects and Reasons appended to the Bill says:—"The existing definition of the expression "Negotiable Instrument" has been altered in British India and brought on lines with the definition in the English Bills of Exchange Act, 1882. Clauses 2, 3, 5 and 11 provide for this change. Under the English law a bill is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person and does not contain words prohibiting transfer or indicating an intention that it should be transferable. If therefore a d r a w e r of a

Explanation II.—A promissory note, bill of exchange or cheque is payable to bearer which is expressed to be so payable and on which the only or last indorsement is an indorsement in blank.

Explanation III.—Where a promissory note, bill of exchange or cheque either originally or by indorsement is expressed to be payable to the order of a specified person and not to him or his order, it is nevertheless payable to him or his order at his option.

(2) A negotiable instrument may be made payable to two or more payees jointly, or it may be made payable in the alternative to one of two or one or some of several payees.]

13. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

14. When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof, or on a slip of paper so annexed thereto that the first indorsement on the slip has its beginning on the bill and ends on the slip, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser."

cheque in England desires it to be not negotiable the words "not negotiable" should be stamped across the face of the cheque, and if he fails to do so the cheque would be treated as a negotiable instrument although the word "bearer" printed on the cheque is scored through or the word "order" is not substituted therefor. In India too, the mercantile community as well as the banks deal with cheques payable to a specified person without the addition of the words "or order" "or bearer" as cheques payable to

that person or his order. It was ruled by the Bombay High Court that the custom was contrary to the Statute and hence illegal. It is necessary that the law on this point should be so altered as to make it consistent with the English law and the custom obtaining in India." *S. O. & R., T. G. G. dated 7-2-1939.*

Sec. 14. The corresponding Section 15 of the British Indian Act does not contain the words "that the first endorsement on the slip.....on the slip".

15. [(1)] If the indorser signs his name only, the indorsement is said to be "in blank"; and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full," and the person so specified is called the "indorsee" of the instrument.

[(2) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee.]

16. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly.

17. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid.

18. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand.

19. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *prima facie* authority to the holder thereof to make or complete, as

Sec. 15. Sub-section (2) was added by Section 4 of Act VIII of 1115. This addition brings it in line with the corresponding Section 16 of the British Indian Act as amended by Act V of 1914. The statement of Objects and Reasons appended to the Bill says:—

"As doubts are entertained whether immunity in the case of a payee provided for by Section 87 will be available to an indorsee, provision is made in Clause 4, that the rules of law applicable to a payee are applicable to an indorsee as well." S. O. & R., T. G. G. dated 7-2-1939.

the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount :

Provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

20. In a promissory note or bill of exchange, the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

21. The maturity of a promissory note or bill of exchange is the date at which it falls due.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight or on presentment or without grace is at maturity on the third day after the day on which it is expressed to be payable.

22. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date, or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a

Sec. 21. The words "or without grace" occurring in the Section are not found in the corresponding Section 22 of the British Indian Act.

stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

- (a) A negotiable, instrument, dated 29th January 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February 1878.
- (b) A negotiable instrument, dated 30th August 1878, is made payable three months after date. The instrument is at maturity on the 3rd December 1878.
- (c) A promissory note or bill of exchange, dated 31st August 1878, is made payable three months after date. The instrument is at maturity on the 3rd December 1878.

23. In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight, or after a certain event, is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

24. When the day on which a promissory note or bill of exchange is at maturity is a Bank holiday, the instrument shall be deemed to be due on the next preceding business day.

Explanation.—The expression “Bank holiday” includes Sundays; New year’s day, Christmas day, if either of such days falls on a Sunday, the next following Monday; Good Friday; Vishu; Karkataka Vavu; Thiruvonam; and any other day specially declared, by Our Government by Notification in the Gazette, to be a bank holiday under this Section.

Sec. 24. For the expression “Bank holiday” occurring in the Section the corresponding Section 25 of the British Indian Act contains the expression “Public holiday.”

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.

25. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a bill of exchange or cheque.

Capacity to make, &c., promissory notes, &c.

promissory note

A minor may draw, indorse, deliver and negotiate such instruments so as to bind all parties except himself.

Minor.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

26. Every person capable of binding himself or of being bound, as mentioned in Section 25, may so bind himself or be bound by a duly authorised agent acting in his name.

Agency.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

27. An agent who signs his name to a promissory note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Liability of agent signing.

28. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon, unless he expressly limits his liability to the extent of the assets received by him as such.

Liability of legal representative signing.

29. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided.

30. The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

31. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of a bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.

32. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.

33. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.

34. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without in such indorsement expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in case of dishonour by the drawee, acceptor or maker, to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

35. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

36. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

37. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Illustration.

A draws a bill payable to his own order on B who accepts. A afterwards indorses the bill to C, C to D and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor, and D is his surety.

38. When the holder of an accepted bill of exchange enters into any contract with the acceptor which would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

39. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsement in blank:—

First indorsement, "B."

Second indorsement, "Peter Williams."

Third indorsement, "Wright and Co."

Fourth indorsement, "John Rozario."

This bill, A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright and Co. A is not entitled to recover any thing from John Rozario.

40. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the instrument to be forged when he accepted the bill.

41. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

42. A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without indorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Exception I.—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

Exception II.—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

43. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indoser with his indorsee. Other signers may, by agreement, stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400 and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

44. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

45. Where a bill of exchange has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor giving security to the drawer, if required, to indemnify him against all persons whatever, in case the bill alleged to have been lost shall be found again.

If the drawer, on request as aforesaid, refuses to give such duplicate bill, he may be compelled to do so.

46. No body corporate or person in Travancore shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes so payable to bearer on demand of any such body corporate or of any such person ;

Provided that cheques or drafts payable to bearer on demand or otherwise may be drawn on bankers, shroffs or agents, by their customers or constituents, in respect of deposits of money in the hands of such bankers, shroffs or agents and held by them at the credit and disposal of the persons drawing such cheques or drafts.

47. (1) Any body corporate or person committing any offence under the last preceding Section shall, on conviction before a Magistrate of the First Class, be punished with a fine equal to the amount of the bill, hundi, note or engagement in respect whereof the offence is committed.

Secs. 45 and 47. There are no corresponding provisions in the British Indian Act.

(2) Every prosecution under this Section shall be
 Prosecution. instituted by Our Government.

CHAPTER IV.
 OF NEGOTIATION.

48. The making, acceptance or indorsement of a
 Delivery. promissory note, bill of exchange or
 cheque is completed by delivery,
 actual or constructive.

As between parties standing in immediate relation,
 delivery to be effectual must be made by the party mak-
 ing, accepting or indorsing the instrument, or by a per-
 son authorised by him in that behalf.

As between such parties and any holder of the in-
 strument other than a holder in due course, it may be
 shown that the instrument was delivered conditionally or
 for a special purpose only, and not for the purpose of
 transferring absolutely the property therein.

A promissory note, bill of exchange or cheque pay-
 able to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque pay-
 able to order is negotiable by the holder by indorsement
 and delivery thereof.

49. Subject to the provisions of Section 60, a promis-
 Negotiation by sory note, bill of exchange or cheque
 delivery. payable to bearer is negotiable by
 delivery thereof.

Exception.—A promissory note, bill of exchange or
 cheque delivered on condition that it is not to take effect
 except in a certain event is not negotiable (except in the
 hands of a holder for value without notice of the con-
 dition) unless such event happens.

Illustrations.

(a) A, the holder of a negotiable instrument payable to
 bearer, delivers it to B's agent to keep for B. The instrument
 has been negotiated.

(b) A, the holder of a negotiable instrument payable to
 bearer, which is in the hands of A's banker, who is, at the time
 the banker of B, directs the banker to transfer the instrument to
 B's credit in the banker's account with B. The banker does so,

and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

50. Subject to the provisions of Section 60, a promissory note, bill of exchange or cheque [payable to order] is negotiable by the holder by indorsement and delivery thereof.

51. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

52. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive its contents for the indorser, or for some other specified person.

Illustrations.

B signs the following indorsements on different negotiable instruments payable to bearer:—

- (a) "Pay the contents to C only."
- (b) "Pay C for my use."
- (c) "Pay C or order for the account of B."
- (d) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

- (e) "Pay C."
- (f) "Pay C value in account with the Oriental Bank."

Sec. 50. The bracketed words were substituted for the words "payable to the order of a specified person or to a specified person or order" by Section 5 of Act VIII of 1115 thus bringing

it in line with the corresponding Section 48 of the British Indian Act as amended by Act VIII of 1919. See also Notes under Section 12.

- (g) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to indorser and others."

These indorsements do not exclude the right of further negotiation by C.

53. Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in Section 52, indorse or negotiate the same.

Who may negotiate.

Explanation.—Nothing in this Section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

54. The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon depend upon the happening of a specified event, although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

- (a) The indorser of a negotiable instrument signs his name, adding the words—"Without recourse." Upon this indorsement he incurs no liability.
- (b) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

55. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Holder, deriving title from holder in due course.

56. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Instrument indorsed in blank.

57. If a negotiable instrument, after having been indorsed in blank, is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Indorsement in blank followed by indorsement in full.

58. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but where such amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance.

Indorsement for part of sum due.

Illustrations.

The following indorsements of a bill for Rs. 100 would be invalid for the purpose of negotiation—

(a) Pay C or order Rs. 50.

(b) Pay C Rs. 40 and the remainder to D.

But an indorsement running—

“Pay C or order Rs. 50, being the unpaid residue of the bill,” would be valid.

Sec. 57. The marginal note in the corresponding Section 55 of the British Indian Act is “conversion of endorsement in blank into endorsement in full”

Sec. 58. There is no illustration to the corresponding Section 56 of the British Indian Act.

59. The legal representative of a deceased person cannot negotiate, by delivery only, a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

Legal representative cannot, by delivery only, negotiate instrument indorsed by deceased.

60. When a negotiable instrument has been lost, or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument, is entitled to receive the amount due

Instrument obtained by unlawful means or for unlawful consideration.

thereon from such maker, acceptor or holder, or from any party prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

61. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor :

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill, if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

62. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

CHAPTER V.

OF PRESENTMENT.

63. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment for acceptance.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place, and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

Where authorised by agreement or usage, a presentment through the Post Office by means of a registered letter is sufficient.

64. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can after reasonable search, be found) by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Presentment of promissory note for sight.

65. The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee [forty-eight] hours (exclusive of Bank holidays) to consider whether he will accept it.

Drawee's time for deliberation.

66. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

Presentment for payment.

Where authorised by agreement or usage, a presentment through the Post Office by means of a registered letter is sufficient.

Exception.—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

67. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours.

Hours for presentment

68. A promissory note or bill of exchange, made payable otherwise than on demand, must be presented for payment at maturity.

Presentment for payment of instrument payable otherwise than on demand.

Sec. 65. The word within brackets were substituted for the word "twenty-four" by Section 6 of Act VIII of 1115. The Objects and Reasons appended to the Bill says:—"The time allowed for a drawee to consider whether he will accept a bill of exchange is only twenty-four hours. This is found to be too short and causing great inconvenience. Hence it is changed to forty-eight," S. O. & R., T. G. G. dated 7-2-1939.

This amendment brings the Sec. in line with the corresponding Section 63 of the British Indian Act as amended by Act XII of 1921 with the difference that there the expression "Public holidays" occur instead of the expression "Bank holidays".

Sec. 68. In the British Indian Act, Section 66 is as follows:—"A promissory note or bill of exchange made payable at a specified period after date or sight thereof, must be presented for payment at maturity."

69. A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as non-payment of a note at maturity.

Presentment for payment of promissory note payable by instalments.

70. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

Presentment for payment of instrument payable at specified place and not elsewhere.

71. A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

Instrument payable at specified place.

72. A promissory note or bill of exchange, not made payable as mentioned in Sections 70 and 71, must be presented for payment at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be.

Presentment where no exclusive place specified.

73. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment when maker, etc., has no known place of business or residence.

74. Subject to the provisions of Section 86, a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment of cheque to charge drawer.

75. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

Presentment of cheque to charge any other person.

76. Subject to the provisions of Section 30, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment of instrument payable on demand.

77. Presentment for acceptance or payment may be made to the duly authorised agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or where he has been declared an insolvent, to his assignee.

Presentment to agent, representative of deceased or assignee of insolvent.

[77-A. Delay in presentment for acceptance or payment is excused if the delay is caused by circumstances beyond the control of the holder and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate presentment must be made within a reasonable time.]

Excuse for delay in presentment for acceptance or payment.

78. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases :—

When presentment unnecessary.

(a) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or, if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,

Sec. 77-A. This Section was added by Section 7 of Act VIII of 1115. The statement of Objects and Reasons appended to the Bill says:— "There is no provision at present for excusing delay in the presentment for payment or acceptance when

the delay is caused by circumstances beyond the control of the holder." *S. O. & R., T. G. G. dated 7-2-1939.*

The Section corresponds to Section 75-A of the British Indian Act as amended by Act XII of 1921.

if the instrument being payable at some other specified place, neither he nor any person authorised to pay it attends at such place during the usual business hours, or,

if the instrument not being payable at any specified place, he cannot after due search be found ;

(b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment ;

(c) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part-payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment ;

(d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

79. When a bill of exchange, accepted, payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

Liability of banker for negligently dealing with bill presented for payment.

CHAPTER VI.

OF PAYMENT AND INTEREST.

80. Subject to the provisions of Section 84, Clause (a), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

To whom payment should be made.

81. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realisation of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

82. When no rate of interest is specified in the instrument, interest on the amount due thereon shall [notwithstanding any agreement relating to interest between any parties to the instrument] be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realisation of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour, or, if notice is unnecessary under Section 100, from the time of dishonour.

83. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced to be indemnified against any further claim thereon against him.

Sec. 82. The bracketed words were inserted by Section 8 of Act VIII of 1115, thus bringing it in line with Section 80 of the British Indian Act as amended by Act XXX of 1926. The statement of Objects and Reasons appended to the Bill says:—“The provisions of Section 82 are sometimes sought to

be defeated by the setting up of contemporaneous oral agreements.” The amendment provides against such a contingency.

The Explanation to the corresponding Section of the British Indian Act does not contain the words “or if noticetime of dishonour”.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES,
BILLS AND CHEQUES.

84. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—
liability.

(a) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder ;
by cancellation ;

(b) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge ;
by release ;

(c) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.
by payment.

85. If the holder of a bill of exchange allows the drawee more than [forty-eight] hours, exclusive of Bank holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.
Discharge by allowing drawee more than [forty eight] hours to accept.

86. (1) When a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such
When cheque not duly presented and drawer damaged thereby.

Sec. 85. The words "forty-eight" were substituted for the words "twenty-four" by Section 6 of Act VIII of 1115. See also Notes under Section 65.

drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.

Illustrations.

(a) A draws a cheque for Rs. 1,000 and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

87. [(1)] Where a cheque payable to order purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Sec. 87. Clause (2) was added by Section 9 of Act VIII of 1115 thus bringing it in conformity with the corresponding Section 85 of the British Indian Act as amended by Act XVII of 1934. The statement of Objects and Reasons appended to the Bill says:—

“Clause 9 is intended to provide that cheques originally drawn to bearer shall not lose their bearer-character notwithstanding any endorsement thereon whether in full or in blank and whether such indorsement purports to restrict

or exclude further negotiation or not. Section 52 affords possibility for holding as was done by the Bombay High Court under the corresponding Section 50 of the British Indian Negotiable Instruments Act that a bearer-bill can legally be changed into an order-bill. This makes it incumbent on banks to examine all indorsements upon bearer-cheques and thus considerably increases their work and responsibility without any compensating advantage to their constituents or the general public.” S. O. & R., T. G. G. dated 7-2-1939.

[(2) Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof notwithstanding any indorsement whether in full or in blank appearing thereon, and notwithstanding that any such indorsement purports to restrict or exclude further negotiation.]

[87-A. Where any draft that is an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be indorsed by or on behalf of the payee, the bank is discharged by payment in due course.]

Drafts drawn by one branch of a bank on another payable to order.

88. If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

Parties not consenting discharged by qualified or limited acceptance.

Explanation.—An acceptance is qualified—

(a) Where it is conditional, declaring the payment to be dependent on the happening of an event therein stated ;

(b) where it undertakes the payment of part only of the sum ordered to be paid ;

(c) where no place of payment being specified on the order, it undertakes the payment at a specified place

Sec. 87-A. This was added by Section 10 of Act VIII of 1115. This Section corresponds to Section 85-A of the British Indian Act. The statement of Objects and Reasons appended to the Bill says:—

“Doubt has been expressed whether the law as it stands

affords protection to a banker against forged or unauthorised endorsements or demand draft drawn by one branch of a bank upon another branch of the same bank. Clause 10 is intended to put the matter beyond all doubt.” S. O. & R., T. G. G. dated 7-2-1939.

and not otherwise or elsewhere ; or where a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere;

(d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

89. Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties,

and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

Effect of material alteration.
Alteration by indorsee.

The provisions of this Section are subject to those of Sections 19, 51, 88 and 128.

90. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

91. Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered,

Payment of instrument on which alteration is not apparent.

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated,

payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon ; and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

92. If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

Extinguishment of rights of action on bill in acceptor's hands.

CHAPTER VIII.

OF NOTICE OF DISHONOUR.

93. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Dishonour by non-acceptance.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

94. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same.

Dishonour by non-payment.

95. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

By and to whom notice should be given.

Nothing in this Section renders it necessary to give notice to the maker of the dishonoured promissory note, or the drawee or acceptor of the dishonoured bill of exchange or cheque.

96. Notice of dishonour may be given to a duly authorised agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

97. Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by Section 95.

98. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal, as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

99. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

100. No notice of dishonour is necessary—
 (a) when it is dispensed with by the party entitled thereto;

(b) in order to charge the drawer, when he has countermanded payment;

- (c) when the party charged could not suffer damage for want of notice ;
- (d) when the party entitled to notice cannot, after due search, be found, or the party bound to give notice is, for any other reason, unable, without any fault of his own, to give it ;
- (e) to charge the drawers, when the acceptor is also a drawer ;
- (f) in the case of a promissory note which is not negotiable ;
- (g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX.

OF NOTING AND PROTEST.

101. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a Notary Public upon the instrument or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured and the Notary's charges.

102. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a Notary Public. Such certificate is called a protest.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a Notary Public to demand better security of the acceptor, and on its being

Protest for better security.

refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

103. A protest under Section 102 must contain—
Contents of protest.

- (a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon ;
- (b) the name of the person for whom and against whom the instrument has been protested ;
- (c) a statement that payment, or acceptance or better security, as the case may be, has been demanded of such person by the Notary Public ; the terms of his answer, if any, or a statement that he gave no answer or that he could not be found ;
- (d) when the note or bill has been dishonoured, the place and time of dishonour, and when better security has been refused, the place and time of refusal ;
- (e) the subscription of the Notary Public making the protest ;
- (f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

A Notary Public may make the demand mentioned in Clause (c) of this Section, either in person, or by his clerk, or, where authorised by agreement or usage, by registered letter.

104. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions ; but the notice may be given by the Notary Public who makes the protest.

105. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment, in the place specified for payment, unless paid before or at maturity.

106. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

107. For the purposes of this Act, when a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter, as of the date of the noting.

CHAPTER X.
OF REASONABLE TIME.

108. In determining what is a reasonable time for presentment for acceptance, or sight or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and in calculating such time, Bank holidays shall be excluded.

109. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time, if it is despatched by the next post or on the day next after the day of dishonour.

Sec. 108. The corresponding Section 105 of the British Indian Act does not contain the words "or sight" after the word "acceptance". They have been added to "include Sections 21 and 64 in the provision for the determination of reasonable time" *L. C. P. dated 21-5-1898.*

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

110. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time, if he transmits it within the same time after its receipt, as he would have had to give notice if he had been the holder.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED.

111. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

112. A person desiring to accept for honour must, by writing on the bill under his hand, declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour.

113. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

114. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill, if the drawee do not; and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

But an acceptor for honour is not liable to the holder of the bill, unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.

115. An acceptor for honour cannot be charged unless the bill has, at its maturity, been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

When acceptor for honour may be charged.

116. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying or his agent in that behalf has previously declared before a Notary Public the party for whose honour he pays, and that such declaration has been recorded by such Notary Public.

Payment for honour.

117. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays, all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Right of payer for honour.

118. Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

Drawee in case of need.

119. A drawee in case of need may accept and pay the bill of exchange without previous protest.

Acceptance and payment without protest.

CHAPTER XII.

OF COMPENSATION.

120. The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall be determined by the following Rules :—

Rules as to compensation.

- (a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it ;
- (b) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places ;
- (c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realisation thereof, together with all expenses caused by the dishonour and payment ;
- (d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places ;
- (e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE.

121. Until the contrary is proved, the following presumptions shall be made :—

Presumptions as to negotiable instruments.

of consideration;
consideration ;

(a) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred was accepted, indorsed, negotiated or transferred for

(b) that every negotiable instrument bearing a date as to date ; date ;

(c) that every accepted bill of exchange was as to time of acceptance; accepted within a reasonable time after its date and before its maturity ;

(d) that every transfer of a negotiable instrument as to time of transfer ; was made before its maturity ;

(e) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon ; as to order of indorsements ;

(f) that a lost promissory note, bill of exchange or cheque was duly stamped ; as to stamp ;

(g) that the holder of a negotiable instrument is a holder in due course: Provided that, where the instrument has been obtained from its lawful owner or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.

122. In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

Presumption on proof of protest.

123. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying original validity of instrument.

124. No maker of a promissory note and no acceptor of a bill of exchange [payable to order] shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

Estoppel against denying capacity of payee to indorse.

125. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Estoppel against denying signature or capacity of prior party.

CHAPTER XIV.

OF CROSSED CHEQUES.

126. Where the cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed generally.

127. Where a cheque bears across its face an addition of the name of the banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque crossed specially.

128. Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing after issue.

Sec. 124. The words within brackets were substituted for the words "payable to or to the order of a specified person" by Section 11 of Act VIII of 1115. See notes under Section 12.

Where a cheque is crossed generally, the holder may cross it specially.

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection.

129. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of cheque crossed generally.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of cheque crossed specially.

130. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment of cheque crossed specially more than once.

131. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Payment in due course of crossed cheque.

132. Any banker paying a cheque crossed generally otherwise than to a banker or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Payment of crossed cheque out of due course.

133. A person taking a cheque crossed generally or specially, bearing, in either case, the words "not negotiable," shall not have and shall not be capable of giving, a better title to the cheque than that which the person from whom he took it had.

134. A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

[*Explanation.*—A banker receives payment of a crossed cheque for a customer within the meaning of this Section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.]

CHAPTER XV.

OF BILLS IN SETS.

135. Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Sec. 134. The *Explanation* was added by Section 12 of Act VIII of 1115 thus bringing the Section in line with the corresponding Section 131 of the British Indian Act as amended by Act XVIII of 1922. The Objects and Reasons appended to the Bill says:—

“The law at present affords no protection to a banker who credits a customer's account

with the amount of a cheque before its realisation as he cannot then be regarded as having received payment for a customer. It is proposed by Clause 12 to extend the protection to collecting bankers in cases where they credit their customer's account with the amount of a cheque before receiving payment of it.” S. O. & R., T. G. G. dated 7-2-1939.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

136. As between holders in due course of different parts of the same set, he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

Holder of first-acquired part entitled to all.

CHAPTER XVI.

OF INTERNATIONAL LAW.

137. In the absence of a contract to the contrary, the liability of a maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser, by the law of the place where the instrument is made payable.

Law governing liability of maker, acceptor or indorser of foreign instrument.

Illustration.

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is indorsed in Travancore, and is dishonoured. An action on the bill is brought against B in Travancore. He is liable to pay interest at the rate of 6 per cent. only; but if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

138. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Law of place of payment governs dishonour.

Illustration.

A bill of exchange drawn and indorsed in Travancore but accepted payable in France is dishonoured. The indorsee causes it to be protested for such dishonour and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

SEC. 139. NEGOTIABLE INSTRUMENTS. CHAP. XVII.

139. If a negotiable instrument is made, drawn, accepted or indorsed out of Travancore, but in accordance with the law of Travancore, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into, does not invalidate any subsequent acceptance or indorsement made thereon in Travancore.

140. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of Travancore, unless and until the contrary is proved.

Presumption as to foreign law.

CHAPTER XVII.

NOTARIES PUBLIC.

141. Our Government may, from time to time, by Notification in the Gazette, appoint any person by name or by virtue of his office, to be a Notary Public under this Act, and to exercise his functions as such within any local area, and may, by like Notification, remove from office any Notary Public appointed under this Act.

142. Our Government may, from time to time, by Notification in the Gazette, make Rules consistent with this Act for the guidance and control of Notaries Public appointed under this Act and may, by such Rules (among other matters), fix the fees payable to such Notaries.

ACT III OF 1075.

VAKILS ACT.

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VAKILS ACT.

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ACT III OF 1075.

An Act to consolidate and amend the law relating to Vakils.

*Passed by His Highness the Maha Raja of Travancore
on the 11th June 1900 corresponding with the
29th Edavom 1075, under Section 13 of
Act V of 1073.*

Preamble. Whereas it is expedient to consolidate and amend the law relating to Vakils; We are pleased to enact as follows:—

Year.	No.	Short title.	Effect of subsequent legislation.
1075	III	Vakils Act.	Repealed in part by Act IV of 1080, S. 2. Repealed in part and amended by Act VII of 1112, S. 20. Amended by Act I of 1085.

In the year 1040, an Act was passed (no number is assigned to the Act) providing for the appointment of Vakils to plead in Zilla Courts and the Sadr Court. The Act contained provisions for regulating their conduct and remuneration. Sec. 32 of that Act invested the Sadr Court with power to extend the provisions of the Act to pleaders practising in the Munsiff's Courts. Act I of 1043 enacted statutory provisions relating to the appointment etc., of Vakils in Criminal Courts. To suit the altered conditions, Act I of 1043 and the Act of 1040 excepting Sec. 31 were repealed and the present law was enacted.

Act III of 1075. Objects and Reasons.—"Our Vakils Regulation now in force is more than thirty years old, and hence the necessity for a revis-

ed law on the subject, to suit the altered conditions of the times. This Bill is framed mainly on the lines of the Legal Practitioners Act XVIII of 1879, as amended by Act XI of 1896. I have, however, in one respect preferred the provisions of our present law to those of the British Indian Act. Under the latter, the practitioners in the mofussil have to renew their certificates at the close of every year, to entitle them to practise in the succeeding year. Under our present Regulation, when Vakils are once appointed and Sannads granted to them, they are entitled under their Sannads to practise during their life-time unless dismissed for misconduct. As I could find no sufficient reason for altering the present rule, I have retained the same in this Bill."—S. O. & R., T. G. G, dated 11-10-1898.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Vakils Act, 1075," and shall come into force on the first day of Chingom 1076.

Short title. Commencement.

2. On and from that day, the enactments mentioned in the First Schedule hereto annexed shall be repealed to the extent specified therein.

Repeal of enactments.

All Rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, Sannads granted and orders passed under any enactment hereby repealed shall, so far as

Saving of Rules, etc.

For Report of the Select Committee see T. G. G. dated 5-9-1899.

For legislative proceedings see T. G. G. dated 23-8-1898; 20-12-1898; 5-9-1899; 5-12-1899 and 5-6-1900.

The Act was published in T. G. G. dated 12-6-1900.

Act IV of 1080. (Stamp Act) The Second Sch. to Act III of 1075 was repealed by Sec. 2 of the Stamp Act IV of 1080.

Act I of 1085. *Objects and Reasons.*—"The present amendment is proposed in consequence of an adjudication of the High Court, passed on 5th Kumbhom 1083, wherein, after ruling that a permanent Government employee holding an office, other than that of a Sirkar Vakil, Professor of Law or Law Reporter, as Acting Head Sirkar Vakil cannot appear, act or plead before them, the Honourable the Judges of the High Court have stated that Sections 13 and 14 of the Vakils

Regulation, III of 1075, require amendment. Hence this draft Bill."—S. O. & R., T. G. G. dated 10-11-1908.

For legislative proceedings see T. G. G. dated 16-6-1908; 22-12-1908; 15-6-1909 and 28-9-1909.

The Act was published in T. G. G. dated 5-10-1909.

Act VII of 1112. The Notes on Clauses appended to the Statement of Objects and Reasons says "It is proposed in this clause that in future only one class of lawyers called advocates shall function in the High Court and the Courts subordinate thereto. At the same time vested rights are not proposed to be interfered with and persons already enrolled as pleaders will remain as such so long as their enrolment remains in force." S. O. & R., T. G. G. dated 9-2-1937.

Sec. 20 of the Act provides for consequential amendments.

may be, be deemed respectively made, prescribed, fixed, admitted, enrolled, issued, granted and passed under this Act.

All references made to any enactment hereby repealed, in any Act passed or Notification published, shall be read as if made to the corresponding provisions of this Act.

References to repealed enactment.

3. In this Act, unless there be something repugnant in the subject or context,—
 Interpretation Clause.

“ High Court ” means a Full Bench of the High Court.

“ Judge ” means the presiding Judicial Officer in every Civil and Criminal Court, by whatever title he is designated.

“ Subordinate Court ” means all Courts subordinate to the High Court exercising either Criminal or Civil jurisdiction

“ Vakil ” means any Vakil admitted as such under the provisions of the Act.

“ Tout ” means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in a legal business in consideration of such remuneration.

CHAPTER II.

OF VAKILS.

4. The High Court may, from time to time, make Rules with Our sanction, consistent with this Act, as to the following matters, (namely):—

Power of High Court to make Rules as to qualifications, etc. of Vakil.

(a) [Omitted by Section, 20, Act VII of 1112.]

(b) [Omitted by Section, 20, Act VII of 1112.]

Sec. 3. The definition of the word ‘Tout’ is a reproduction of the definition in the British Indian Touts Act.

Sec. 4. Clauses (a) and (b) were omitted by Sec. 20, Act VII of 1112. They read as follows “ (a) the qualifications,

(c) the fining, suspension, transfer, degradation and dismissal of Vakils.

All such Rules shall be published in Our Government Gazette, and shall thereupon have the force of law.

5. } [Omitted by Section 20, Act VII of 1112.]
6. }

7. The High Court may suspend or dismiss any Vakil who is convicted of any Criminal offence implying a defect of character which unfits him to be a Vakil.

Suspension and dismissal of Vakils.

8. The High Court may also, after such enquiry as it thinks fit transfer, fine, suspend, degrade or dismiss any Vakil—

Transferring, fining, etc., of Vakils guilty of unprofessional conduct.

(a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognised agent of such party within the

admission and certificate of proper persons to be Vakils of the High Court and Subordinate Courts, (b) the fees to be paid for the examination of such persons: and”.

Secs. 5 and 6. These Secs. were omitted by Sec. 20 of Act VII of 1112. They read as follow:—

“5. *High Court to admit Vakils.* Subject to the Rules under Section 4, the High Court is empowered to admit Vakils to the High Court and the Subordinate Courts.

6. *Issue of Sannads to Vakils.* On the admission of any person as Vakil under Section 5, a Sannad of admission shall be issued to him duly authenticated by the Court to which he may be attached. In the case of the High Court the authentication may be by such Officer

as the High Court may appoint on that behalf.

No person who is not admitted under Section 5 and who has not obtained the Sannad under this Section shall practise in the High Court or in any Subordinate Court, and no Vakil shall practise in any Court other than those mentioned in the Sannad granted to such Vakil.

Explanation I.—For the purpose of this Section, the transfer of a Vakil from one Court to another shall be deemed a fresh admission to the latter Court.

Explanation II.—Nothing in this Section shall be deemed to take away the power of a Criminal Court to permit any person to appear and plead in any Criminal case before that Court under the provisions of the Criminal Procedure Code.”

meaning of the Code of Civil Procedure, or a Vakil engaged by such party, or by his recognised agent, or some servant, relative or friend authorised by the party to give such instructions, or

(b) who is guilty of fraudulent or grossly improper conduct or of gross neglect in the discharge of his professional duty, or

(c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Vakil, or

(d) who, directly or indirectly, procures or attempts to procure the employment of himself or other Vakil through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him or agreed or promised to be so given, or

(e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under Section 25.

9. If any Vakil practising in any Subordinate Court is charged in such Court with taking instructions except as aforesaid, or with any such misconduct or neglect as aforesaid, the presiding Judge shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the Vakil at least fifteen days before the day so appointed.

On such day, or on any subsequent day to which the enquiry may be adjourned, the presiding Judge shall receive and record all evidence properly produced in support of the charge, or by the Vakil, and shall proceed to adjudicate on the charge.

Sec. 9. The proviso to the Sec. which occurred within brackets was omitted by Sec. 20 of Act VII of 1112. It ran as follows :—

“Provided that no proceeding under this Section shall be taken against a Vakil of the High Court without the sanction of the High Court.”

If such Judge finds the charge established and considers that the Vakil should be transferred, fined, suspended, degraded, or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, transfer, fine, suspend, degrade or dismiss the Vakil.

Any District Judge, in the case of any Vakil attached to his Court or to any Court subordinate thereto, and any District Magistrate in the case of any Vakil attached to his Court or to any Court subordinate thereto, may, pending the investigation and the orders of the High Court, suspend from practice, any Vakil charged under this Section before that Court or in any Court subordinate to it.

Every report made to the High Court under this Section shall,—

(a) when made by any Civil Judge subordinate to the District Judge, be made through such Judge;

(b) when made by a Magistrate subordinate to the Magistrate of the District, be made through the Magistrate of the District.

Every such report shall be accompanied by the opinion of the Judge or Magistrate through whom it is made.

[* * *]

10. No Vakil engaged in a case shall fail to attend in Court on any day fixed for the hearing of such case except on the ground of indisposition or other sufficient cause; in which instance he shall, whenever possible, notify previously in writing to the Court his inability to attend on such day.

If any Vakil engaged in a case shall, without giving such intimation, fail to attend in Court on any day fixed for the hearing of such case, the Court may impose on such Vakil a fine not exceeding Rs. 20.

11. The High Court, in any case in which a Vakil has been acquitted under Section 9 otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to call for record in case of acquittal under Section 9.

CHAPTER III.

OF SANNADS.

12. [Omitted by Section 20 of Act VII of 1112.]

13. When any Vakil is transferred, dismissed or degraded under this Act, or accepts a permanent employment under Government other than that of a [*] Professor of Law or Law Reporter, he shall forthwith deliver up his Sannad to the Court in which he was practising at the time he was so transferred, dismissed, degraded, or employed or to any Court or Officer to whom the High Court orders him to deliver the same.

Vakil to deliver up Sannad, when transferred, &c.

14. If any Vakil wholly abstains from practice continuously for a period of 5 years, the High Court may order such Vakil to deliver up such Sannad to such Officer or Court as the High Court may appoint in that behalf and the Vakil shall thereupon forthwith deliver up the same :

Vakil to deliver up Sannad, on abstaining from practice for 5 years.

[* * *]

Sec. 12. This Sec. was omitted by Sec. 20 of Act VII of 1112. The Sec. read as follows:—

“12. *Fees for Sannads.* Every Sannad issued under this Act shall be written upon stamped paper of the value prescribed therefor in the [Second Schedule] hereto annexed.”

Sec. 13. The words “Sirkar Vakil” which occurred within

brackets were omitted by Sec. 2 of Act I of 1085.

Sec 14. The proviso which occurred within brackets was omitted by Sec. 20, Act VII of 1112. It ran as follows:—
“Provided that a Vakil whose sannad has been delivered up under this Section shall be entitled to a fresh sannad if qualified under the Rules passed under Section 4.”

[14-A. The provisions of Sections 6, 13 and 14 shall not apply to a Vakil or any other person, whether holding a permanent appointment or not under Government, who may be appointed under the orders of Government to be, or to act as, or to be in charge of the office of, Head Sirkar Vakil, Assistant Head Sirkar Vakil or Sirkar Vakil.]

CHAPTER IV.

OF THE REMUNERATION OF VAKILS.

15. The High Court, with Our previous sanction, shall, from time to time, fix and regulate the fees payable by any party in respect of the fees payable to a Vakil upon all proceedings [* *] in Subordinate Courts.

Tables of the fees so fixed shall be published in Our Government Gazette.

16. No Court shall adjudge, in its decree or order, costs on account of the fee of a Vakil unless the Vakil files a certificate either as having received the fee or with having taken a written agreement for the same before fourteen days have expired from the date of the decree or order: Provided it shall be lawful for any Court to excuse any delay in the production of any such certificate if proper grounds be shown, and no Court shall adjudge a sum more than the sum mentioned in such certificate.

In the case of filing a certificate as having taken a written agreement, such agreement shall also be filed along with the certificate.

Sec. 14-A. This Sec. was added by Sec. 1, Act I of 1085. curred within brackets were omitted by Sec. 20, Act VII of 1112.

Sec. 15. The words "in the High Court and" which oc-

17. No agreement entered into by any Vakil with any person retaining or employing him respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Vakil, shall be valid unless it is made in writing signed by such person :

Provided that notwithstanding anything contained in this Section, a Vakil engaged in any proceeding shall, in the absence of any written agreement to the contrary, be entitled to recover from his client on the termination of his service in reference to such proceeding, the fee which could have been adjudged to the Vakil under the table of fees prescribed under the last preceding Section.

18: Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements in respect of the business done, to be ascertained in the same manner as if no such agreement had been made.

19. Such an agreement shall exclude any further claim of the Vakil beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made except such services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

20. A provision in any such agreement that the Vakil shall not be liable for negligence or that he shall be relieved from any responsibility to which he would otherwise be subject as such Vakil or that the payment of fee shall depend upon the result of any suit or proceeding shall be wholly void.

CHAPTER V.

OF PENALTIES.

21. Any person who practises in any Court in contravention of the provisions of Section 6 shall be liable, by order of such Court to a fine not exceeding ten times the amount of the stamp required by this Act for a Sannad authorising him to practise in such Court and in default of payment, to imprisonment in the Civil jail for a term which may extend to six months. He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to, any fee or reward for, or with respect to, anything done or any disbursement made by him as Vakil whilst he has been contravening the provisions of such Section.

22. Any Vakil failing to deliver up his Sannad as required by Section 13 or 14 except upon good and sufficient cause, shall be liable, by order of the Court, to which or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees, and in default of payment, to imprisonment in the Civil jail for a term which may extend to three months.

23. Any Vakil who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a Vakil in any Court, shall be liable, by order of such Court, to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the Civil jail for a term which may extend to six months.

24. Every order under Section 21, 22 or 23 shall be subject to appeal to the High Court where the order has been passed by a subordinate Court.

Order under Section 21, 22 or 23 appealable.

25 (i) The High Court, every District Judge, Sessions Judge and District Magistrate, each as regards their or his Court and the Courts, if any, subordinate thereto, may frame and publish the lists of persons proved to their or his satisfaction by evidence of general repute or otherwise, habitually to act as touts and may from time to time alter and amend such lists.

(ii) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(iii) A copy of every such list shall be kept hung up in every Court to which the same relates.

(iv) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(v) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of Section 8, Clause (e).

CHAPTER VI.

MISCELLANEOUS.

26. Any party to a suit or proceeding desirous of engaging a Vakil shall do so by executing a Vakalatnamah in the Form and manner prescribed by the High Court from time to time in this behalf.

Parties engaging Vakil to execute Vakalatnamah.

27. Any party may also give in the said Vakalatnamah authority to the Vakil engaged, to instruct another Vakil to appear for the Vakil engaged when he is unable to do so.

Vakil may be empowered to instruct another Vakil.

Secs. 27 and 28. "It is proposed to give sanction for one Vakil appearing in lieu of another in the conduct of cases. As it is, there is no provision for such a course, though there appears to be a practice in British India to that effect.

While public policy and convenience require that one Vakil shall be allowed to appear for another, still there may be cases in which it may be hard on a party who, looking to the personal services of a particular Vakil may have engaged him

28. When a Vakil duly engaged is unable to appear in the case himself and when the Vakalatnamah has granted him the authority described in Section 27, he may instruct another Vakil to appear in his behalf and the Court shall allow the appearance of such Vakil without any written authority from the party or the Vakil engaged and shall recognise such substitute for all purposes as a Vakil duly appointed under the Vakalatnamah: Provided that the Vakil who appears as a substitute shall have no claim against the party for any remuneration for his services.

29. Any party or his Vakil may terminate the engagement under the Vakalatnamah by informing the Court in writing of such termination:

Termination of engagement. Provided that, when such termination is made by the Vakil, he shall have given notice of the same to his client fifteen clear days before the day of hearing :

Provided also that, in case of such termination of the engagement either by the Vakil or by the party, the Court shall not be bound to grant an adjournment of the suit or proceeding on that account.

30. In case of termination of the engagement under the last preceding Section, it shall not be necessary either for the party or his Vakil to disclose to the Court the cause of such termination. But nothing herein contained shall debar the right that either of them may have of enforcing against the other consequent on the breach of any agreement that may have been come to between them in reference to the engagement.

at a heavy cost, if such Vakil should have it in his power to hand over the case to another Vakil whom probably, if left to the client, he may not engage at all. I have therefore adopted an intermediate course by providing that in all cases in

which a party has authorised his Vakil in the Vakalatnamah to instruct another Vakil if necessary, a Vakil may appear as substitute for another."—

S. O. & R., T. G. G. dated 11-10-1898.

31. Notwithstanding anything hereinbefore contained no Vakil shall be transferred, fined, suspended, degraded, dismissed or otherwise punished under this Act unless he has been allowed an opportunity to defend himself before the authority transferring, fining, suspending, degrading dismissing or otherwise punishing him.

[32. Nothing in this Act shall be deemed to apply to advocates within the meaning of the Travancore Bar Council Act.]

SCHEDULE I--ENACTMENTS REPEALED.

Number and date of enactment.	Title.	Extent of repeal.
Act I of 1040	An Act for the appointment of duly qualified Vakils to plead in the Courts.	The whole except Section 31.
Act I of 1043	Criminal Vakils Act.	The whole.
Act I of 1059	Stamp Act.	Article 56 of the Schedule.
Act I of 1067	The High Court Act.	Section 7.

SCHEDULE II. [*Repealed by Section 2., Act IV of 1080.*]

Sec. 32. This Sec. was added by Sec. 20, Act VII of 1112.

ACT IV OF 1076.

BRITISH POST ACT.

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2. Offenders in Travancore under the Postal law liable to punishment provided by the Indian Post Office Act and Rules and orders thereunder.
3. Liability of offenders to be tried and punished in Travancore as in British India.
4. Protection to the British Government and its servants in Travancore as in British India, and the British Postal law to apply also to Travancore.
5. Postal employees deemed Public Accountants under Act III of 1080.
6. Recovery of money order paid to the wrong person.

An Act to make better provision for the efficient working of the British Postal Department in Travancore.

Passed by His Highness the Maha Raja of Travancore on the 13th July 1901 corresponding with the 30th Mithunam 1076 under Section 14 of Act V of 1073.

Whereas it is expedient to make better provision for the efficient working of the British Postal Department in Travancore; It is hereby enacted as follows :—

Year.	No.	Short title.	Effect of subsequent legislation.
1076	IV	British Post Act.	Amended by Acts V of 1094 and I of 1098.

The Act was published in T. G. G. dated 16-7-1901.

1. This Act shall come into force at once.

Commencement.

2. Every person who, within Travancore, commits or

Offenders in Travancore under the Postal law liable to punishment provided by the Indian Post Office Act and Rules and orders thereunder.

omits to do an act which, if committed or omitted to be done by him in British India, would render him liable to punishment under the provisions of the Indian Post Office Act, VI of 1898, or of Rules or orders having the force of law issued thereunder by the Government of India, shall be liable to the

punishment provided by the said Act or Rules or orders

3. Every person liable to punishment under the foregoing Section shall be liable to be tried

Liability of offenders to be tried and punished in Travancore as in British India.

and punished within Travancore in the same manner as he would have been liable to be tried and punished if the act had been committed or omitted as aforesaid within British India: Provided that a European British subject so liable shall be

tried in accordance with the law relating to the trial of European British subjects for offences committed in Travancore.

4. The protection accorded to the British Government

Protection to the British Government and its servants in Travancore as in British India, and the British Postal law to apply also to Travancore.

and its servants in the discharge of their duty under the Post Office Act of British India shall be equally accorded in Travancore, and the law of British India for the regulation of Post Offices as well as Rules and orders having the force of law in British India shall be deemed to apply to Travancore so far as they may be suitable.

[5. (1) Every British Postal employee entrusted with

Postal employees deemed Public Accountants under Act III of 1080.

the receipt, custody or control of any moneys or securities for money, documents or other property belonging to the British Postal Department, or who in his capacity as British Postal employee is entrusted with the receipt,

Sec. 5. This Section was added by Act V of 1094 published in T. G. G. dated 11-2-1919.

custody, or control of any moneys or securities for money, documents or other property belonging to any person or persons or to any institution, shall be deemed to be a 'Public Accountant' within the meaning of the Public Accountants Act, III of 1080.

(2) The provisions of Act III of 1080 shall apply *mutatis mutandis* in respect of all claims of the British Postal Department against any Post Office employee as such.

(3) The expression 'Head of a Department' in Act III of 1080 shall for the purposes of this Section include the Superintendent of Post Offices in Travancore.]

[6. (1) If any person, without reasonable excuse, the burden of proving which shall lie on him, neglects or refuses to refund—

Recovery of money order paid to the wrong person. (a) any amount paid to him, in respect of a money order by an Officer of the Post Office in excess of what ought to have been paid to him in respect thereof, or

(b) the amount of a money order paid by an Officer of the Post Office to him instead of to some other person to whom it ought to have been paid,

such amount may be recovered from the person so neglecting or refusing as if it were an arrear of land revenue due from him.

(2) On application by an Officer of the British Postal Department authorised by the Post Master General in this behalf, the Division Peishkar of the Division in which the person to whom the wrong payment was made resides or has any property, shall recover the money in the manner aforesaid, on being satisfied of the neglect or refusal of the person sought to be made liable.]

Sec. 6. This Section was added by Act I of 1098 published in T. G. G. dated 27-2-1923.

ACT II OF 1077.

GUARDIANS AND WARDS ACT.

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GUARDIANS AND WARDS ACT.

Sections.

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ACT II OF 1077.

An Act for making provision for the care of the Persons and Property of Minors in Travancore.

Passed by His Highness the Maha Raja of Travancore on the 28th March 1902 corresponding with the 15th Meenam 1077, under Section 13 of Act V of 1073.

Whereas it is expedient to make provision for the care of the Persons and Property of Minors; It is hereby enacted as follows:—

Act II of 1077.—Objects and Reasons. "When on the 19th of Vrischigom this year, I applied for and obtained permission to introduce the Guardians and Wards Bill, I made a brief statement of the reasons which made legislation on the subject necessary. I also took occasion to mention at the time that the measure was to be framed on the lines of Act VIII of 1890 which is the law on the subject in British India. The Bill that has since been drawn up is substantially the same as the British Indian enactment. A few alterations here and there have, indeed, been introduced: but they are either practically immaterial or are such as have been found to be necessary to bring the law into conformity with the state of things existing in Travancore.

The changes of the latter description which alone deserve to be specially mentioned are to be found in Secs. 8, 9, 15 and 19. In Sec. 8, Sub-sec. (1), Clause (a), the words 'house-name, if any' have been introduced between 'name' and 'sex' just as the word 'Karanavan'

has been inserted after 'parents' in Sec. 9, Sub-sec. (1), Clause (a), (i). In Sub-sec. (2) of Sec. 15, the words 'and social customs' have been added to 'the age, sex, and religion' of the minor, and finally in Sec. 19, a similar addition has been made of the words 'or where he is the Karnavan of a Malabar Tarwad, of the Anandravans of the Tarwad.' These have been thus grouped together because of the one feature common to them all, viz., that they are all rendered necessary by the peculiar laws, manners and customs of the people following the Marumakkathayam system of inheritance. To those who know anything about that system and the law by which it is governed, the reasons underlying the alteration above stated are obvious; and as there is reason to believe that the mist of uncertainty which hung about the Malabar Law at one time has been removed by a long series of judicial decisions here as well as elsewhere, it is not considered necessary to do more than mention the several changes as has been done above.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Guardians and Title, extent and Wards Act, 1077." commencement.

(2) It extends to the whole of Travancore; and

(3) It shall come into force on the 1st Chingam 1078.

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

Definitions.

(1) "Minor" means a person who has not attained the age of eighteen years :

The Secs. relating to 'Court of Wards' in Act VIII of 1890 have been omitted, for the obvious reason that there is no Court of Wards in Travancore.—S. O. & R., T. G. G. dated 21-2-1899.

It may be noted that the Court of Wards Act has subsequently been enacted in Travancore as Act V of 1110.

The member in applying for permission to introduce the Bill said :—

" * * It is a proposition that will be readily conceded by all that the case of the persons and properties of minors is an object of peculiar, I may even say, anxious solicitude on the part of every enlightened Government. We know that there is not a civilized country in the whole world which has not made some provision or other for the superintendence and protection of such of its infant population as have the misfortune to be left without a lawful protector. In England, the jurisdiction assumed by the

Courts of Chancery over infants was even supposed to have its just and rightful foundation in the prerogative of the Crown, flowing from its general power and duty as *parens patriae* to protect all those who have no one to look after them. Under these circumstances, I feel sure I shall be deemed to have made out a case for legislation, if I simply state that in Travancore we have as yet no law on the subject.

"As regards the main features of the Bill, I need only say they are the same as those in Act No. VIII of 1890 which is the law on the subject in British India. A few slight changes here and there, rendered necessary by the peculiarities of our country, have however been introduced. What they are and why I have brought them in will be explained at a later stage, whether a case for legislation has been made out being all we are concerned with at present."—L. C. P., dated 3-12-1898.

(2) "Guardian" means a person having the care of the person of a minor, or of his property, or of both his person and property :

(3) "Ward" means a minor for whose person, or property, or both, there is a guardian :

(4) "District Court" has the meaning assigned to that expression in the Code of Civil Procedure :

(5) "The Court" means the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian ; and, where a guardian has been appointed or declared in pursuance of any such application, it means the Court which appointed or declared the guardian, or, in any matter relating to the person, of the ward, the District Court having jurisdiction in the place where the ward for the time being ordinarily resides :

(6) "Peishkar" means the chief officer in charge of the revenue administration of a Division, and includes any officer whom Our Government, by Notification in the Official Gazette may, by name or in virtue of his office, appoint to be a Peishkar in any local area : and

(7) "Prescribed" means prescribed by Rules made by the High Court under this Act.

CHAPTER II.

APPOINTMENT AND DECLARATION OF GUARDIANS.

3. Any person acquiring, giving or leaving property for the benefit of a minor shall have the power to appoint by Will or other instrument a guardian or guardians to such property.

Power to appoint guardian.
For Report of the Select Committee see T. G. G. dated 4-9-1900

The Act was published in T. G. G. dated 1-4-1902,

For legislative proceedings see T. G. G. dated 6-12-1898 ; 21-2-1899 ; 30-5-1899 ; 4-9-1900 ; 10-9-1901 ; 10-12-1901 and 18-3-1902.

Sec. 3. There is no corresponding Sec. in the British Indian Act.

4. Nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of a minor's person, or property, or both, which is valid by the law to which the minor is subject.

Saving of power to appoint in other cases.

Explanation.—A guardian cannot be appointed to the property of a minor who is a member of a joint family governed by the Mitakshara law or by the Marumakkathayam law, and possessed of no separate property.

5. (1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

Power of the Court to make order as to guardianship.

(a) appointing a guardian of his person, or property, or both, or
(b) declaring a person to be such a guardian,

the Court may make an order accordingly.

(2) An order under this Section shall imply the removal of any guardian who has not been appointed by Will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by Will or other instrument or appointed or declared by the Court, an order under this Section appointing or declaring another person to be guardian in his stead, shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

6. An order shall not be made under the last-foregoing Section except on the application of—

Persons entitled to apply for order.

(a) the person desirous of being, or claiming to be, the guardian of the minor, or

(b) any relative or friend of the minor, or,

(c) the Peishkar of the Division or other local area within which the minor ordinarily resides or in which he has property.

Sec. 4. The *Explanation* is not found in the corresponding Sec. 6 of the Indian Act,

7. (1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

8. (1) If the application is not made by the Peishkar, it shall be by petition signed and verified in manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint, and stating, so far as can be ascertained,—

(a) the name, house-name (if any), sex, religion, date of birth, and ordinary residence of the minor ;

(b) where the minor is a female, whether she is married, and, if so, the name and age of her husband ;

(c) the nature, situation and approximate value of the property, if any, of the minor ;

(d) the name and residence of the person having the custody or possession of the person or property of the minor ;

(e) what near relations the minor has, and where they reside ;

(f) whether a guardian of the person, or property, or both, of the minor has been appointed by any person, entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment ;

SEC. 9. GUARDIANS AND WARDS ACT. CHAP. II

(g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person, or property, or both, of the minor, and, if so, when, to what Court and with what result ;

(h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both;

(i) where the application is to appoint a guardian, the qualifications of the proposed guardian ;

(j) where the application is to declare a person to be a guardian, the grounds on which that person claims ;

(k) the causes which have led to the making of the application ; and

(l) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(2) If the application is made by the Peishkar, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found to be convenient and shall state as far as possible the particulars mentioned in Sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses.

9. If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof, and cause notice of the application and of the date fixed for the hearing—

Procedure on admission of application.

(a) to be served in the manner directed in the Code of Civil Procedure on—

(i) the parents or, in the case of Marumakkathayees, the parents and Karanavan, of the minor, if they are residing in Travancore,

Sec. 9. The words "or in the case of Marumakkathayees the parents and Karanavan" occurring after the words "parents" in Clause (a) (i) are not found in the corresponding Clause of Sec. 11 of the British Indian Act.

- (ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,
- (iii) the person proposed in the application or letter unless that person to be appointed or declared guardian, is himself the applicant, and
- (iv) any other person to whom, in the opinion of the Court, special notice of the application should be given; and

(b) to be posted on some conspicuous part of the Court-house, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any Rules made by the High Court under this Act, thinks fit.

10. (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

Power to make interlocutory order for production of minor and interim protection of person and property.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under Sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this Section shall authorise—

(a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any, or

(b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

SEC. 11. GUARDIANS AND WARDS ACT. CHAP. II.

11. On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

Hearing of evidence before making of order.

12. If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself, and report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

Simultaneous proceedings in different Courts.

13. (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person, or property, or both, the Court may, if it thinks fit, appoint or declare them.

Appointment or declaration of several guardians.

(2) Separate guardians may be appointed or declared of the person and of the property of a minor.

(3) No person being the next legal heir of a ward or appearing to have a direct or indirect interest in the death or continued disqualification of such ward shall be appointed a guardian of the person of such ward, unless the Court is satisfied, for reasons to be recorded in writing, that it will be for the welfare of the minor to appoint such person as guardian.

(4) If a minor has several properties, the Court may, if it thinks fit, appoint or declare a separate guardian for any one or more of the properties.

14. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

Appointment or declaration of guardian for property beyond jurisdiction of the Court.

Sec. 13. There is no provision corresponding to Sub-sec. (3) in Sec. 15 of the British Indian Act.

15. (1) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this Section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

Matters to be considered by the Court in appointing guardian.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex, religion and social customs of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent or karanavan, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

(4) The Court shall not appoint or declare any person to be a guardian against his will.

16. Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the person—

Guardians not to be appointed by the Court in certain cases.

(a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or

(b) of a minor whose father or karanavan is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor.

Sec. 15. In Sub-sec. (2) the words "and social customs" occurring after the word "religion" and the words "or Karna-

van" occurring after the word "parent" are not found in the corresponding Sec. 17 of the British Indian Act.

CHAPTER III.

DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS.

General.

17. (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the Will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

Fiduciary relation of guardian to ward.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

18. (1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

Remuneration of guardian.

(2) When an Officer of the Government, as such Officer, is so appointed or declared to be guardian, such fees shall be paid to Our Government, out of the property of the ward as Our Dewan, with Our previous sanction, by general or special order, directs.

Guardian of the Person.

19. A guardian of the person of a ward is charged with the custody of the ward, and must look to his safety, support, health and education, and such other matters as the law to which the ward is subject requires.

Duties of guardian of the person.

Sec. 19. The word "safety" does not occur in the corresponding Sec. 24¹ of the British Indian Act.

20. (1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and, for the purpose of enforcing the order, may cause the ward to be arrested and to be delivered into the custody of the guardian.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the First Class by Section 82 of the Code of Criminal Procedure.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

21. (1) A guardian of the person appointed or declared by the Court, unless he is a guardian appointed by Will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(2) The leave granted by the Court under Subsection (1) may be special or general, and may be defined by the order granting it.

Guardian of Property.

22. A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

23. Where a guardian has been appointed by Will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immovable property belonging to his ward is subject to any restriction which may be imposed by the

Sec. 20. Sec. 82 of the re- Code, Act V of 1067 corresponds
pealed Criminal Procedure to Sec. 95 of Act VIII of 1117.

instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immovable property specified in the order in a manner permitted by the order.

24. Where a person other than a guardian appointed by Will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward he shall not, without the previous permission of the Court,—

Limitation of powers of guardian of property appointed or declared by the Court.

(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immovable property of his ward, or

(b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

25. A disposal of immovable property by a guardian in contravention of either of the two last foregoing Sections is voidable at the instance of any other person affected thereby.

Voidability of transfers made in contravention of Sections 23 & 24.

26. (1) Permission to the guardian to do any of the acts mentioned in Sections 23 and 24 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

Practice with respect to permitting transfers under Sections 23 & 24.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and it shall be recorded, dated and signed by the Judge of the Court with his own hand, or, when from any cause he is prevented from recording the order with his own hand, shall

Sec. 26. The corresponding made under Sec. 29 of that Act refers only to transfers

be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely:—

(a) that a sale shall not be completed without the sanction of the Court;

(b) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any Rules made under this Act by the High Court, directs;

(c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;

(d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(4) Before granting permission to a guardian to do an act mentioned in Sections 23 and 24, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof; and shall hear and record the statement of any person who appears in opposition to the application.

27. Where a guardian of the property of a ward has been appointed or declared by the Court, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

Variation of powers of guardian of property appointed or declared by the Court.

SEC. 28. GUARDIANS AND WARDS ACT. CHAP. III.

28. (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him, for its opinion, advice or direction on any present question, respecting the management or administration of the property of his ward.

Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject-matter of the application.

29. Where a guardian of the property of a ward has been appointed or declared by the Court, he shall,—

Obligations on guardian of property appointed or declared by the Court.

(a) if so required by the Court, give a bond, as nearly as may be in the prescribed Form, to the Judge of the Court to enure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward;

(b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court or within such other time as the Court directs, a statement of the immovable property belonging to the ward, of the money and other movable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward;

Sec. 29. Under Clause (a) of this Sec. the guardian is liable to render accounts to the Court. Sec. 34-A of the British Indian Act provides for the audit of the Guardian's accounts. There is no provision corresponding to Sec. 34-A in our Act.

(c) if so required by the Court, exhibit his accounts in the Court, at such times and in such Form as the Court from time to time directs;

(d) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs; and

(e) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

30. Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court, and shall be entitled to recover thereon as trustee for the ward, in respect of any breach thereof.

31. (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

(2) The provisions of Sub-section (1) shall, so far as they relate to a suit against a guardian, be subject to the provisions of the Code of Civil Procedure.

32. Nothing in either of the two last foregoing Sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those Sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

General liability of guardian as trustee.

Termination of Guardianship.

33. On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

Right of survivorship among joint guardians.

34. The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by Will or other instrument, for any of the following causes, namely :—

Removal of guardian.

- (a) for abuse of his trust ;
- (b) for continued failure to perform the duties of his trust ;
- (c) for incapacity to perform the duties of his trust ;
- (d) for ill-treatment, or neglect to take proper care, of his ward ;
- (e) for contumacious disregard of any provision of this Act or of any order of the Court ;
- (f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward ;
- (g) for having an interest adverse to the faithful performance of his duties ;
- (h) for ceasing to reside within the local limits of the jurisdiction of the Court ;

(i) in the case of a guardian of the property, for bankruptcy or insolvency;

(j) by reason of the guardianship of the guardian ceasing or being liable to cease, under the law to which the minor is subject :

Provided that a guardian appointed by Will or other instrument, whether he has been declared under this Act or not, shall not be removed—

(a) for the cause mentioned in Clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or

(b) for the cause mentioned in Clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

35. (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(2) If the Court finds that there is sufficient reason for the application, it shall discharge him.

36. (1) The powers of a guardian of the person cease—

(a) by his death, removal or discharge;
 (b) by the ward ceasing to be a minor;
 (c) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit ; or,

(d) in the case of a ward whose father or Karānavan was unfit to be guardian of the person of the ward, by the father or Karānavan ceasing to be so, or, if the father or Karānavan was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease—

(a) by his death, removal or discharge ; or
 (b) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession of control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

37. When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by Will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person, or property, or both, as the case may be.

Appointment of successor to guardian dead, discharged or removed,

CHAPTER IV.

SUPPLEMENTAL PROVISIONS.

38. (1) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under Sub-section (1) or Sub-section (2) would be defeated by the delay, the Court shall, before

Sec. 38. Secs. 471 and 472 to Order XXXVII, Rules 1 and of the repealed Civil Procedure 2 of the first Schedule of Act Code, Act II of 1065 correspond VIII of 1100.

making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under Sub-section (1), to the guardian or, in a case under Sub-section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under Sub-section (1) or Sub-section (2), the order may be enforced in the same manner as an injunction granted under Section 471 or Section 472 of the Code of Civil Procedure, in a case under Sub-section (1), as if the ward were the plaintiff and the guardian were the defendant, or in a case under Sub-section (2), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

39. If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to a ward, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of Section 21, he shall be liable by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the Civil jail for a term which may extend to six months.

40. (1) In the following cases, namely :—

(a) If a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under Section 10, Sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under Section 20, Sub-section (1), or,

(b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under Clause (b) of Section 29, a statement, required under that Clause, or to exhibit accounts in compliance

Sec 40. The words "if the failure omission or default be without sufficient cause," occurring in the last para of Sub-sec. (1) are additions not found in the corresponding Sec. 45 of the British Indian Act.

with a requisition under Clause (c) of that Section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under Clause (d) of that Section, or,

(c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under Section 36, Sub-section (3),

the person, guardian or representative, as the case may be, shall, if the failure, omission or default be without sufficient cause, be liable by order of the Court to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the Civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under Sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the Civil jail.

41. The fines imposed under this Act shall be realised in the manner prescribed in the Code of Criminal Procedure.

42. (1) The Court may call upon any Court subordinate to the Court for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

(2) For the purpose of preparing the report, the Judge of the subordinate Court shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the Code of Civil Procedure.

Sec. 41. This Sec. is an addition not found in the British Indian Act.

43. An appeal shall lie to the High Court from an Orders appealable. order made by a District Court,—

(a) under Section 5, appointing or declaring or refusing to appoint or declare a guardian ; or,

(b) under Section 7, Sub-section (3), returning an application ; or,

(c) under Section 20, making or refusing to make an order for the return of a ward to the custody of his guardian ; or,

(d) under Section 21, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto ; or,

(e) under Section 23 or 24, refusing or granting permission to a guardian to do an act referred to in the Section ; or,

(f) under Section 27, defining, restricting or extending the powers of a guardian ; or,

(g) under Section 34, removing or refusing to remove a guardian ; or,

(h) under Section 35, refusing to discharge a guardian ; or,

(i) under Section 38, regulating the conduct or proceedings of a guardian, or settling a matter in difference between joint guardians, or enforcing the order ; or,

(j) under Section 39 or Section 40, imposing a penalty.

44. Save as provided by the last foregoing Section and by Section 568 of the Code of Civil Procedure, an order made under this Act shall be final, and shall not be liable to be contested by suit or otherwise.

Finality of other orders.

Sec. 43. The words "or granting" occurring before the word "permission" in Clause (c) and the words "or refusing to remove" after the word "removing" occurring in Clause (g) are additions not found in

the corresponding Sec. 46 of the British Indian Act.

Sec. 44. Sec. 568 of the repealed Civil Procedure Code, Act II of 1065 corresponds to Sec. 89 of Act VIII of 1100.

SEC. 45. GUARDIANS AND WARDS ACT. CHAP. IV.

45. The costs of any proceeding under this Act including the costs of maintaining a guardian or other person in the Civil jail, shall, subject to any Rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

Costs.

46. (1) In addition to any other power to make Rules conferred by this Act, the High Court may, from time to time, make Rules consistent with this Act—

Power of High Court to make Rules.

(a) as to the matters respecting which, and the time at which, report should be called for from subordinate Courts ;

(b) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted ;

(c) as to the procedure to be followed with respect to applications of guardians for permission to do acts referred to in Sections 23 and 24 ;

(d) as to the circumstances in which such requisitions as are mentioned in Clauses (a), (b), (c) and (d) of Section 29 should be made ;

(e) as to the preservation of statements and accounts delivered and exhibited by guardians ;

(f) as to the inspection of those statements and accounts by persons interested ;

(g) as to the custody of money, and securities for money, belonging to wards ;

(h) as to the securities on which money belonging to wards may be invested ;

(i) as to the education of wards for whom guardians have been appointed or declared by the Court ; and

(j) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules passed by the High Court under this Act shall not have effect until they have been approved of by Us and published in the Official Gazette.

ACT III OF 1077.

THE LEPERS ACT.

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ACT III OF 1077.

An Act to provide for the Segregation, and Medical treatment of Pauper Lepers and the Control of Lepers following certain callings.

Passed by His Highness the Maha Raja of Travancore on the 12th June 1902 corresponding with the 30th Edavom 1077, under Section 13 of Act V of 1073.

Whereas it is expedient to provide for the segregation and medical treatment of Pauper Lepers and the control of Lepers following certain callings; It is hereby enacted as follows :—

Year.	No.	Short title.	Effect of subsequent legislation.
1077	III	Lepers Act	Amended by Acts III of 1089 and IV of 1097.

Act III of 1077. Objects and Reasons.—"The attention of Government has been drawn to the necessity, in the interests of public health and convenience, of a legislative enactment for compulsorily segregating certain classes of Lepers and preventing them from following certain callings connected with the bodily requirements of human beings. Government maintain a well-equipped asylum where the unfortunates suffering from the disease are housed, fed and treated; but it is entirely left to the choice of the patients to go to the asylum or be at large. Curiously enough, many Pauper Lepers prefer to roam about begging for charity and publicly exhibiting, in view to excite pity,

their unfortunate condition. This is a source of great annoyance to the people, especially in populous towns.

Instances are also not wanting of person in whom the disease has assumed a serious form being engaged in selling food and other articles intended for human consumption. This too is a source of annoyance, if not of danger, to the public. With a view to protect the public from the sources of inconvenience and danger indicated above, the British Indian Legislature has passed Act III of 1898, and the present Bill is a close adaptation of that Act.

The Bill is intended to apply only to populous urban areas. It would only affect persons in

1. (1) This Act may be called "The Lepers Act."

(2) It extends to the whole of Travancore; but it shall not come into force in any part thereof until Our Dewan, with Our Title, extent and commencement. sanction, has, by Notification in the Gazette, declared it applicable thereto.

(3) [Omitted by Section 1 of Act, IV of 1097.]

whom the disease has assumed a serious form—that is, persons in whom the process of ulceration has commenced. It deals only with Pauper Lepers so far as compulsory segregation is concerned. In regard to the rest, it merely imposes certain restrictions which could by no means be regarded as a hardship."—S. O. & R., T. G. G. dated 16-7-1901.

For Report of the Select Committee see T. G. G. dated 24-12-1901.

For legislative proceedings see T. G. G. dated 18-6-1901; 10-9-1901; 10-12-1901; 18-3-1902 and 3-6-1902.

The Act was published in T. G. G. dated 17-6-1902.

Act III of 1089. *Objects and Reasons.*—"Under Sec. 6 of Regulation III of 1077, a Police-Officer not below the rank of an Inspector is empowered to arrest a Pauper Leper without a warrant. The Police Department has since been reorganised and Sub-Inspectors have been appointed. It is desirable that they should have the power to arrest Pauper Lepers without warrant.—S. O. & R., T. G. G. dated 13-5-1913.

For legislative proceedings see T. G. G. dated 17-6-1913 and 30-9-1913.

The Act was published in T. G. G. dated 28-10-1913.

Act IV of 1097. *Objects and Reasons.*—"The Municipal Council, Trivandrum, has brought to the notice of Government the desirability of amending Clause (1) of Section 2 of the Regulation, as leprosy is contagious in all its forms and not merely in the ulcerous stage. The Government are satisfied that it is so. It is therefore considered necessary to amend the Section. In order that the Regulation may be more satisfactorily worked, it is considered necessary to invest other persons also with the powers of a Police-Officer under the Regulation."—

S. O. & R., T. G. G. dated 5-4-1921.

For legislative proceedings see T. G. G. dated 12-7-1921; 6-9-1921 and 20-12-1921.

The Act was published in T. G. G. dated 20-12-1921.

Sec. 1. Sub-sec. (3) of this Sec. was omitted by Sec. 1, Act IV of 1097. It ran as follows:—"Our Dewan may, with Our sanction, by Notification in the Gazette, amend or cancel any Notification issued under Sub-section (2) of this Section." The British Indian Act has a Sub-section similar to Sub-sec. (3).

SEC. 2.

THE LEPERS ACT.

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

Definitions. (1) "Leper" means any person suffering from any variety of leprosy [* *] ;

(2) "Pauper Leper" means a Leper—

(a) who publicly solicits alms or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms, or

(b) who is at large without any ostensible means of subsistence ;

(3) "Leper Asylum" means a Leper Asylum appointed under Section 3 ; and

(4) "Board" means a Board appointed under Section 5.

3. [Our Government may, by Notification in Our Government Gazette, appoint any place to be a Leper Asylum if they are satisfied that adequate arrangements have been made or will be made for the accommodation and medical treatment of Lepers therein, and may, by a like Notification, specify the local areas from which Lepers may be sent to such Asylum.]

Sec. 2. The definition of 'leper' had at the end the words "in whom the process of ulceration has commenced." These were omitted by Sec. 2, Act IV of 1097 thus bringing it into line with the corresponding definition in the British Indian Act as amended by Act XXII of 1920.

Sec. 3. The present Section was substituted by Section 3 of Act IV of 1097. As originally enacted the Section ran as follows :—

"Our Dewan may, by Notification in the Gazette, appoint any place to be a Leper Asylum for the purposes of this Regulation and specify the local areas from which Lepers may be sent to such Asylum, and may, in like manner, alter or cancel any such Notification."

The present Section corresponds to Section 3 of the British Indian Act as amended by Act XXII of 1920.

4. Subject to any Rules which may be made under Section 17, Our Dewan may, with Our sanction, appoint any Medical Officer of Our Government or other qualified Medical man to be an Inspector of Lepers and any person to be a Superintendent of a Leper Asylum, with such establishment as may, in his opinion, be necessary, and every Inspector or Superintendent so appointed shall be deemed to be a public servant.

5. Our Dewan may, with Our sanction, constitute for any Leper Asylum appointed under Section 3 a Board consisting of not less than three Members, one of whom at least shall be a Medical Officer of Government not below the rank of [an Assistant Surgeon.]

6. (1) Within any local area which has been specified under Section 3, any Police-Officer not below the rank of [a Sub-Inspector] [or any other person specially empowered by Our Government by order in writing in this behalf] may arrest without a warrant any person who appears to him to be a Pauper Leper.

(2) Such Police-Officer [or other person so empowered] shall forthwith take or send the person so arrested to the nearest convenient Police-station, unless he

Sec. 5. The bracketed words were substituted for the words "an apothecary" by Sec. 4 of Act IV of 1097. Sec. 5 of the British Indian Act has at the end the words "a medical officer of the Government" without any restrictive words.

Sec. 6. In Sub-sec. (1), the words "a Sub-Inspector" were substituted for the words "an Inspector" by Act III of 1089. The words occurring in the second pair of brackets in the Sub-sec. were inserted by Sec. 5, Act IV of 1097. The bracketed words in Sub-sec. (2) were inserted by Sec. 5, Act

IV of 1097. The corresponding Sec. 6 of the British Indian Act reads thus:—"6 (1) *Arrest of Pauper Lepers.* Within any local area which has been specified under Sec. 3. any Police-Officer or any other person specially empowered by the Provincial Government by order in writing in this behalf may arrest without a warrant any person who appears to him to be a pauper leper.

(2) Such Police-Officer or other person shall forthwith take or send the person so arrested to the nearest convenient Police-Station."

SEC. 7.

THE LEPERS ACT.

gives bail for his appearance before an Inspector of Lepers within forty-eight hours. When bail is taken, such Police-Officer [or other person so empowered] shall send immediate intimation of the fact to the Inspector of Lepers.

7. (1) Every person brought to a Police-station under the last foregoing Section shall, without unnecessary delay, be taken before an Inspector of Lepers.

Person arrested how to be dealt with.

(2) If the Inspector of Lepers finds that any person produced or appearing before him under the last preceding Section is not a Leper within the meaning of Section 2, he shall give him a certificate in Form A set forth in the Schedule, whereupon such person shall be forthwith released from arrest.

(3) If he finds that such person is a Leper within the meaning of Section 2, he shall give to the Police-Officer, in whose custody the Leper is, and in the case of a person appearing under a bail, to any Police-Officer, a certificate in Form B set forth in the Schedule, whereupon the Leper shall, without unnecessary delay, be taken before a Magistrate having jurisdiction under this Act.

8. (1) If it appears to any Magistrate of the First Class or any other Magistrate authorised in this behalf by a Notification in the Official Gazette, upon the certificate in Form B set forth in the Schedule, that any person is a Leper, and if it further appears to the Magistrate that the person is a Pauper Leper, he may, after recording the evidence on the above mentioned points, and his order thereon, send the Pauper Leper in charge of a Police-Officer, together with an order in Form C set forth in the Schedule, to a

Procedure with regard to Pauper Lepers.

Sec. 7. In Sub-sec. (3), the words "and in the case of a person appearing under a bail, to any Police-Officer" do not occur in the corresponding Sec. 7 (b) of the British Indian Act.

Sec. 8. In Sec. 8 of the Bri-

tish Indian Act after the words "by order of the Board or" in para 1, the words "the District Magistrate" occur.

Sec. 392 of the repealed Criminal Procedure Code, Act V of 1067 corresponds to Sec. 424 of Act VIII of 1117.

Leper Asylum, where such Leper shall be detained until discharged by order of the Board or, where no Board has been constituted, of the Darbar Physician :

Provided that, if the person denies the allegation of leprosy, the Magistrate shall call and examine the Inspector of Lepers, and shall take such further evidence as may be necessary to support or to rebut the allegation that the person is a Leper, and may for this purpose adjourn the enquiry from time to time, remanding the person for observation or for other reason to such place as may be convenient, or admitting him to bail :

Provided also that, if any friend or relative of any person found to be a Pauper Leper shall undertake in writing to the satisfaction of the Magistrate that such Pauper Leper shall be properly taken care of and shall be prevented from publicly begging in any area specified under Section 3, the Magistrate, instead of sending the Leper to an Asylum, may make the Leper over to the care of such friend or relative, requiring him, if he thinks fit, to enter into a bond with one or more sureties, to which the provisions of Section 392 of the Code of Criminal Procedure shall be applicable.

(2) If the Magistrate finds that such person is not a Leper, or that, if a Leper, he is not a Pauper Leper, he shall forthwith discharge him.

9. (1) The Dewan, with Our sanction, may, by Notification in the official Gazette, order that no Leper shall within any area specified under Section 3,—

Power to prohibit Lepers from following certain trades and doing certain acts.

(a) personally prepare for sale or sell any article of food or drink or any drugs or clothing intended for human use ;

(b) bathe, wash clothes in or take water from any public well or tank specified therein ; or

Sec. 9. In Clause (c) of the corresponding Sec. 9 of the British Indian Act, the word "public-carriage" occur for the words "public convey-

ance" found in the present Clause. Clauses (e) and (f) were added by Sec. 6, Act IV of 1097 and they are not found in the Indian Act.

(c) drive, conduct or ride in any public conveyance plying for hire other than a railway carriage ; or

(d) exercise any trade or calling which may by such Notification be prohibited to lepers ;

[(e) or shall use for sleeping or temporarily or permanently living in, any shop or bazaar or a public building or public road or any part thereof;

(f) or follow or be engaged in the occupation of dhoby or washerman or ironer of cloths for the public.]

(2) Any such Notification may comprise all or any of the above prohibitions.

(3) Whoever disobeys any order made pursuant to the powers conferred by this Section shall be punishable with fine which may extend to twenty rupees :

Provided that, when any person is accused of an offence under this Section, the Magistrate before whom he is accused shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate, in Form B set forth in the Schedule, in respect of such person.

10. (1) Whenever any Leper who has been convicted of an offence punishable under the last foregoing Section is again convicted of any offence punishable under that Section, the Magistrate may, in addition to, or in lieu of, any punishment to which such Leper may be liable, require him to enter into a bond, with one or more sureties, binding him to depart forthwith from the local area specified under Section 3 in which he is, and not to enter that or any other local area so specified until an Inspector of Lepers shall have given him a certificate in Form A set forth in the Schedule.

(2) If any such Leper fails to furnish any security required under Sub-Section (1), the Magistrate may send him in charge of a Police-Officer, with an order in Form D set forth in the Schedule, to a Leper Asylum where

Sec. 10. In the corresponding order of the Board or" in paragraph Sec. 10 of the British Indian Act after the words "by Magistrate" occur. 2, the words "the District

such Leper shall be detained until discharged by order of the Board or, where no Board has been constituted, of the Darbar Physician.

(3) The powers conferred by this Section shall only be exercised by a Magistrate of the First Class.

11. Any person who, within any area specified under Section 3, knowingly employs a Leper in any trade or calling prohibited by order under Section 9, shall be punishable with fine which may extend to fifty rupees :

Penalty on person employing Lepers in prohibited trade. Provided that the alleged Leper shall be produced before the Magistrate and the Magistrate shall cause him to be examined by an Inspector of Lepers, and shall not proceed with the case unless such Inspector furnishes a certificate in Form B set forth in the Schedule in respect of such alleged Leper.

12. Orders passed by Magistrates under Sections 9, 10 and 11 shall be appealable to the Courts to which appeals ordinarily lie under the Code of Criminal Procedure.

Appeals from orders of Magistrates. 13. Whoever, having been sent to a Leper Asylum under an order of a Magistrate in Form C or Form D set forth in the Schedule, escapes from, or leaves, the Asylum without the permission in writing of the Superintendent thereof, may be arrested [without a warrant by any Police-Officer or by any other person specially empowered by Our Government by order in writing in this behalf], and upon arrest shall be forthwith taken back to the Leper Asylum.

Re-arrest of escaped Lepers. 14. The Board or, where no Board has been constituted, the Darbar Physician shall, once at least in every three months, inspect every Leper Asylum, and see and examine (a) every Leper therein admitted since the last inspection, together with the order for his admission, and (b), as far as

Inspection by Board or Darbar Physician. Sec. 13. The bracketed words were substituted for the words "by any Police-Officer without a warrant" by Sec. 7 of Act IV of 1977 thus bringing it into line with Sec. 12 of the British Indian Act as amended by Act XXII of 1920.

circumstances will permit, every other Leper therein, and shall enter in a book to be kept for the purpose any remarks which may be deemed proper in regard to the management and condition of the Asylum and the Lepers therein.

15. (1) The Board or, where no Board has been constituted, the Darbar Physician may, at any time, by an order in writing in Form E set forth in the Schedule and duly signed, direct the discharge from the Leper Asylum of any Leper detained therein under the provisions of this Act.

Order of discharge by Board or Darbar Physician.

(2) If any friend or relative of a Pauper Leper detained in the Asylum comes forward and undertakes in writing that such Leper shall be properly taken care of, the Board or the Darbar Physician, as the case may be, or the District Magistrate, shall discharge him, if satisfied of the ability of such friend or relative to exercise proper control over him :

Provided that a release under Sub-section (2) of this Section shall not be a bar to the re-arrest and detention of the Leper in the Asylum, if it is found that the friend or relative has not taken proper care of him.

16. Any person, in respect of whom an Inspector of Lepers has issued a certificate in Form B set forth in the Schedule, declaring him to be a Leper, or has refused to issue a certificate in Form A set forth in the Schedule, may appeal against the issue or refusal of any such certificate to such Officer as may be appointed by the Dewan in this behalf, and the decision of such Officer shall be final.

17. The Dewan, with Our sanction, may, by Notification in the Official Gazette, make Rules generally for carrying out the purposes of this Act and in particular—

Power to make Rules.

(a) for the guidance of all or any of the Officers discharging any duty under this Act ; and

Sec. 15. The British Indian Act does not contain Sub-sec. (2) and the proviso.

Sec. 16. In the correspond-

ing Sec. 15 of the British Indian Act, the words "other than a Pauper Leper" occur after the words "Any person."

(b) for the management of, and the maintenance of discipline in, a Leper Asylum.

18. No suit, prosecution or other legal proceeding shall lie against any Officer or person in respect of anything in good faith done or intended to be done under, or in pursuance of, the provisions of this Act.

Protection to persons acting *bona fide* under the Act.

SCHEDULE.

A—CERTIFICATE.

(Section 7.)

I, the undersigned (*here enter name and official designation*), hereby certify that I on theday of.....at.....personally examined (*here enter name of person examined*) and that the said.....is not a Leper as defined by the Lepers Act.

Given under my hand this.....day of.....11...

(Signature)

Inspector of Lepers.

B—CERTIFICATE.

(Section 7.)

I, the undersigned (*here enter name and official designation*), hereby certify that I on theday of.....at.....personally examined (*here enter name of Leper*), and that the said is a Leper as defined by the Lepers Act and that I have formed this opinion on the following grounds, namely,—

(*Here state the grounds.*)

Given under my hand... ..day of.....11...

(Signature.)

Inspector of Lepers.

C—WARRANT OF DETENTION.

(Section 8.)

To

The Superintendent of the Leper Asylum at.....

Whereas it has been made to appear to me that (*name and description*) is a Pauper Leper as defined in the Lepers Act ;

This is to authorise you, the said Superintendent, to receive the said.....into your custody together with this order and him her safely to keep in the said Asylum until he she shall be discharged by order of the Board or, where no Board has been constituted, of the Darbar Physician.

Given under my hand and the seal of the Court this day of..... 11.....

Seal

(Signature.)

Magistrate.

D—WARRANT OF DETENTION.

(Section 10.)

To

The Superintendent of the Leper Asylum at.....

Whereas (*name and description*) has this day been convicted by me of an offence punishable under Section 9 of the Lepers Act and whereas it has been proved before me that the said (*name and description*) was previously convicted of an offence punishable under the same Section :

This is to authorise you, the said Superintendent, to receive the said.....into your custody together with this order and him her safely to keep in the said Asylum until he she shall be discharged by order of the Board or, where no Board has been constituted, of the Darbar Physician.

Given under my hand and the seal of the Court this..... day of... 11...

Seal

(Signature)

Magistrate.

E—ORDER OF DISCHARGE BY THE BOARD OR
THE DARBAR PHYSICIAN.

(Section 15.)

To

The Superintendent of the Leper Asylum at.....

Whereas (*name and description*) was committed to your custody under an order, dated the.....day of.....11.....and there have appeared to ^{us}/_{me} sufficient grounds for the opinion that ^{he}/_{she} can be released without hazard or inconvenience to the community:

This is to authorise and require you forthwith to discharge the said (*name*) from your custody.

Given under ^{our}/_{my} hand this.....day of.....11.....

(Signature)

Members of the Board

or

Darbar Physician.

ACT II OF 1079.

PRESS ACT.

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ACT II OF 1079.

An Act for the better regulation of Printing-presses and Newspapers and the Registration of books.

Passed by His Highness the Maha Raja of Travancore on the 13th December 1903 corresponding with the 28th Vrischikom 1079, under Section 13 of Act V of 1073.

Whereas it is necessary to provide for the proper regulation of printing-presses and periodicals containing news, and for the registration and preservation of copies of books printed in Travancore ; We are pleased to enact as follows :—

Year.	No.	Short title.	Effect of subsequent legislation.
1079	II	Press Act.	Amended by Act I of 1093.

Act II of 1079. *Objects and Reasons.* " For protecting the rights of persons who devote their intelligence and time to the production of literary works, original as well as translation, there is at present in force only a small enactment, namely, Regulation II of 1039, and copyright is thereby created and safeguarded. But there is no provision for the preservation of such works in an authorised place, or for their proper registration. There is, moreover, no law by which the responsibility of publishing literary works can be fixed and controlled, but in its absence, there is an executive order of the Government laying down the terms and procedure according to which permission can be granted for establishing presses or for editing newspapers. This

executive order has been evaded. To place matters on a better footing, it has been found necessary to enact a press law, and this Bill is therefore introduced into the Council.

"Act XXV of 1867, with its subsequent amendments, has been taken as the chief guide in drafting this Bill. The necessity of obtaining Government sanction for establishing printing-presses and for printing and publishing newspapers, etc., does not require to be explained. It has been recognised in all civilised countries, and what is now attempted is simply to follow the lead of such countries. Nor can any hardship be complained of, as no restrictions whatever are placed on the granting of Government sanction except that of making certain declarations. Section 3

makes it compulsory on the part of such persons as keep presses to declare that fact as also the places where they carry on the work of printing or publishing books or periodicals, and by Section 4, every book or periodical issued from a press has to bear on it, in printing, evidence of the above facts, and thus the principal particulars connected with every printed literary work can be easily known to the public.

"Both in Act XXV of 1867 and in other cognate enactments, it has been found necessary to deal with publications which have not only been printed, but have also been lithographed, engraved or photographed; from want, however, of a comprehensive term, there has been redundancy of phraseology in those enactments. This was overcome in Act IX of 1878 by giving a definition of the term "printing", and making it include those arts also. That definition has been adopted in Clause (a) of Section 2 of the Bill. Similarly, from want of a concise definition of the term "newspaper," the idea conveyed by that term has been put down in such phrases as "periodicals containing news" or "periodical works containing public news or comments on public news," but to avoid such prolixity of expression, "newspaper" has been defined in Section 2 of Act IX of 1878; but, as the whole of the definition is not necessary for the purposes of the Bill, only the first few words have been taken and put down as Clause (c) of Section 2.

"Without repealing Regulation II of 1039, its provisions as regards registration

of books have been adopted in Section 15 of the Bill, and by the provisions laid down in Parts III and IV of the Bill, a systematic procedure has been laid down for such registration and what is of equal importance, for the preservation in a central place of copies of all books published in the country.

"Except Sections 9 and 21, there will be found nothing of note in the Bill which might be said to affect newspapers. Those two Sections have no place in Act XXV of 1867, but have been taken from the British Postal law (Act VI of 1898). To prevent the importation into India of mischievous and objectionable publications issuing from various parts of the world, and to prevent their circulation in the country, whether they issue from outside or inside British India, ample powers are given to the Executive Government by the British Sea Customs and Postal laws. At our Customs Houses also, this prohibition against importing objectionable publications is strictly carried out, and by the enactment of Regulation IV of 1076 on the 30th Mithunam last, all offences against the British Indian Postal Acts have been rendered punishable by the Courts of this State. This, however, is only a partial remedy, for, what may be prevented in a British Post Office in Travancore, might still be allowed to take place through the medium of the State Anchal. Moreover the circulation of objectionable publications issuing from the country itself has also to be prevented, and to meet all these ends, Sections 20 and 61 of

PART I.

PRELIMINARY.

1. This Act shall be known as "The Travancore Press Act of 1079," and shall come into force immediately on passing thereof, and shall extend to the whole of Travancore.

2. In this Act, unless there be something repugnant to the subject or context,—
Interpretation-
Clause.

(a) "Print", "Printed" and "Printer" apply not only to printing, but also to lithography, engraving and photography :
"Print" "Printed" and "Printer".

(b) "Book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart or plan separately printed: and
"Book".

(c) "Newspaper" means any periodical work containing public news, or comments on public news, printed in any language.
"Newspaper".

Act VI of 1898 have been introduced into this Bill with some alterations, as Sections 9 and 21.—S. O. & R., T. G. G. dated 3-9-1901.

For Report of the Select Committee see T. G. G. dated 7-10-1902.

For legislative proceedings see T. G. G. dated 18-6-1901; 10-9-1901; 10-12-1901; 23-9-1902; 3-3-1903 and 8-12-1903.

The Act was published in T. G. G. dated 15-12-1903.

Act I of 1093. *Objects and Reasons.* "Sec. 12 enacts that a copy of every book printed

shall be delivered by the printer to such officer as the Dewan may direct. It is thought desirable to extend the provision to newspapers as well."—S. O. & R., T. G. G. dated 6-2-1917.

For legislative proceedings see T. G. G. dated 4-3-1917 and 16-10-1917.

The Act was published in T. G. G. dated 6-11-1917.

Sec. 2. The definitions in Clauses (a) and (c) were taken from the British Indian Act IX of 1878 (Native Press).

PART II.

PRINTING-PRESSES AND NEWSPAPERS.

3. No person shall keep in his possession any press for the printing of books or newspapers, who shall not have made and subscribed, in triplicate, the following declaration before the Magistrate of the District within whose local jurisdiction such press may be kept, namely,—

“I, A. B., declare that I have a press for printing books (or newspapers, or both, as the case may be) at....”

And the last blank shall be filled up with a true and precise description of the place where such press may be situate.

4. No printing-press in Travancore shall issue any book or newspaper unless it has printed legibly on it the name of the printer, of the press and the place of printing, and if the book or paper be published, the name of the publisher and the place of publication.

5. As often as the place of printing is changed, the person who keeps the press shall make and subscribe, in triplicate, fresh declarations to the following effect, namely,—

Keeper of printing-press to make fresh declarations when place of printing is changed.

“I, A. B., printer, declare that the press I had at... has been removed to.....”

And the last blank shall be filled up with a true and precise description of the place where such press may be situate.

Sec. 3. Under the corresponding Sec. 4 of the British Indian Act the declaration may be made “before the Magistrate within whose local jurisdiction such press may be”, the form

of the declaration is “I, A. B., declare that I have a press for printing at—”. and provides only for declarations in duplicate.

6. No newspaper printed in Travancore shall be published, except in conformity with the provisions of this Act.

Newspapers to be published in conformity with Act.

7. The printer and publisher of every newspaper referred to in Section 6 shall appear before the Magistrate of the District within whose local jurisdiction it shall be published, and shall make and subscribe, in triplicate the following declaration :—

Printer and publisher to make declaration before District Magistrate.

“I, A. B., declare that I am the printer (or publisher, or printer and publisher) of the newspaper entitled..... and printed (or published, or printed and published, as the case may be) at.....”

And the last blank shall be filled up with a true and precise description of the place where such press may be situate.

8. As often as (i) the place of printing or publication of a newspaper is changed or, (ii) the printer or publisher leaves the country or ceases to be such, new declarations shall become necessary, and they shall be made and subscribed according to the Forms hereinunder subjoined :—

Printer or publisher to make new declarations in certain cases.

(a) “I, A. B., printer or publisher, declare that the press I had established at.....for printing and publishing the newspaper.....has been removed to.....”

(b) “I, A. B., declare that I am leaving the country for ... years and that C. D. has undertaken the printing (or publication, or printing and publication) of the newspaper entitled.....”

(c) “I, A. B., declare that I have ceased to be printer (or publisher or printer and publisher) of the newspaper entitled.....”

(d) “I, C. D., declare that I have become the printer (or publisher, or printer and publisher) of the newspaper entitled during the temporary absence of or in permanent succession to A. B.”

9. No person shall send by Anchal any book or newspaper wherever printed and published, which contains, or which has on its cover, any words, marks or designs of an indecent, obscene, seditious, scurrilous, threatening or grossly offensive character. Any book or newspaper sent in contravention of the above prohibition may, under the authority of Our Dewan, be detained and disposed of as he thinks proper.

10. The originals of the declarations made and subscribed under Sections 3, 5, 7 and 8, shall be authenticated by the signature and official seal of the Magistrate before whom they shall have been made.

One of the said originals shall be deposited among the records of the office of the Magistrate before whom they were made, another among the records of the District Court within whose original jurisdiction they may have been made, and the third among the records of the Dewan's office, and, with regard to the declarations under Sections 5 and 8, they shall be filed with the former declarations which they relate to or supersede.

11. The Officer in charge of each original shall allow any person to inspect it on payment of a fee of one rupee, and shall give to any person applying, a copy of the said declaration, attested with his signature and official

Inspection and supply of copies.

Sec. 9. This Sec. is taken from Secs. 20 and 28 of the Indian Post Offices Act VI of 1898.

Sec. 11. The second sentence corresponds to Sec. 7 of the British Indian Act which runs as follows :

"In any legal proceeding whatever, as well civil as criminal, the production of a copy of such declaration as is aforesaid, attested by the seal of some Court empowered by

this Act to have the custody of such declarations, shall be held (unless the contrary be proved) to be sufficient evidence, as against the person whose name shall be subscribed to such declaration, that the said person was printer or publisher, or printer and publisher (according as the words of the said declaration may be) of every portion of every periodical work whereof the title shall correspond with the title of the periodical work mentioned in the declaration".

seal, on payment of a fee of two rupees. Such copies shall be held, unless the contrary be proved, to be sufficient evidence of a person being, or having ceased to be, the possessor of a press, or the printer or publisher, or printer and publisher of a book or newspaper.

PART III.

DELIVERY OF BOOKS [AND NEWSPAPERS.]

12. A printed copy of the whole of every book which shall be printed in Travancore after this Act shall come into force, together with all maps, prints or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same, shall, notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered by the printer at such place and to such officer as the Dewan shall, by Notification in the Official Gazette, from time to time, direct, free of expense, within one calendar month after the day on which any such book shall first be delivered out of the press, the copy so delivered being bound, sewed or stitched together and upon the best paper on which any copy of the book shall be printed.

Copies of books printed after commencement of Act to be delivered *gratis*.

The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints and engravings finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Nothing in the first part of the Section shall apply to any second or subsequent edition of a book in which no additions or alterations either in the letter-press or in the maps, prints or engravings belonging to the book have been made, and a copy of the first or some preceding edition of which book has been delivered under the Act.

Part III. Heading. The words within brackets were inserted by Sec. 1, Act I of 1093.

[12-A. The printer of every newspaper in Travancore shall deliver, at such place and to such Officer, as the Dewan may, by Notification in the Official Gazette, direct, free of expense, two copies of each issue of such paper as soon as it is published.]

13. The Officer to whom a copy of a book is [or copies of newspapers are] delivered under Receipt for copies delivered under Sec. 12 or 12-A. [Section 12 or Section 12-A] shall give to the printer a receipt in writing therefor.

PART IV.

REGISTRATION OF BOOKS.

14. There shall be kept at such office, and by such Officer as the Dewan, with Our sanction Registration of memoranda of books, previously obtained, shall appoint in this behalf, a book to be called the Catalogue of Books printed in Travancore, wherein shall be registered a memorandum of every book which shall have been delivered pursuant to the first paragraph of Section 12 of this Act. Such memorandum shall (so far as may be practicable) contain the following particulars, that is to say:—

- (1) the title of the book and the contents of the title-page, with a translation into English of such title and contents, when the same are not in the English language;
- (2) the language in which the book is written;
- (3) the name of the author, translator or editor of the book or any part thereof;
- (4) the subject;
- (5) the place of printing and the place of publication;
- (6) the name or firm of the printer and the name or firm of the publisher;

Sec. 12-A. This was inserted by Sec. 2, Act I of 1093.

Sec. 13. The words bracketed in the first place were inserted

and the words bracketed next were substituted for the words "the last foregoing Section". by Sec. 3, Act I of 1093.

- (7) the date of issue from the press or of the publication ;
- (8) the number of sheets, leaves or pages ;
- (9) the size ;
- (10) the first, second or other number of the edition ;
- (11) the number of copies of which the edition consists ;
- (12) whether the book is printed or lithographed ;
- (13) the price at which the book is sold to the public ; and
- (14) the name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copy thereof pursuant to the first paragraph of Section 12.

15. The memoranda registered during each quarter in the said Catalogue shall be published in the Official Gazette as soon as may be after the end of such quarter.
- Publication of memoranda registered.

PART V.

PENALTIES.

16. Whoever shall keep in his possession any press, without making a declaration as is required by Section 3, 5 or 7 of this Act, shall, on conviction before a Magistrate of the First Class, be punished with fine not exceeding one thousand rupees, or with simple imprisonment for a term not exceeding two years, or with both.
- Penalty for keeping press without making declaration required by Section 3, 5 or 7.
17. Whoever shall print or publish any book or newspaper otherwise than in conformity with the Rule contained in Section 4 of this Act, shall, on conviction before a Magistrate of the First Class, be punished
- Penalty for printing contrary to Rule in Section 4.

with fine not exceeding one thousand rupees; or with simple imprisonment, for a term not exceeding two years, or with both.

18. Whoever shall print or publish any newspaper without conforming to the Rules laid down in Sections 7 and 8 of this Act, or whoever shall print or publish, or shall cause to be printed or published, any such newspaper, knowing that the said Rules have not been observed with respect to that newspaper, shall, on conviction before a Magistrate of the First Class, be punished with fine not exceeding one thousand rupees, or with simple imprisonment, for a term not exceeding one year, or with both.

Penalty for printing or publishing newspapers without conforming to Rules.

19. Any person who shall, in making any declaration required by this Act, make a statement which is false and which he either knows or believes to be false, or does not believe to be true, shall, on conviction before a Magistrate of the First Class, be punished with fine not exceeding one thousand rupees and imprisonment, simple or rigorous as defined in the Penal Code, for a term not exceeding one year.

Punishment for making false statement.

20. Whoever, in contravention of Section 9 of this Act sends, or tenders, or makes over in order to be sent, by Anchal, any book or newspaper shall, on conviction before a Magistrate of the First Class, be punishable with fine not exceeding five hundred rupees, or simple imprisonment for a term not exceeding six months, or with both.

Penalty for contravention of Section 9.

21. If any printer of any such book as is referred to in Section 12 of this Act shall neglect to deliver copies of the same pursuant to that Section, he shall for every such default forfeit to Government such sum not exceeding fifty rupees as a Magistrate of the First Class having jurisdiction in the place where the book was printed may, on the application of

Penalty for not delivering books as required by Section 12.

Sec. 20. This corresponds to Sec. 61 of the Indian Post Offices Act VI of 1898.

the Officer to whom the copies should have been delivered or of any person authorised by that Officer in this behalf, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the said Magistrate of the First Class may determine to be the value of the copies which the printer ought to have delivered.

[21-A. If any printer of any such newspaper as is referred to in Section 12-A of this Act neglects to deliver copies of the same in compliance with that Section, he shall, on the complaint of the Officer to whom the copies should have been delivered or any person authorised by that Officer in this behalf, be punishable, on conviction by a Magistrate of the First Class having jurisdiction in the place where the newspaper was printed, with fine which may extend to fifty rupees for every default.]

22. If any publisher or other person employing any such printer shall neglect to supply him, in the manner prescribed in the second paragraph of Section 12 of this Act, with the maps, prints or engravings, which may be necessary to enable him to comply with the provisions of that Section, such publisher or other person shall, for every such default, forfeit to Government such sum not exceeding fifty rupees as such Magistrate of the First Class as aforesaid may, on such application as aforesaid, determine to be in the circumstances a reasonable penalty for the default, and, in addition to such sum, such further sum as the Magistrate of the First Class may determine to be the value of the maps, prints or engravings which such publisher or other person ought to have supplied.

PART VI.

MISCELLANEOUS.

23. All fines and penalties levied under the authority of this Act shall be recovered in the manner prescribed by the Code of Criminal Procedure, and within the period prescribed by the Penal Code.

Sec. 21-A. This section was added by Sec. 4 of Act I of 1093.

24. No prosecution for any offence under this Act shall be started except under the authority of Our Dewan.

25. All persons who, on the date this Act comes into force, keep a press used for the printing of books or newspapers, or, in the case of a Company keeping, on the said date, a press used for this purpose, the manager of the Company, and all printers and publishers of newspapers already in existence in Travancore, shall within three months from such date, make and subscribe declarations in the manner provided by Sections 3 and 7. Failure to do so will make them liable to the penalties laid down in Section 16.

26. The Dewan, with Our sanction previously obtained, shall have power to make such Rules as may be necessary or desirable for carrying out the objects of this Act and from time to time to repeal, alter and add to such Rules.

All such Rules, and all repeals and alterations thereof, and additions thereto, shall be published in the Official Gazette.

27. It shall be lawful for Us, by Notification in the Official Gazette, to exclude any class of books from the operation of the whole or any part or parts of this Act.

ACT III OF 1079.

HINDU RELIGIOUS ENDOWMENTS.

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HINDU RELIGIOUS ENDOWMENTS.

member of a community to which a religious institution belongs has the power to remove even an independent *hereditary trustee with the aid of the Civil Courts* (I. L. R. III Bom. P. 27; III, All. P. 633; and T. L. R. Vol. VIII, P. 63). Reason points to the conclusion that the Government which is *parens patriae* must possess higher powers than those of its subjects. We think that the Executive on being satisfied of the existence of strong grounds for its interference, may assume the management of public trusts without prejudice to the rights of the aggrieved parties to obtain redress for wrongs committed upon them, by an appeal to the judicial tribunals in due course of law. The best interests of public trusts require that the Government should possess this summary power. If it is obliged to remove by suit every defaulting trustee, the consequence would be very serious to the interests of religious institutions.

“Government is not anxious to increase its own already heavy responsibilities by adding to them the management of a large number of religious and charitable endowments in the State. The *better* management of the institution is the only object now aimed at. This object is made patent by Section 9 of the Bill, which lays down that Government ‘may withdraw their management of any institution so assumed and return the same to the original trustees or their heirs, if they are satisfied that such a mea-

sure will protect the interests of the institution.’ * A careful study has been made of the British Indian Acts VII of 1817, XX of 1863, as well as drafts of Sir W. Robinson's Committee Bill, the Madras Bill of 1887, Sir T. Muthuswamy Iyer's Committee Bill, the Hon'ble Kalyanasundaram Iyer's Bill, the Hon'ble P. Ananda Charlu's Bill and the Ceylon Ordinance No. 3 of 1889.

“The measure will, it is earnestly hoped, commend itself to the Hindu community in general, and will, if passed, not only mend the present unsatisfactory and distressing condition of a numerous class of valuable endowments, lying under the reproach, as testified to by the unanimous chorus of opinion of a large number of competent and disinterested witnesses, that mismanagement and malversation of temple and charitable funds are the rule, while the faithful and honest fulfilment of the benevolent intentions of original donors as a sacred duty is the exception, but will also promote in the minds of the rising generation a spirit of emulation for acts of pure beneficence, now nearly dead but so essential to the well-being of an indigent population like ours.” S O. & R., T. G. G. dated 22-5-1900.

In asking for leave to introduce the Bill the member in charge said :—“The State had no concern with the management of any temples before the year 987 M. E. when the landed properties of 378 temples were assumed by the State and the

ACT III OF 1079.

management taken over. 1,171 minor temples which had no property were also assumed either before or at that date. The expenditure, establishment and the routine of ceremonies, rules for management, all were settled for the 1,549 temples on this occasion by Col. Munro—the Dewan-Resident, on a permanent basis. But this number, 1,549, represents only a fraction of the temples of the State. According to the Census of 1875, there were returned 9,307 temples throughout the State. Deducting the number under Sirkar management (*viz.*, 1549) we get 7,758 temples beyond the pale of Government management. That is, 17 per cent of the total temple of the State are under Government management while 83 per cent are outside it. This number is exclusive of Kavoods and 'Thekkathoos' of Malayali houses whose number is legion. Lieutenants Ward and Connor gave 22,900 'religious temples and places of worship' independent of churches, musjeeds and synagogues. But in the statistical table appended to their report, one of the columns under which alone, 15,000 are returned, is 'temples and groves dedicated to minor divinities'. The groves and thekkathoos have been excluded in the Census, and hence the difference between the two results.

"The property owned by these 7,758 temples is also vast. According to the settlement of 1012 which comprised only a settlement of garden lands, these private Devaswoms owned 54,155 gardens, tax-free. The

temples within the boundaries of Adhigara Olivu and Desa Olivu tracts are excluded from this calculation. The assessed rental of these 54,155 gardens came to 79,496 Rupees. It can be safely estimated that the present assessment on them will come to 1½ lakhs of Rupees. Multiplying this sum by 24, we get the figure 37½ lakhs of Rupees—the capitalized value of those gardens. The paddy lands of the same may be estimated to be worth about 60 lakhs of Rupees—in all, the landed property of the Devaswoms whose welfare it will be the object of this Bill to promote, may be put down as worth one crore of Rupees. The movables of these temples may be valued at 1/3 of crore, excluding the buildings, almost all of which are in different stages of decay throughout the country. These are the properties known to the public accounts before 1012. Properties purchased since then in the name of those temples, or properties dedicated to them, or to other charities before that date if paying Sirkar tax, cannot be discovered from the Sirkar accounts. These also will swell the property of these institutions. It may not be far wrong if I estimate that the total value of the endowments meant to be dealt with is about 2 crores of Rupees. I trust this will give the Council an idea of the magnitude and importance of the question we are dealing with" *L. C. P. dated 2-12-1899.*

For Report of the Select Committee see *T. G. G. dated 3-6-1902.*

HINDU RELIGIOUS ENDOWMENTS.

For legislative proceedings see *T. G. G. dated 5-12-1899; 5-6-1900; 22-1-1901; 3-6-1902 23-9-1902; 3-3-1903; 16-6-1903 and 8-12-1903.*

The Act was published in *T. G. G. dated 15-12-1903.*

Act VI of 1088. Objects and Reasons. "It was found in the working of Section 4 of the Hindu Religious Endowments Regulation, III of 1079, that the provisions therein contained were defective inasmuch as they may be interpreted that provision is therein made for the imposition of fine for disobeying an order of the Dewan only, but not for disobedience of the order of the Officer deputed under paragraph 2 of the Section or for wilful and contumacious refusal to accept notices under the Section." *S. O. & R., T. G. G. dated 7-5-1912.*

For legislative proceedings see *T. G. G. dated 23-1-1912; 4-6-1912; 17-12-1912; and 17-6-1913.*

The Act was published in *T. G. G. dated 15-7-1913.*

Act III of 1092. Objects and Reasons:—"The general scope of the Regulation is to empower the Government to assume the management of mis-managed Devaswoms or to exercise superintendence over them. Religious Endowments already under the management of the Sirkar need not specifically be exempted as no power is vested by the Regulation in anybody to question in any way the management of such endowments. The expression

'already under the direct management of the Sirkar' is unnecessary and may therefore be deleted. Section 15 of the Regulation enacts that the rents and other dues of any endowment whose management is assumed by the Sirkar under the Regulation may be collected as arrears of public revenue. In the case of institutions whose management was assumed by the Sirkar before 1000 M. E. and whose rent is mixed up with the general revenue, the rents and other dues are recovered as arrears of public revenue while in the case of other un-incorporated Devaswoms as Pattazhi, Thuravoor and others, arrears of rents and other dues have to be collected through Civil Courts. This entails unnecessary expense and delay which have to be avoided as being prejudicial to the interest of the Devaswoms. It is therefore thought desirable to amend the Regulation so as to empower the Government to direct the collection of rents and other dues of the Endowments as arrears of public revenue."

S. O. & R., T. G. G. dated 15-2-1916.

For legislative proceedings see *T. G. G. dated 14-3-1916; 7-11-1916 and 3-4-1917.*

The Act was published in *T. G. G. dated 3-4-1917.*

Act IV of 1100. This Act empowered the Government to delegate the powers conferred upon the Dewan under Act III of 1079 on any person by name or by virtue of his office notified in this behalf in the Government Gazette.

2. It extends to the whole of Travancore.

Local extent.

3. In this Act, unless there be something repugnant

Interpretation- in the subject or context,
Clause.

The Act was published in
T. G. G. dated 28-7-1925.

Act III of 1110. This Act was passed direct by the Sovereign and was published in
T. G. G. dated 16-4-1935.

Act XVI of 1115. This Act was also passed direct by His Highness the Maha Raja and was published in *Gazette Extraordinary dated 28-12-1939.*

Act VIII of 1116. *Objects and Reasons.* The Hindu Religious Endowments Act of 1079 as amended by subsequent enactments, does not contain provisions comprehensive enough to meet all cases of mismanagement. Several instances of gross mismanagement of such trusts have been brought to the notice of Government, but the absence of appropriate statutory provisions has prevented Government from interfering in such cases. The aims and objects of the Act have thus been defeated in many cases. The power of superintendence conferred by clause (2) of Section 5 is in several cases found insufficient to check mismanagement. The procedure prescribed in Section 6 regarding enquiries and reports has also been found to be inadequate. Then again, the question has arisen as to what steps should be taken in the case of endowments whose purpose has from

the beginning been, or has subsequently become impossible of realisation, or where the machinery for effectuating the purpose has failed or ceased to exist. In such cases, it is found desirable that there should be statutory power for applying such funds to similar or equally beneficial purposes.

The provisions embodied in the present Bill are intended mainly to empower Government to adequately deal with the above mentioned matters. *S. O. & R., T. G. G. dated 28-5-1940.*

For Report of the Select Committee see *T. G. G. dated 24-12-1940.*

For legislative proceedings see *A. P. Vol. XV, Pp. 589-591; Vol. XVII, Pp. 76-79; C. P. Vol. XVII, Pp. 43-46.*

The Act was published in
T. G. G. dated 4-3-1941.

Sec. 3. The bracketed words in Clause (b), para 1, the bracketed words in the Proviso and the *Explanation* thereto were inserted by Sec. 2, Act VIII of 1116. This amending Sec. also omitted the words "or single person in virtue of hereditary succession" which occurred within brackets after the word 'family' in the Proviso. The words "already under the direct management of the Sirkar or" which occurred after the word 'institution' were omitted and

SEC. 3. HINDU RELIGIOUS ENDOWMENTS.

"Hindu Religious Endowments" shall mean and include :—

(a) every Hindu temple or shrine or other religious endowment dedicated to, or used as of right by, the Hindu community or any section thereof; and
"Hindu Religious Endowments."

(b) every other Hindu endowment or foundation, by whatever local designation known, and property endowments and offerings connected therewith, whether applied wholly to religious purposes or partly to religious and partly to charitable or other purposes, and every express or constructive trust by which property or money is vested in the hands of any person or persons [by virtue of hereditary succession or otherwise] for such purposes;

but shall not include any Hindu religious institution [* *] [belonging to it and] under the sole management of a single family [* *]; Provided that, where the management of a religious endowment has passed into the hands of several branches by division among the members of the original family, the endowment may nevertheless be considered as being in the management of a single family for the purpose of this Act.

[*Explanation.* The expression "hereditary succession" shall include succession to a 'Guru' by a disciple by nomination or otherwise.]

"Trustee" shall mean the person or persons in whom the administration of the affairs of a religious endowment is vested in trust or holding any property in trust therefor, by whatever designation such person or persons may be known.

the words " but shall not made to form a separate paragraph along with the Proviso the word "Provided" were by Sec. 1, Act III of 1092.

4. [It shall be competent to Our Dewan, by a notice,

Power of Dewan to call upon trustees of endowments to submit periodical accounts, lists of properties, etc., and power of Officer deputed to require them to furnish records or information or to assist in his examination of accounts, etc.

to call upon the trustees or managers of any endowment falling under the definition in Section 3, to submit periodically accounts of income and expenditure, of lists of properties, jewels, vessels, furniture, or other things belonging to the endowments under their charge, or depute any Officer to examine and verify the same.

It shall also be competent to the Officer so deputed to call upon the trustees and managers, by a notice, to furnish him with all the accounts or other records or information he may require for the purpose of examination and verification and also to assist him in the examination of accounts, and movable property.

The notice shall be served in the manner prescribed by the Code of Civil Procedure for the service of summons.

Where the Officer deputed under this Section finds that any movables are likely to be removed or misappropriated, he shall make an immediate report to the Dewan, taking such steps for their temporary safe custody as may be necessary. On receipt of such report, the Dewan may, after hearing the parties concerned, pass such orders as he may think proper.

Any trustee or manager who wilfully or contumaciously disobeys any order passed by the Dewan or any notice issued under this Section, shall be liable to a fine

. Sec. 4. This Sec. was substituted by Act VI of 1088, see objects and reasons *supra*. To the substituted Sec. the last para within brackets was added by S. c. 2, Act VIII of 1116. The Sec. as originally enacted ran as follows:—"It shall be competent .. . or depute any officer to examine the same.

The trustees and managers shall furnish the officer deputed

with all the information he may call for and shall also assist him in the examination of accounts and movable property.

Where the officer deputed... .. as he may think proper.

Any trustee or manager..... passed by the Dewan under this Section shall be liable to a fine .. . arrears of public revenue."

SEC. 5. HINDU RELIGIOUS ENDOWMENTS.

not exceeding rupees fifty for each act of disobedience and to dismissal if he is found guilty of three such acts of disobedience. The fines imposed under this Section may be recovered as arrears of public revenue.]

[The power to award punishments under this Section shall vest in Our Dewan.]

5. (1) The Sirkar may assume the management of Hindu religious endowments in the cases following :—

Cases where Sirkar may assume management or superintend the management of endowments.

(a) On the application and the request of a majority consisting of not less than two-thirds of the trustees, or of the donors in cases where the donors have reserved to themselves the power of appointing and dismissing trustees :

(b) On the refusal of the trustees to continue in the trusteeship or on their own admission of incapacity to continue in the trust-management :

(c) In cases where the Sirkar has the right to take part in the management by appointment of certain officers or servants according to existing usages, if the trustees have failed to carry on their duties properly and in the best interests of the institution : [*]

(d) In cases where the Sirkar has succeeded to the right of management, in part, by reason of escheat of trustees, if the remaining trustees have failed to carry on their duties properly and in the best interests of the institution : [and]

[(e) In case of proved mismanagement although the institutions do not fall under sub-clause (c) or sub-clause (d) of Clause (1) of this Section.]

Explanation to (a)—The word “donors” includes the legal representatives of the donors.

Sec. 5. In Sub-Section (1), the word “and” which occurred at the end of clause (c) was omitted, the word “and” was inserted at the end of Clause (d) and Clause (e) was inserted by Sec. 3 of Act VIII of 1116. In Sub-Sec. (2), the words “notwithstanding

Clause (1)” were substituted for the words “in cases of institutions not falling under Clause (1)” and the words “over any.....applies” were substituted for the words “over them” by Sec. 3, Act VIII of 1116,

(2) [Notwithstanding anything contained in Clause (1)], the Sirkar may exercise such superintendence in the management [over any institution to which this Act applies] as to best fulfil the objects of the trusts, if the trustees have failed to carry on their duties properly and in the best interests of the institution.

6. [(1)] Before assuming or exercising superintendence in the management of any Hindu religious endowment under the provisions of this Act, Our Dewan shall require [an Officer not inferior in rank to an Assistant Peishkar or a Devaswom Assistant Commissioner] to enquire into the affairs of such endowment and to submit a full report. If on such report and after hearing the parties interested or affected, Our Dewan be satisfied that a condition precedent as set forth in Section 5 exists, he may pass such order for assumption or superintendence as enabled by that Section. The order passed shall be notified in the Gazette. From the lapse of eight weeks from the date of such Notification, the Dewan may carry out the order in such manner as seems best in the circumstances of each case, and make arrangements for the proper management of the endowment, subject to the provisions of this Act: Provided that no order involving assumption by the Sirkar of the management of any institution under this Section shall be passed except with Our previous sanction.

[(2) Where an order is passed under Sub-section (1), Our Dewan may pass such other or further orders as he may deem necessary, incidental or conducive to the carrying out of the order including orders for the search or seizure of the keys, jewels, vessels, furniture, records and other properties movable or immovable belonging to the said institution, or for the transfer of their possession to such person or persons as Our Dewan may direct.

Sec. 6. In Sub-sec. (1), the words bracketed were substituted for the words "any Officer not inferior in rank to that

of a Dewan Peishkar" and Sub-secs. (2) and (3) were added by Sec. 4. Act VIII of 1116.

SEC. 7. HINDU RELIGIOUS ENDOWMENTS.

(3) If a trustee or servant of an institution or any other person knowing that an order under Sub-section (1) or Sub-section (2) has been passed, disobeys any direction contained in such order or otherwise fails to comply with the requirements of the said order within the period prescribed in such order, or if no such period is prescribed, within a reasonable time, Our Dewan may impose upon him a fine not exceeding Rs 50 for each day during which disobedience or default continues and he shall also be deemed to have committed an offence under Section 181 of the Travancore Penal Code :

Provided that Our Dewan may also in his discretion if sufficient cause or excuse is shown, cancel any order imposing fine which he has passed under this Section.]

7. Enquiries under Section 6 of this Act shall be conducted in the presence of the parties interested in such enquiry or their authorised agents, and the Officers holding such enquiry shall have the same powers as an Officer holding a formal Departmental enquiry under Act VI of 1073.

8. In cases where the Sirkar assumes the management, the institution shall be managed in the same manner as Sirkar institutions of the same class, subject to the provisions of any scheme, canons or usages, if any, established by the founder or founders.

9. Where the Sirkar exercises the power of superintendence over institutions referred to in Clause (2) of Section 5, it may, if satisfied that the removal or dismissal of a trustee or trustees is necessary in the best interests of the institution, remove such trustee or trustees, and, where such trusteeship is hereditary, shall appoint a competent adult male member of the family in which such trusteeship is hereditarily vested, and, in other cases, shall make the

appointment in consonance with the scheme of management, if any, existing in such institution or the usages of such institution :

Provided that, where no competent adult male member of the family is available, the
 Proviso. Dewan may, with Our sanction, appoint a proper person to be trustee.

10. For the effective superintendence of endowments referred to in Clause (2) of Section 5 of this Act, the Dewan may, with
 Administration of endowment by officers or committees. Our sanction, either appoint officers or a committee consisting of officials and non-officials.

11. The Dewan may, with Our sanction, from time to time, pass Rules regulating the constitution and the duties of committees, the qualifications of members and other such matters connected therewith.
 The Dewan to make Rules for the constitution and conduct of committees.

12. In cases where the trusteeship is conferred by election, the Dewan may, with Our
 The Dewan to make Rules for regulating election. sanction, pass Rules regulating such election.

13. The Dewan may, with Our Sanction, withdraw from the management or superintendence of any endowment assumed under this Act and restore the same to the original donors or trustees or their representatives, if he is satisfied that such a measure is desirable in the interests of the institution, subject to such conditions as he may deem fit to prescribe at the time of restoration.
 The Dewan may restore to donors or trustees endowments once assumed.

14. All expenses which may have to be incurred by the Sirkar in carrying out the provisions of this Act may be defrayed out of the funds of the institutions concerned according to Rules to be made, from time to time, by the Dewan, with Our sanction.
 Expenses how to be met.

SEC. 15. HINDU RELIGIOUS ENDOWMENTS.

15. The Dewan may, with Our sanction, direct that the rents and other dues of any [Hindu Religious Endowment] be collected as arrears of public revenue under the provisions of the Revenue Recovery Act (I of 1068):

The Dewan to direct the collection of rents, &c., of trusts.

Proviso. Provided—

(a) that in the case of endowments assumed by the Sirkar [whether before or] under this Act, the rent-roll is settled and the liability of each tenant is definitely recorded, after due enquiry, by an Officer appointed by the Sirkar, and

(b) that, in the case of other endowments, there are written agreements between the institutions and the tenants fixing the amount of rent and other dues, or the claim to the rent or other dues is admitted by the tenant or established by the decision of a competent Civil Court.

16. It shall be competent to Our Dewan to prescribe the necessary Forms for accounts, statements and returns to be submitted by trustees, officers or committees under this Act, and, with Our sanction, to frame Rules from time to time for the carrying out of the purposes of this Act, and they shall be published in the Government Gazette and shall have the force of law.

The Dewan to frame Rules for carrying out this Act.

17. No action for damages shall lie against the Sirkar or any of its Officers, or any of the members of the committee appointed under this Act, or against any person acting under, or in pursuance of, the authority conferred by this Act, for any act *bona fide* done or ordered to be done under this Act:

Members of committee, &c., not liable for damages.

Sec. 15. The words bracketed in the main para were substituted for the words "endowment falling within the provisions of this Regulation" and the bracketed words in Clause (a) of the proviso were inserted by Sec. 2, Act III of 1092.

TO TO

Provided that this Section shall not bar the institution by any person of any suit for the establishment or declaration of any right affected by any act or order done or passed under this Act.

18. All endowments falling under this Act shall be treated as corporation sole and shall sue and be sued in the name of the actual manager thereof, known as Samudayam, Manushyam, Adhigari or by any other name, whether or not such manager has the power of entering into contracts binding the endowment.

19. Nothing in this Act shall be taken as in any manner affecting the provisions of Section 511 of the Civil Procedure Code (Act II of 1065), or the right, if any, possessed or enjoyed by any person to share in the income of an endowment.

20. All unassigned lands belonging to any Deva-swom under the sole management of Our Government shall be deemed to be the property of Our Government under the Land Conservancy Act, of 1091 (IV of 1091), and all the provisions of that Act shall, so far as they are applicable, apply to such lands.]

21. (1) Our Dewan may, after holding an enquiry in such manner as he may deem fit, by order with Our previous sanction, declare that the purpose of a religious endowment has from the beginning been, or has subsequently become impossible of realisation or that the machinery for effectuating the original purposes of the endowment has failed or no longer exists, or that after satisfying adequately the purposes of the endowment and after setting apart a sufficient sum for the repair and renovation of the buildings

Sec. 20. This was added by Sec. 2, Act III of 1110.

Sec. 21. This was added by Sec. 5, Act VIII of 1116.

SEC. 21. HINDU RELIGIOUS ENDOWMENTS.

connected with the endowments there is a surplus which is not required for such purposes ; and may, by such order, direct that the amount of the endowment, or such surplus as is declared to be available, as the case may be, be appropriated to religious, educational or charitable purposes not inconsistent with the objects of such endowment :

Provided that in the case of an institution founded and maintained by a community, the amount of the endowment or the surplus shall, as far as possible, be utilised for the benefit of the community for the purposes mentioned above.

(2) It shall be competent for Our Dewan when giving a direction under sub-section (1) to determine what portion of such amount or surplus shall be retained as a reserve fund for the institution and to direct the remainder to be appropriated to the purposes specified in that Sub-section.

(3) Our Dewan may at any time by order and in the manner provided in Sub-section (1) modify or cancel an order passed under that Sub-section.

(4) All orders passed under this Section shall be published in Our Government Gazette.]

ACT IV OF 1079.

PREVENTION OF CRUELTY TO ANIMALS.

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ACT IV OF 1079.

An Act to provide for the Prevention of Cruelty
to Animals.

*Passed by His Highness the Maha Raja of Travancore
on the 3rd March 1904 corresponding with the
20th Kumbhom 1079, under Section
13 of Act V of 1073.*

Whereas it is expedient to make further provision for the prevention of cruelty to animals; It is hereby enacted as follows:—

Year.	No.	Short title.	Effect of subsequent legislation.
1079	IV	Prevention of Cruelty to animals.	Amended by Acts II of 1089, X of 1096, and XVII of 1117.

Act IV of 1079. Objects and Reasons. - "At present the only protection that dumb animals have is the power given to the Police under Sub-section (2) of Sec. 23 of the Police Regulation which empowers any Police-Officer to arrest without warrant any person who within view wantonly or cruelly abuses or tortures any animal. This is insufficient as acts of cruelty are often committed in view of the general public and there is no remedy unless the attention of a Police-Officer can be drawn to the fact on the spot. The people who are guilty of cruelty belong as a rule to the illiterate classes who often act in ignorance and thoughtlessness and can only be deterred by the pains and penalties of the law.

The object of this Regulation is to define clearly what constitutes wanton cruelty and abuse to animals and to extend to all the power to set in motion the machinery of the law for the prevention of such acts"—*S. O. & R., T. G. G. dated 30-9-1902.*

The member in charge in introducing the Bill said:—

"I will now say a few words about the main provisions of the Bill. You will observe, in the first place, that it is not proposed to put the Regulation in force all at once throughout the whole of Travancore, but only in specified areas as may be thought desirable. It can therefore be tried experimentally and gradually extended, should it be found to work successfully.

There are two kinds of cruelty contemplated by the Bill. First, that due to thoughtlessness. Cases of this description can be easily brought home under Sec. 3 to those who act without knowing what cruelty really consists in. The second class of cruelty consists in the owners of animals trying to derive the utmost profit from them without recognising a reciprocal obligation of kindness towards the dumb creatures. Sec. 6 of the Bill covers such cases.

" Clause 2 of Sec. 6 is very important. In that provision is made for the establishment of infirmaries for the treatment and cure of animals subjected to cruelty. This ensures that any animal which is pronounced to be cruelly suffering can receive treatment at the hands of a veterinary surgeon. I am aware that this provision is, in some cases, likely to be abused. I know a case in Madras where a driver used his animal cruelly and it was taken to the infirmary for treatment, and when called upon to pay a certain sum for the treatment, he pleaded his inability to pay it and the animal was put up in auction when a friend of the driver purchased it for a nominal price. But such drawbacks as these are more than counterbalanced by the guarantee that every animal produced before a Magistrate and found to be suffering will receive professional treatment. Here in Trivandrum, we have an institution ready at hand and in an excellent condition. I mean the Veterinary Hospital at

Chackay, which may very easily be declared an infirmary under the Regulation when it is passed.

" Section 7 is intended to prevent cruelty and also the dissemination of infectious diseases.

"Section 11 (Sec. 10) contains a saving clause in respect of religious rites and observances. I am not aware whether there is any sect or tribe in Trivandrum who consider it a merit to kill any animal for a religious purpose. But there may be such in other parts of the country and hence it is necessary to have the saving clause.

" * * It is time that something should be done for our dumb dependents, for, as our good Queen, the late Queen, Empress, once most forcibly remarked 'no civilisation is complete unless it includes the dumb and defenceless of God's creatures within the sphere of charity and mercy.'—

L. C. P., dated 25-11-1902.

For Report of the Select Committee see *T. G. G. dated 10-3-1903.*

For legislative proceedings see *T. G. G. dated 23-9-1902; 2-12-1902; 3-3-1903; 15-9-1903; and 1-3-1904.*

The Act was published in *T. G. G. dated 8-3-1904.*

Act II of 1089. Objects and Reasons.—"The time allowed for prosecutions under Sec. 8 of the Regulation is only three months, and the Society for the Prevention of Cruelty to animals points out that the process of obtaining the previous

PREVENTION OF CRUELTY TO ANIMALS.

written sanction of the T. I. C. for every prosecution, as required by that Section, is tedious and dilatory. Sometimes the servants of the T. I. C. will have to be prosecuted with reference to the T. I. C. animals in their charge. Under such circumstances, it is expedient to provide that prosecutions should not be made dependent on the sanction of the President of the T. I. C. In regard to Sec. 9, the Society suggests that it may be so modified that both the President and the Honorary Secretary may have power to order the destruction of animals under circumstances which render such a course desirable. The President and the Honorary Secretary are both responsible persons and they may well be expected to use their discretion properly and in the best interests of the Society and of the public. In accordance with the above suggestions of the Society, the present amendments have been proposed."

S. O. & R., T. G. G. dated 17-12-1912.

The amendment to Sec. 9 was withdrawn by the Council. *See L. C. P. dated 5-12-1912.*

For Report of the Select Committee *see T. G. G. dated 18-3-1913.*

For legislative proceedings *see T. G. G. dated 22-10-1912; 17-12-1912; 17-6-1913 and 30-9-1913.*

The Act was published in *T. G. G. dated 28-10-1913.*

Act X of 1096. *Objects and Reasons.* The member in charge of the Bill in introducing it stated as follows :-

"It would appear that the agents of the S. P. C. A. were empowered to exercise the powers of a Police-Officer under Sec. 23 of Regulation IV of 1056. Section 50 of the new Police Regulation has taken the place of Sec. 23 of the old Regulation. Sec. 50 does not confer a power of arrest as it was thought that the provisions in the Criminal Procedure Code were quite enough. The Society has now complained that its agents are not permitted to take cognizance of the offences under the P. C. A. Regulation. The Society has accordingly recommended that its agents should be empowered to take cognizance of the offences under the Regulation and charge offenders before the Magistrates. It is with a view to enable these agents to do so, that the present Bill has been drafted. The Clause introduced in the Bill is word for word the Section in the Criminal Procedure Code which empowers Police-Officers to arrest. That power may also be vested in the S. P. C. A. agents by a Notification. The Bill does not contemplate anything new * * *"

L. C. P. dated 24-3-1921.

For legislative proceedings *see T. G. G. dated 26-2-1921 and 6-9-1921.*

The Act was published in *T. G. G. dated 9-8-1921.*

Act XVII of 1117. *Objects and Reasons.* "The Prevention of Cruelty to Animals, Act IV of 1079 in its present form has been found insufficient to check certain forms of cruelty and public opinion in recent years has become alive to the question of further amplifying

1. (1) This Act may be called "The Prevention of Title, extent and Commencement. Cruelty to Animals Act."

[(2) Our Government may, by notification in Our Government Gazette, extend, on and from a date to be specified in the notification, the whole or any part of this Act to such local areas as may be specified in such notification and may by like notification cancel or vary any such notification.]

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

(1) "Animal" means any domestic or captured animal; and

(2) "Street" includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

the provisions of the Act with a view to achieve more fully the salutary aims and objects with which the main enactment was passed. In British India, the Prevention of Cruelty to Animals Act XI of 1890 has been amended in 1938 so as to enlarge its scope. It has been found necessary that similar amendments should be adopted here also. * * * S. O. & R., T. G. G. dated 8-4-1941.

For Report of the Select Committee see T. G. G. dated 28-10-1941.

For legislative proceedings see A. P. Vol XVIII Pp. 957, 958; Vol. XIX Pp., 55, 56, C. P. Vol. XIX, Pp. 20, 21.

The Act was published in T. G. G. dated 30-12-1941.

Sec. 1. Sub-secs. (2) and (3) were deleted and the present Sub-sec. (2) was substituted in their place by Sec. 2, Act XVII of 1117. Sub-secs. (2) and (3) as originally enacted read thus:

(2) "Our Dewan with Our sanction may, by Notification in the Gazette, extend, on and from a date to be specified in the Notification, the whole or any part of this Regulation to such local areas as have been declared Towns under the Towns Conservancy and Improvement Regulation, 1076.

(3) Our Dewan with Our sanction may, by Notification in the Gazette, cancel or vary any Notification issued under Sub-section (2) of this Section."

SEC. 3. PREVENTION OF CRUELTY TO ANIMALS.

3. [If any person,—

Penalty for cruelty to animals and for sale of animals killed with unnecessary cruelty.

(a) over-rides beats or otherwise treats any animal so as to subject it to unnecessary pain or suffering, or

(b) binds, keeps, carries or consigns for carriage any animal in such manner or position as to subject it to unnecessary pain or suffering, or

(c) offers for sale or without reasonable cause has in his possession any live animal which is suffering pain by reason of mutilation, starvation, thirst, over-crowding or other ill-treatment, or

(d) offers for sale any dead animal or part of a dead animal which he has reason to believe has been killed in an unnecessarily cruel manner, or

(e) without reasonable cause abandons any animal in circumstances which render it likely that it will suffer pain by reason of starvation or thirst,

he shall be punished with fine which may extend to fifty rupees or with imprisonment for a term which may extend to one month or with both.]

Sec. 3. This Sec. was substituted by Sec. 3, Act XVII of 1117. The Sec. as originally enacted ran as follows:—

“3. Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty. If any person, in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in such other place,—

(a) cruelly and unnecessarily beats, overloads, overdrives or otherwise ill-treats any animal, or

(b) binds or carries any animal in such a manner of position as to subject the animal to unnecessary pain or suffering, or

(c) offers, exposes, or has in his possession for sale, any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment,

he shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month, or with both.”

[3-A. (1) If any person over-loads any animal, he shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month.

Penalty for over-loading animals.

(2) If the owner of any animal, or any person who either as a trader, carrier or contractor or by virtue of his employment by a trader, carrier or contractor is in possession of, or in control of the loading of, any animal, permits the overloading of such animal, he shall be punished with fine which may extend to one hundred rupees.]

4. If any person incites any animal to fight or baits any animal or aids and abets any one in so doing, he shall be punished with fine which may extend to fifty rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for baiting animals or inciting them to fight.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for killing animals with unnecessary cruelty.

6. If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause, is unfit to be so employed, or wilfully permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to fifty rupees.

Penalty for employing animals unfit for labour.

Sec. 3-A. This Sec. was added by Sec. 4 of Act XVII of 1117 and it corresponds to Sec. 3-A of the British Indian Act XI of 1890 as amended by Act XXV of 1938.

skin of goat killed in an unnecessarily cruel manner and enacting a legal presumption in respect of such possession have been inserted by Act XIV of 1917.

Sec. 5. In the British Indian Act two Secs. viz Secs. 5-A and 5-B penalising possession of

Sec. 6. Sec. 5 of Act XVII of 1117 omitted Sub-secs. (2) to (6) and numbered Sec. 6 (1) as

SEC. 6-A. PREVENTION OF CRUELTY TO ANIMALS.

(2)-(6). [*Repealed by Section 5, Act XVII of 1117.*]

[6-A. For the purposes of Sections 3 A and 6 an owner or other person in possession or control of an animal shall be deemed to have permitted an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence.

6-B. (1) Our Government may, by general or special order, appoint infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed, and may authorise the detention therein of any animal pending its production before a Magistrate.

Sec. 6. The omitted Sub-secs. read as follow :—

“(2) Our Dewan with Our sanction may, by Notification in the Gazette, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against Sub-section (1) of this Section have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may, if the owner refuses or neglects to take proper care of the animal, direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed. The Magistrate may also require security to be given for the treatment of the animal for any amount not exceeding the value of such animal.

(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as Our Dewan, with Our sanction, may, from time to time, prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him.”

The corresponding Sec. of the British Indian Act does not contain the word “wilfully” before the word “permits.”

Sec. 6-A, and 6-B. These were added by Sec. 6, Act XVII of 1117.

(2) The Magistrate before whom a prosecution for an offence against this Act has been instituted may direct that the animal concerned shall be treated and cared for in an infirmary, until it is fit to perform its usual work or is otherwise fit for discharge, or if the Veterinary Officer in charge of the area in which the animal is found or such other Veterinary Officer, as may be authorised in this behalf by rules made under Section 10-A, certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed.

(3) An animal sent for care and treatment to an infirmary shall not, unless the Magistrate directs that it shall be sent to a Veterinary Hospital or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the Veterinary Officer in charge of the area in which the infirmary is situated or such other Veterinary Officer as may be authorised in this behalf by rules made under Section 10-A.

(4) The cost of transporting an animal to an infirmary or Veterinary Hospital and of its maintenance and treatment in an infirmary, shall be payable by the owner of the animal in accordance with a scale of rates to be prescribed by Our Government.

Provided that when the Magistrate so orders, on account of the poverty of the owner of the animal, no charge shall be payable for the treatment of the animal.

(5) If the owner refuses or neglects to pay such costs or to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such costs.

(6) The surplus, if any, of the proceeds of such sale shall, on application made by the owner within two months from the date of the sale, be paid to him.]

SEC. 7. PREVENTION OF CRUELTY TO ANIMALS.

7. If any person wilfully permits any animal of which he is the [owner or is in charge] to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse wilfully permits any diseased or disabled animal of which he is the owner [or is in charge] to die in any street, he shall be punished with fine which may extend to one hundred rupees [where he is the owner of the animal, or to fifty rupees where he is in charge of but not the owner of the animal.]

8. [(1) A prosecution for an offence under this Act may be instituted by or under the orders of a Society constituted for the prevention of cruelty to animals and recognised as such by Our Government.

(2) No prosecution for an offence under this Act shall be instituted after the expiration of three months from the date of the commission of the offence.]

Sec. 7. The bracketed portions were inserted by Sec. 7, Act XVII of 1117. After the corresponding Sec. the British Indian Act contains Sec. 7-A providing special power of search and seizure in respect of offences under Sec. 5 in respect of goat.

Sec. 8. The Section as originally enacted read as follows:—

“A prosecution for an offence against the Regulation shall not be instituted without the written sanction of the President of the Committee for the improvement of the Town in which the offence has been committed or after the expiration of three months from the date of the commission of the offence.”

This was substituted by Act II of 1089. The Sec. so substituted read thus:—

“A prosecution for an offence against the Regulation shall not be instituted without the written sanction of such officer or person as the Government may deem fit to appoint for that purpose or after the expiration of three months from the date of the commission of the offence.”

The present Sec. was substituted by Sec. 1, Act X of 1096.

The corresponding Sec. 9 of the British Indian Act reads thus:—

“A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.”

[8-A. (1) Any Police-Officer may arrest without a warrant any person committing in his view any offence under this Act or against whom he has received credible information of his having committed an offence under this Act, if such person refuses on demand by such Officer to give his name and residence or gives a name or residence which such Officer has reason to believe to be false.

When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties to appear before a Magistrate, if so required: Provided that, if such person is not resident in Travancore, the bond shall be secured by a surety or sureties resident in Travancore.

Should the true name and residence of such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

(2) Our Government may, by Notification in Our Government Gazette, authorise any agent of the Society referred to in Section 8 (1) and wearing a badge of office or any other person by name or by virtue of office to exercise the powers of a Police-Officer under Sub-section (1) with reference to all or any of the offences under this Act.]

[8-B. (1) If a District Magistrate, Magistrate of the First or Second Class, the Inspector-General of Police or the District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against this Act is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorise any Police-Officer not below the rank of a Head Constable to enter and search the place. .

Sec. 8-A. This was added by Sec. 2. Act X of 1096.

Sec. 8-B. This was added by Sec. 8, Act XVII of 1117.

SEC. 9. PREVENTION OF CRUELTY TO ANIMALS.

(2) The provisions of the Code of Criminal Procedure relating to searches under that Code shall so far as those provisions can be made applicable apply to search under Sub-section (1).]

9. [(1)] When any District Magistrate, Magistrate of the First Class, [Commissioner of Police] or [District Superintendent of Police] has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal if, in his opinion, its sufferings are such as to render such a direction proper.

[(2) Any Police-Officer who finds any animal so diseased or so severely injured or in such a physical condition that it cannot, in his opinion, be removed without cruelty, may, if the owner is absent or refuses to consent to the destruction of the animal, forthwith summon the Veterinary Officer in charge of the area in which the animal is found and if the Veterinary Officer certifies that the animal is mortally injured or so severely injured or in such a physical condition that its destruction is desirable, the Police-Officer may, after obtaining orders from a Magistrate, destroy the animal or cause it to be destroyed.]

10. [Any Police-Officer who has reason to believe that an offence against this Act has been or is being committed in respect of any animal, may, if in his opinion, the circumstances so require, seize the animal and produce the same for examination by the nearest Magistrate or by such Veterinary Officer as may be designated in this behalf by rules

General power
of seizure for ex-
amination.

Sec. 9. The bracketed words in Sub-sec. (1) were substituted for the words "Superintendent of Police" and "Assistant Superintendent of Police" respectively by Sec. 3, Act X of 1096. Sub-Sec. (2) was added by Sec. 9, Act XVII of 1117.

Sec. 10. This Sec. was substituted by Sec. 10, Act XVII of

1117. The Sec. as originally enacted read as follows:—

"10. *Saving with respect to religious rites and usages.* Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class."

made under Section 10-A., and such Police-Officer may, when seizing the animal, require the person in charge thereof to accompany it to the place of examination.]

[10-A. (1) Our Government may, by notification in ^{Power to make} Our Government Gazette, and subject ^{Rules.} to the condition of previous publication make rules to carry out the purpose of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, Our Government may make rules—

(a) prescribing the maximum weight of loads to be carried or drawn by any animal ;

(b) prescribing conditions to prevent the overcrowding of animals ;

(c) prescribing the period during which, and the hours between which, buffaloes shall not be used for draught purposes ;

(d) prescribing the purposes to which fines realised under this Act may be applied including such purposes as the maintenance of infirmaries and Veterinary Hospitals ;

(e) prohibiting the use of any bit or harness involving cruelty ;

(f) requiring persons carrying the business of a carrier to be licensed and registered ; and

(g) prescribing the manner in which cattle may be impounded in any place appointed for the purpose so as to secure the provision of adequate space, food and water.

(3) If any person contravenes, or abets the contravention of, any rule made under this Section he shall be punished with fine which may extend to fifty rupees.

Secs. 10-A. and 10-B. These were added by Sec. 11, Act XVII of 1117.

SEC. 10-B. PREVENTION OF CRUELTY TO ANIMALS.

10-B. No suit, prosecution or other legal proceeding shall lie against any person who is, or Indemnity. who is deemed to be, a public servant within the meaning of Section 15 of the Travancore Penal Code, in respect of anything in good faith done or intended to be done under this Act.]

11. Notwithstanding anything in Section 1, Sections 8, 9 and 10 shall extend to every local Provision supplementary to Section 1 with respect to extent of Act. area in which any Section of this Act constituting an offence is for the time being in force.

ACT VI OF 1079.

NAYAR BRIGADE ACT.

Passed by His Highness the Maha Raja of Travancore on the 12th April 1904 corresponding with the 31st Meenam 1079 under Section 14 of Act V of 1073.

Whereas it is expedient to give the force of law to Standing Orders that may be passed under this Act, amending the Articles of War and Standing Orders relating to Our Nayar Brigade now in force; We are hereby pleased to enact as follows :—

1. This Act shall come into force at once.
2. Our Dewan may, with Our previous sanction, pass from time to time Standing Orders for all matters connected with Our Nayar Brigade in supersession or modification of, or in addition to, the Articles of War and Standing Orders now in force. Such Standing Orders shall have the force of law from the date of their publication in Our Government Gazette; and the existing Articles of War and Standing Orders shall cease to have the force of law, from the said date, to the extent that they may be repealed or modified by the Standing Orders passed, with Our sanction, under the authority of this Act.
3. The words "Nayar Brigade" in this Act shall mean and include the two Battalions of Infantry and Detachment of Artillery and Band of Musicians attached thereto.
4. Notwithstanding anything to the contrary in Section 2 of this Act, the Articles of War and Standing Orders now in force shall be applicable to all offences committed before the passing of the Standing Orders under the authority of this Act.

The Act was published in T. G. G. dated 19-4-1904.

ACT III OF 1980.

PUBLIC ACCOUNTANTS.

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ACT III OF 1080.

An Act to prevent loss to Government by the default or misconduct of Public Accountants.

Passed by His Highness The Maha Raja of Travancore on the 28th July 1905 corresponding with the 13th Karkadakom 1080, under Section 13 of Act V of 1073.

Whereas it is expedient to prevent loss to Government by the default or misconduct of Public Accountants; We are pleased to enact as follows :—

Preamble.

Year.	No.	Short title.	Effect of subsequent legislation.
1080	III	Public Accountants Act.	Amended by Act II of 1114.

Act III of 1080. *Objects and Reasons.* "The object of the Bill is to secure statutory recognition of the long established usage in this country for recovering from mis-behaving public servants moneys or property entrusted to them in their official capacity in the same manner as arrears of public revenue. The Bill introduced into the Legislative Council as an amendment of Regulation VI of 1073 was withdrawn at the last meeting of the Council as it was thought desirable to have a separate enactment on the subject.

This Bill is prepared on the lines of the British Indian Act XII of 1850 and Bombay Act V of 1879. Sec. 1 is a reproduction of Sec. 3 of the former enactment, while Secs. 2 and 3 are taken from Secs. 25

and 26 of the Bombay Act."—S. O. & R., T. G. G. dated 29-6-1904. In introducing the Bill the Official member in charge said :—"The Bill is a simple one, consisting of 3 Sections. Its object is not to introduce any novel scheme, but simply to legalise a long-standing practice. The circumstances which have led to the introduction of the Bill are, I hope, well-known to the Council. The High Court ruled in a recent case that the Sirkar can recover the liabilities of a public servant only by means of a civil suit. It became necessary therefore, to pass an enactment to legalise the usage under which such liabilities were, for a long time past, recovered like arrears of land revenue. A Bill was accordingly introduced for the purpose, as an amendment

SEC. 1.

PUBLIC ACCOUNTANTS.

1. Every person is a "Public Accountant" within the meaning of this Act, who, by reason of being employed in the service of Our Government, is entrusted with the receipt, custody or control of any moneys or securities for money, documents, or other property belonging to Government, or who, in his capacity as a Government servant, is entrusted with the receipt, custody or control of any moneys or securities for money, documents or other property belonging to any person or persons or to any institution.

2. Whenever it appears to a Division Peishkar or other Head of a Department in which a Public Accountant is or was serving that Our Government have a claim on such Public Accountant for moneys, securities for money, documents or other property, he shall draw up a statement of the particulars of the said claim, and, if he is not a Division Peishkar, may send the statement to the Division Peishkar in whose jurisdiction such Accountant is or was employed.

Statement of particulars of claim to be drawn up by Division Peishkar or other Head of Department.

to Regulation VI of 1073. But it was withdrawn at the last meeting of the Council, as a separate enactment dealing with the subject appeared to be necessary. The present Bill has, therefore, been drafted and published in the Gazette * * * L. C. P. dated 9-7-1904. For Report of the Select Committee see T. G. G. dated 9-8-1904.

For legislative proceedings see T. G. G. dated 19-7-1904; 4-10-1904; 27-12-1904 and 18-7-1905.

The Act was published in T. G. G. dated 8-8-1905.

Act II of 1114. *Objects and Reasons.* "There is no express provision in the Public Accountants Regulation at present

to empower proceedings under the Regulation being started, or continued, against the legal representatives of a deceased Public Accountant, even though proceedings might have been taken or continued, against him if he were alive. It is desirable to have such a provision to prevent loss to Government. This Bill is accordingly proposed." S. O. & R., T. G. G. dated 16-11-1937.

For legislative proceedings see A. P. Vol. XI, Pp. 464, 465; Vol. XII P, 139; C. P. Vol. XII P. 535.

The Act was published in T. G. G. dated 27-9-1938.

The Division Peishkar when he has himself recorded a statement as aforesaid may, and on receipt of such statement from any other Head of a Department shall, by writing under his official seal and signature, require the moneys, securities for money, documents or other property, to be delivered either immediately to the person bearing the said writing or to such other person on such date and at such place as the writing may specify. Such notice of demand may be served on the Public Accountant in the same manner as a summons is served on a defendant under the Civil Procedure Code.

If the said Public Accountant does not satisfy the demand, but appears and objects to the claim wholly or in part, the Division Peishkar shall enquire into the objection and record a decision.

3. If the Public Accountant does not object to the claim and does not satisfy the demand or if, after the Division Peishkar has enquired into his objection and passed a decision that there is a claim against him, he does not satisfy the claim as set forth in such decision, the Division Peishkar may, either by himself or through the Division Peishkar in whose jurisdiction such Public Accountant resides or owns property, take proceedings to realise the moneys or value of property due by such Public Accountant in the same manner as arrears of land revenue, and for the purpose of recovering securities for money, documents or other property, may issue a search-warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of the Criminal Procedure Code.

4. Whenever the moneys, securities for money, documents or other property due from such Public Accountant cannot be realised or recovered as aforesaid and the Division Peishkar shall have reason to believe that the Public Accountant is

SEC. 5.**PUBLIC ACCOUNTANTS.**

wilfully withholding payment of the sums due or production of the securities for money, documents or other property, or has been guilty of fraudulent conduct in order to evade realisation or recovery of the same, it shall be lawful for the Division Peishkar to cause the arrest and imprisonment of the Public Accountant in the Civil Jail till he discharges the sums or delivers up the securities for money, documents or other property demanded from him :

Provided that no person shall be detained in confinement under this Section for a longer period than one calendar month.

Limit of confinement.

5. Whenever a Division Peishkar acting under para 2 of Section 2 has reason to believe that there is an attempt to conceal, destroy, or otherwise dispose of any securities for money, documents or other property whatsoever liable to attachment or seizure under Section 3, or to defeat any proceedings under this Act, he may, after recording his reasons, issue, pending the result of any enquiry under Section 2, a warrant for the immediate seizure of any securities for money, documents or other property due from the Public Accountant concerned, or for the immediate attachment of the movable and immovable property of such Public Accountant towards the realisation of any sums which may appear to be due from him :

Seizure and attachment of property of Public Accountant.

Provided that no such seizure or attachment shall take place or continue, if the Public Accountant satisfies the claim as set forth in a statement of particulars of claim which shall always accompany the warrant, or gives sufficient security therefor.

No seizure or attachment if Public Accountant satisfies claim or gives security.

[5-A. On the death of a person who is, or has been, a Public Accountant, proceedings may be taken, or continued, under this Act against his legal representative as if such legal representative were the public servant :

Sec. 5-A. This Sec. was added by Sec. 2, Act II of 1114.

Provided that such legal representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of.]

6. Nothing in this Act shall be held to prevent any parties deeming themselves aggrieved by any order passed or proceedings taken under this Act from suing the Government in the Civil Courts :

Saving of rights
to sue.

Provided that such suits shall be preferred within six months from the time at which the cause of action arose.

Limitation.

ACT IV OF 1080.

THE STAMP ACT.

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SCHEDULE—STAMP DUTY ON INSTRUMENTS.

An Act to consolidate and amend the Law relating
to Stamps.

*Passed by His Highness the Maharaja of Travancore
on the 6th August 1905 corresponding with the
22nd Karkatakam 1080 under Section
13 of Act V of 1073.*

Whereas it is expedient to consolidate and amend
the law relating to Stamps; It is here-
Preamble. by enacted as follows :—

Year.	No.	Short title.	Effect of subsequent legislation.
1080	IV	Stamp Act.	Amended by Acts IV of 1087 and VII of 1112, Sec. 20.

The Stamp Act was enacted in the State for the first time in the year 1059 (Act I of 1059). The Administration Report of the year says :—"The reduction of duty on tobacco in the latter part of 1055, the lowering of the selling price of salt in the latter part of 1058 under the terms of the Interportal Convention with the British Government, and the relaxing of many stringent rules affecting the land revenue however beneficial in the long run, involved an immediate sacrifice

of revenue. These reductions coupled with the precarious state of the cardamom revenue rendered it necessary, in the interests of progressive administration and with the survey and settlement in hand, to seek for some new source of revenue, and His Highness' Government resolved on imposing a moderate stamp duty as the least objectionable mode of levying such additional revenue and as affording, with registration, an additional protection from forgery.

ACT IV OF 1080.

A Stamp Regulation was accordingly passed during the year, generally on the lines of the British Act, modified where necessary to suit local circumstances. Under an old law, a penalty used to be levied on unstamped conveyances when produced before the Courts, so that the stamp duties possessed the additional recommendation of not being altogether novel to the people."— A. R. 1059.

Act IV of 1080. Objects and Reasons. In applying for leave to introduce the Bill, the Official member in charge said:—"The existing Stamp Regulation which has been now in operation for the last 19 years has been found by experience to be defective in several matters, its chief defect being the want of clearness. No Act of the Legislature more largely enters into the business transactions of every day life than the Stamp Act. It is a law which has to be understood and interpreted both by the lawyer and the layman; and its provisions ought, therefore, to be made as clear and intelligible as possible. In the proposed Bill, some of the Sections of the Regulation have been so recast as to make them more easily understood, and the Schedule has been rearranged in the alphabetical order for facility of reference. It is also sought to bring within the operation of the Stamp-Law certain transactions which might well be included but which are omitted in the existing Regulation, as well as to allow such additional exemptions and concessions as are clearly necessary in the public interests. The present law does

not sanction any procedure for the recovery of stamp duties and penalties. This defect is sought to be remedied in the proposed Bill. Provision has also been made for the revision of the orders of the Division Peishkars in Stamp cases. Several other useful alterations and amendments have been introduced in accordance with the British Indian Act. * * *"—

L. C. P. dated 7-9-1903.

"The existing Stamp Law (Regulation I of 1059 as amended by Regulation III of 1063) having in practice been found defective in several respects, an amending Bill was introduced in the Council on the 17th Vycausi 1072. But this Bill was withdrawn on the 9th Edavam 1073, with a view to introduce at a future date, another Bill to consolidate and amend the Stamp-Law. A stamp Bill, which was then under consideration in His Excellency the Viceroy's Council, has since become law in British India as Act II of 1899. The present Bill proposes to re-enact the Stamp Law on the lines of the latest British Indian enactment * * *"—S. O. & R., T. G. G. dated 17-11-1903.

For Report of the Select Committee See T. G. G. dated 21-6-1904.

For legislative proceedings See T. G. G. dated 15-9-1903; 8-12-1903; 21-6-1904; 27-12-1904; and 18-7-1905.

The Act was published in T. G. G. dated 8-8-1905,

Act IV of 1087. Objects and Reasons. "Regulation IV of 1080 (the Stamp Regulation) has been in force for the last four years,

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The Travancore Stamp Act."
 Short title, extent and commencement. (2) It extends to the whole of Travancore.
 (3) It shall come into force on the first day of Thulam 1081.

2. Acts I of 1059 and III of 1063, Schedule 2 of Act III of 1075 and Section 35 of Act I of 1063 are hereby repealed.

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

(1) "Banker" includes a bank and any person acting as a banker:

(2) "Bill of Exchange" means a bill of exchange as defined by the Negotiable Instruments Act, II of 1075, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money:

it having become law from 1st Thulam 1081. It is now considered advisable that a few amendments should be made in the Schedule attached to the Regulation. The draft of the amending Regulation shows in detail the proposed amendments. They consist merely in raising the stamp value that has to be paid with regard to particular instruments. It will be found that the proposed increase of stamp value simply brings it on a level with the stamp value payable for similar instruments under the current British Indian law, except in the case of enrolment as a High Court Vakil where the fee payable in

Travancore is proposed to be fixed only at 350 Rs.—

S. O. & R., T. G. G. dated 11-10-1910.

For Report of the Select Committee See T. G. G. dated 21-3-1911.

For legislative proceedings See T. G. G. dated 7-6-1910; 13-12-1910; 20-6-1911 and 23-1-1912.

The Act was published in T. G. G. dated 6-2-1912.

Act VII of 1112. (Bar Council Act). Article 30 of the Stamp Act was amended consequent on the enactment of the provisions contained in Sec. 8 of Act VII of 1112.

(3) "Bill of Exchange payable on demand" includes—(a) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;

(b) an order for the payment of any sum of money weekly, monthly or at any other stated periods ; and

(c) a letter of credit, that is to say, any instrument by which one person authorises another to give credit, to the person in whose favour it is drawn :

(4) "Bill of Lading" includes a "through bill of lading," but does not include a mate's receipt :

(5) "Bond" includes—

(a) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;

(b) any instrument attested by a witness and not payable to order or bearer whereby a person obliges himself to pay money to another ; and

(c) any instrument so attested whereby a person obliges himself to deliver grain or other agricultural produce to another :

(6) "Chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and, as applied to any other instrument, chargeable under the law in force in Travancore when such instrument was executed, or where several persons executed the instrument at different times, first executed :

- (7) "Cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand :
- "Cheque."
- (8) "Conveyance" includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by the Schedule :
- "Conveyance."
- (9) "Division Peishkar" means the Dewan Peishkar or other Officer in charge of a Division and any other Officer who may, with Our sanction, by Notification in the Gazette, be appointed in this behalf by name or virtue of his office :
- "Division Peishkar."
- (10) "Duly stamped," as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in Travancore :
- "Duly stamped."
- (11) "Executed" and "Execution," used with reference to instruments, mean "signed" and "signature" :
- "Executed" and "Execution."
- (12) "Impressed stamp" includes—
- (a) labels affixed and impressed by the proper Officer, and
- (b) stamps embossed or engraved on stamped paper :
- (13) "Instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded :
- "Instrument."
- (14) "Instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue Authority and an award by an arbitrator directing a partition :
- "Instrument of partition."

Sec. 3 (14). The corresponding definition in the British Indian Act contains the words 'or any civil court' after the words "Revenue Authority."

(15) "Lease" means a lease of immovable property, and includes also—

- "Lease." (a) Marayapattom ;
- (b) Kanapattom, as defined in Act V of 1071 ;
- (c) an agreement or other undertaking in writing, not being a counterpart of a lease, to cultivate, occupy, or pay or deliver rent for, immovable property ;
- (d) an agreement or other undertaking in writing, executed by the renters of abkari and opium farms ;
- (e) any instrument by which tolls of any description are let ; and
- (f) any writing on an application for a lease intended to signify that the application is granted :

(16) "Marketable security" means a security of such a description as to be capable of being sold in any stock market in Travancore, British India or the United Kingdom :

(17) "Mortgage deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of, another, a right over or in respect of specified property :

(18) "Paper" includes vellum, parchment or any other material on which an instrument may be written :

(19) "Policy of insurance" includes—

(a) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;

(b) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance ; and

Sec. 3 (19). The corresponding sub-clause (c) in the British Indian Act was repealed by Act V of 1906.

(c) any writing evidencing the renewal of, for the purpose of keeping in force, a policy of fire-insurance in respect of which, and of the previous renewal whereof (if any), there has not already been paid the stamp-duty which would have been chargeable if the policy had originally been granted for a longer term than six months :

(20) "Policy of a sea-insurance" or "sea-policy"

(a) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in or relating to, any ship or vessel ; and

"Policy of sea-insurance" or "sea-policy."

(b) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of Clause (a), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance :

(21) "Power-of-attorney" includes any instrument (not chargeable with a fee under the

"Power-of-attorney." law relating to Court-fees for the time being in force) empowering a specified person to act for and in the name of the person executing it :

(22) "Promissory note" means a promissory note as defined in the Negotiable Instruments Act II of 1075 :

"Promissory note."

It also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen :

(23) "Receipt" includes any note, memorandum or writing—

"Receipt".

(a) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(b) whereby any other movable property is acknowledged to have been received in satisfaction of a debt, or

(c) whereby any debt or demand, or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(d) which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person :

(24) "Settlement" means any non-testamentary disposition, in writing, of movable or immovable property made—

"Settlement".

(a) in consideration of marriage ;

(b) for the purpose of distributing property of the settlor among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him ; or

(c) for any religious or charitable purpose ;

and includes an agreement in writing to make such a disposition ;

and, where any such disposition has not been made in writing, any instrument recording, whether by way of declaration of trust or otherwise, the terms of any such disposition : and

(25) "Vessel" means anything made for the conveyance, by water of human beings or property.

"Vessel."

Sec. 3 (25). There is no corresponding definition in the British Indian Act.

4. The Schedule and everything therein contained shall be read and construed as part of this Act.

Schedule to be read as part of Act.

CHAPTER II.

STAMP DUTIES.

A.—*Of the Liability of Instruments to Duty.*

5. Subject to the provisions of this Act and the exemptions contained in the Schedule or in any other enactments for the time being in force, the following instruments shall be chargeable with duty of the amount indicated in the Schedule as the proper duty therefor respectively, that is to say,—

Instruments chargeable with duty.

(a) every instrument mentioned in the Schedule which, not having been previously executed by any person, is executed in Travancore on or after the day on which this Act comes into force :

(b) every bill of exchange, cheque or promissory note drawn or made out of Travancore on or after the day and accepted or paid, or presented for acceptance or payment, or endorsed or transferred or otherwise negotiated, in Travancore : and

(c) every instrument (other than a bill of exchange, cheque or promissory note) mentioned in the Schedule, which, not having been previously executed by any person, is executed out of Travancore on or after that day, relates to any property situate, or to any matter or thing done or to be done, in Travancore and is received in Travancore :

Provided that no duty shall be chargeable in respect of any instrument executed by, or on behalf of, or in favour of, Our Government in cases where, but for this exemption, Our Government would be liable to pay the duty chargeable in respect of such instrument.

Sec. 5. The corresponding Registration of Ships Act, 1841; Sec. 3 of the British Indian Act contains another clause exempting instruments for the sale transfer etc.. of any ship or vessel registered under the Merchant Shipping Act, 1894 and Act XIX of 1838. In Clauses (b), (c) of the British Indian Act 'cheques' have been omitted by Act V of 1927.

6. (1) Where in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in the Schedule for the conveyance, mortgage or settlement, and each of the

Several instruments used in single transaction of sale, mortgage or settlement.

other instruments shall be chargeable with a duty of one rupee instead of the duty (if any) prescribed for it in the Schedule.

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of Sub-section (1), be deemed to be the principal instrument :

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

7. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters would be chargeable under this Act.

Instruments relating to several distinct matters.

8. Subject to the provisions of the last preceding Section, an instrument so framed as to come within two or more of the descriptions in the Schedule, shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties :

Instruments coming within several descriptions in the Schedule.

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee a counterpart, or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

9. (1) No contract for sea-insurance shall be valid unless the same is expressed in a sea-policy.

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with duty as a policy for or upon a voyage, and also with duty as a policy for time.

10. Our Dewan may, with Our sanction previously obtained, by an order published in the Gazette,—
Power to reduce, remit or compound duties.

(a) reduce or remit, whether prospectively or retrospectively, in the whole or any part of Travancore, the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class of persons, or by or in favour of any members of such class, are chargeable, and

(b) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

B.—Of Stamps and the mode of using them.

11. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid and such payment shall be indicated on such instruments, by means of stamps—

(a) according to the provisions herein contained; or

Sec. 9. After the corresponding Sec. of the Indian Act, Sec. 8 of that Act makes provision for charging bonds, debentures or other securities issued on loans under the Local Authorities Loans Act, XI of 1879. There is no such corresponding provision in our Act.

(b) when no such provision is applicable thereto— as Our Dewan, with Our previous sanction, may by Rule direct.

(2) The rules made under Sub-section (1) may, among other matters, regulate,—

(a) in the case of each kind of instrument—the description of stamps which may be used ;

(b) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;

(c) in the case of bills of exchange or promissory notes—the size of the paper on which they are written.

12. The following instruments may be stamped with adhesive stamps, namely :—

Use of adhesive stamps. (a) instruments chargeable with the duty of one anna, except parts of bills of exchange payable otherwise than on demand and drawn in sets;

(b) bills of exchange, cheques and promissory notes drawn or made out of Travancore ;

(c) notarial acts; and

(d) transfers by endorsement of shares in any incorporated company or other body corporate.

13. (1) (a) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again; and

(b) whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again, shall, so far as such stamp is concerned, be deemed to be unstamped.

Sec 12. Among the lists of documents mentioned in the corresponding Section 11 of the British Indian Act "entry as an advocate, vakil or attorney on the roll of a High Court" is also found: 'cheques' have been omitted from the list by Act V of 1927.

(3) The person required by Sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing, or in any other effectual manner.

14. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Instruments stamped with impressed stamps how to be written.

15. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Only one instrument to be on same stamp.

Provided that nothing in this Section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

16. Every instrument written in contravention of Section 14 or Section 15 shall be deemed to be unstamped.

Instrument written contrary to Section 14 or 15 deemed unstamped

17. Where the duty with which an instrument is chargeable, or its exemption from duty depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last-mentioned duty shall, if application is made in writing to the Division Peishkar or Registering Officer for that purpose, and on production of both the instruments, be denoted upon such first-mentioned instrument by endorsement under the hand of the Division Peishkar or Registering Officer, or in such other manner as the Dewan, with Our sanction, may by Rule prescribe.

Denoting duty.

C.—Of the Time of Stamping Instruments.

18. All instruments chargeable with duty and executed by any person in Travancore shall be stamped before or at the time of execution.

Instruments executed in Travancore.

19. (1) Every instrument chargeable with duty executed only out of Travancore, and not being a bill of exchange, cheque or promissory note, may be stamped within three months after it has been first received in Travancore.

Instruments other than bills, cheques and notes executed out of Travancore.

(2) Where any such instrument cannot, with reference to the description of stamp prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Division Peishkar, who shall stamp the same, in such manner as the Dewan, with Our sanction, may by Rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

20. The first holder in Travancore of any bill of exchange, cheque or promissory note drawn or made out of Travancore shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in Travancore, affix thereto the proper stamp and cancel the same :

Bills, cheques and notes drawn out of Travancore.

Provided that,—

(a) if, at the time any such bill of exchange, cheque or note comes into the hands of any holder thereof in Travancore, the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by Section 13, and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act, such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled ;

Secs. 19 and 20. The word "cheque" has been omitted in the corresponding British Indian Sections 18 and 19, by Act V, of 1927.

(b) nothing contained in this Proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuation for Duty.

21. (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of Travancore, such duty shall be calculated on the value of such money in the currency of Travancore according to the current rate of exchange on the day of the date of the instrument.

Conversion of amount expressed in British and foreign currencies.

(2) The Dewan may, with Our sanction, from time to time, by Notification in the Gazette, prescribe a rate of exchange for the conversion of British or any foreign currency into the currency of Travancore for the purpose of calculating stamp duty, and such rate shall be deemed to be the current rate for the purposes of Sub-section (1).

22. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Stock and marketable securities how to be valued.

23. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject-matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Effect of statement of rate of exchange or average price.

24. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Instrument reserving interest.

25. (1) Where an instrument (not being a promissory note or bill of exchange)—

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements. (a) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt ; or

(b) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security ;

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (b) of the Schedule.

(2) A release or discharge of any such instrument shall only be chargeable with the like duty.

26. Where any property is transferred to any person in consideration, wholly or in part, of

How transfer in consideration of debt, or subject to future payment, &c., to be charged. any debt due to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty :

Provided that nothing in this Section shall apply to any such certificate of sale as is mentioned in Article No. 17 of the Schedule.

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale :

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

- (1) A owes B Rs. 1,000. A sells a property to B, the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.
- (2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.
- (3) A mortgages a house of the value of Rs. 10,000 to B, for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

27. Where an instrument is executed to secure the payment of an annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act, be deemed to be,—

(a) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount ;

(b) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance, will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due ; and

(c) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

28. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

Stamp where value of subject-matter is indeterminate.

Provided that, in the case of the lease of a mine in which Royalty or a share of the produce is received as the rent or part of the rent, it shall be sufficient to have estimated such Royalty or the value of such share, for the purposes of stamp-duty,—

(a) when the lease has been granted by or on behalf of Our Government, at such amount or value as the Division Peishkar may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of Royalty or share to Our Government under the lease, or,

(b) when the lease has been granted by any other person, at twenty thousand rupees a year ;

and the whole amount of such Royalty or share, whatever it may be, shall be claimable under such lease :

Provided also that, where proceedings have been taken in respect of an instrument under Section 33 or 43, the amount certified by the Division Peishkar shall be deemed to be the stamp actually used at the date of execution.

29. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein

Facts affecting duty to be set forth in instrument.

30. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration, therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the same to any other person, and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole, or any part thereof, to any other person or persons, and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser, without regard to the amount or value of the original consideration; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers:

Provided that the duty on such last-mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or, where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

31. In the absence of an agreement to the contrary, the expense of providing the proper stamp shall be borne—
 Duties by whom stamp shall be borne—
 payable. (a) in the case of any instrument described in any of the following Articles of the Schedule namely:—

- No. 2 (Administration bond),
- No. 6 (Agreement relating to Deposit of Title-deeds, Pawn or Pledge),
- No. 12 (Bill of Exchange),
- No. 14 (Bond),
- No. 15 (Bottomry Bond),
- No. 26 (Customs Bond),
- No. 27 (Debenture),
- No. 32 (Further Charge),
- No. 34 (Indemnity-Bond),
- No. 40 (Mortgage-Deed),
- No. 49 (Promissory Note),
- No. 55 (Release),
- No. 56 (Respondentia Bond),
- No. 57 (Security Bond or Mortgage Deed),
- No. 58 (Settlement),
- No. 62 (a) (Transfer of shares in an incorporated company or other body corporate),
- No. 62 (b) (Transfer of Debentures, being marketable securities whether the debenture is liable to duty or not),

No. 62 (c) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance),—

by the person drawing, making or executing such instrument :

(b) in the case of a policy of insurance—by the person effecting the insurance :

(c) in the case of a conveyance (including a reconveyance of mortgaged property)—by the grantee : in the case of a lease or agreement to lease—by the lessee or intended lessee :

(d) in the case of a counterpart or surrender of a lease—by the lessor :

(e) in the case of an instrument of exchange—by the parties in equal shares :

(f) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates : and

(g) in the case of an instrument of partition—by the parties thereto in proportion of their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue authority or arbitrator, in such proportion as such authority or arbitrator directs.

32. Any person receiving any money exceeding twenty rupees in amount or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees; or receiving in satisfaction or part-satisfaction of a debt any movable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

Sec. 32. To the corresponding renewal of any contract of fire-insurance, shall within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same."

ing Sec. 30 of the British Indian Act another clause was added by Act V of 1906 which runs as follows :—"Any person receiving or taking credit for any premium or consideration for any

CHAPTER III.

ADJUDICATION AS TO STAMPS.

33. (1) When any instrument, whether executed or not and whether previously stamped or not, is brought to the Division Peishkar, and the person bringing it applies to have the opinion of that Officer as to the duty (if any) with which it is chargeable, and pays a fee of one rupee, the Division Peishkar shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose, the Division Peishkar may require to be furnished with an abstract of the instrument and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, are fully and truly set forth therein, and may refuse to proceed upon any such application until such abstract and evidence have been furnished accordingly :

Provided that—

(a) no evidence furnished in pursuance of this Section shall be used against any person in any Civil proceeding, except in an enquiry as to the duty with which the instrument to which it relates is chargeable ; and

(b) every person by whom any such evidence is furnished, shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

34. (1) When an instrument brought to the Division Peishkar under Section 33 is, in his opinion, one of a description chargeable with duty, and—

(a) the Division Peishkar determines that it is already fully stamped, or

(b) the duty determined by the Division Peishkar under Section 33 or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Division Peishkar shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Division Peishkar shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this Section shall be deemed to be duly stamped or not chargeable with duty, as the case may be ; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped :

Provided that nothing in this Section shall authorise the Division Peishkar to endorse—

(a) any instrument executed or first executed in Travancore and brought to him after the expiration of one month from the date of its execution or first execution, as the case may be ;

(b) any instrument executed or first executed out of Travancore and brought to him after the expiration of three months after it has been first received in Travancore ; or

(c) any instrument chargeable with the duty of one anna, or any bill of exchange or promissory note, when brought to him; after the drawing, or execution thereof, on paper not duly stamped.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

35. (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of Police, before whom any instrument, chargeable in

Examination and impounding of instruments.

Sec. 35. Illustration to Sub-Sec. (1) is not found in the Indian Act.

his opinion, with duty, is produced or comes in the performance of his functions, shall if it appears to him that such instrument is not duly stamped, impound the same.

Illustration.

When an instrument is produced before a Magistrate under a search-warrant, it comes before him in the performance of his functions, and may be impounded if it appears to him that it is not duly stamped.

(2) For that purpose, every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in Travancore when such instrument was executed or first executed :

Provided that—

(a) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXV of the Criminal Procedure Code ;

(b) in the case of a Judge of the High Court, the duty of examining and impounding any instrument under this Section may be delegated to such Officer as the Court appoints in this behalf.

(3) For the purposes of this Section, in cases of doubt, the Dewan may determine,—

(a) what offices shall be deemed to be public offices, and

(b) who shall be deemed to be persons in charge of public offices.

36. Where any receipt chargeable with a duty of one anna is tendered to or produced before any Officer unstamped, in the course of the audit of any public account, such Officer may, in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Special provision
as to unstamped
receipt.

37. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public Officer, unless such instrument is duly stamped :

Provided that—

(a) any such instrument, not being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty equal to five times the amount of the proper duty or the deficient portion thereof ;

(b) any such instrument, when presented to a Registering Officer for registration, shall be registered, if the party agrees to pay the duty and penalty due thereon as decided by the Registering Officer and pays the same within seven days from the date of such decision ;

(c) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt, and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of one rupee by the person tendering it ;

(d) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped ;

Sec. 37. The corresponding amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion ;”
 Clause (b) of the *Proviso* is not in the Indian Act.

(e) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXV of the Criminal Procedure Code ;

(f) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of Our Government, or where it bears the certificate of the Division Peishkar as provided by Section 34 or any other provision of this Act.

38. Where an instrument has been admitted in evidence or registered, such admission or registration shall not, except as provided in Sections 63 and 64, be called in question on the ground that the instrument has not been duly stamped.

Admission of instrument where not to be questioned.

39. The Dewan, with Our sanction, may make Rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Admission of improperly stamped instruments.

40. (1) When the person impounding an instrument under Section 35 has by law or consent of parties authority to receive evidence and admits such instrument in evidence, or when he is a Registering Officer and registers such instrument, upon payment of duty and penalty under Section 37 or of

Instrument impounded how dealt with.

Sec. 38. Section 36 of the Indian Act is as follows:—*“Where an instrument has been admitted in evidence, such admission shall not, except as provided in Sec. 61 be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly*

stamped”.

Sec. 40 (1). Sec. 38 (1) of the Indian Act is as follows:—
 “(1) When the person.....admits such instrument in evidence upon payment of a penalty as provided by Sec. 35 or of duty as provided by Sec. 37.....”

duty under Section 39, he shall send to the Division Peishkar an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Division Peishkar, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Division Peishkar.

41. When a copy of an instrument is sent to the Division Peishkar under Section 40, Sub-section (1), he may, if he thinks fit, upon application made to him in this behalf, or, if no application is made, with the consent of the Dewan, refund the whole or any portion of the penalty.

42. (1) When the Division Peishkar impounds any instrument under Section 35, or receives any instrument sent to him under Section 40, Sub-section (2); not being an instrument chargeable with a duty of one anna only or a bill of exchange or promissory note, he shall adopt the following procedure :—

(a) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that

Sec. 41. Sec. 39 of the Indian Act as amended by Act IV of 1914 reads thus :—“(1) When a copy of an instrument is sent to the Collector under Sec. 38, Sub-section (1), he may, if he thinks fit, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contraven-

tion of Section 13 or Sec. 14, the Collector may refund the whole penalty so paid.”

Sec. 42. Sec. 40 (1) (b) of the Indian Act prescribes a “penalty of five rupees, or, if he thinks fit, an amount not exceeding ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees.”

is not so chargeable, as the case may be, and shall thereupon deliver such instrument to the person by whom it was presented, or return it to the Officer from whom it was received for the purpose of being returned to the person from whose possession it came into the hands of such Officer ;

(b) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty equal to five times the amount of the proper duty or deficient portion thereof :

Provided that, when such instrument has been impounded only because it has been written in contravention of Section 14 or Section 15, the Division Peishkar may, if he thinks fit, remit the whole penalty prescribed by this Section.

(2) Every certificate under Clause (a) of Subsection (1) shall, for the purposes of this Act, be conclusive evidence of the matters stated therein.

43. If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna only, or a bill of exchange or promissory note, is produced by any person of his own motion before the Division Peishkar within one year from the date of its execution or first execution, and such person brings to the notice of the Division Peishkar the fact that such instrument is not duly stamped and offers to pay to the Division Peishkar the amount of the proper duty, or the amount required to make up the same, and the Division Peishkar is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under Sections 35 and 42, receive such amount and proceed as next hereinafter prescribed.

44. (1) When the duty and the penalty (if any) leviable in respect of any instrument have been paid under Section 37, Section 42 or Section 43, or recovered under Section 50, the person admitting such instrument in evidence or registering it, or the Division Peishkar as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof, and the name and residence of the person paying them or from whom they have been recovered.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in this behalf to the person from whose possession it came into the hands of the Officer impounding it or as such person may direct, or returned as provided in Section 42 to the Officer from whom it was received :

Provided that—

(a) no instrument which has been admitted in evidence or registered upon payment of duty and a penalty under Section 37 shall be so delivered before the expiration of one month from the date of such impounding, or if the Division Peishkar has certified that its further detention is necessary and has not cancelled such certificate ;

(b) nothing in this Section shall affect the Code of Civil Procedure, Section 139, Proviso 2.

45. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp-law in respect of such instrument :

Sec. 44. The words "or recovered under Section 50" is an addition made by the Select Committee. not found in the British Indian Act

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Division Peishkar that the offence was committed with an intention of evading payment of the proper duty.

46. (1) When any duty or penalty has been paid under Section 37, Section 39, Section 42 or Section 43, by any person in respect of an instrument, and by agreement or under the provisions of Section 31 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery, any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

47. (1) Where any penalty is paid under Section 37 or Section 42, the Dewan may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Dewan, stamp-duty in excess of that which is legally chargeable has been charged and paid under Section 37 or Section 42, he may, upon application in writing made within three months of the order charging the same, refund the excess.

48. (1) If any instrument sent to the Division Peishkar under Section 40, Sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

Non-liability for loss of instruments sent under Section 40.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

49. When any bill of exchange, promissory note or cheque chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, note or cheque, and may charge the duty against the person who ought to have paid the same, or deduct it from the sum payable as aforesaid, and such bill, note or cheque shall, so far as respects the duty, be deemed good and valid ;

Power of payer to stamp bills, promissory notes and cheques received by him unstamped.

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, note or cheque.

50. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Division Peishkar by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land-revenue.

Recovery of duties and penalties.

CHAPTER V.

ALLOWANCES FOR STAMPS IN CERTAIN CASES.

51. Subject to such Rules as may be made by the Dewan, with Our sanction, as to the evidence to be required or the enquiry to be made, the Division Peishkar may, on application made within the period prescribed in

Allowance for spoiled stamps.

Section 52, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

(a) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the purpose intended before any instrument written thereon is executed by any person :

(b) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any party thereto :

(c) in the case of bills of exchange, cheques or promissory notes—

(1) the stamp on any bill of exchange or cheque signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance : Provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange or cheque to be afterwards written thereon :

(2) the stamp on any promissory note signed by or on behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :

(3) the stamp used or intended to be used for any bill of exchange, cheque or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange or cheque, may have been presented for acceptance or accepted or endorsed, or, being a promissory note, may have been delivered to the payee : Provided that another completed and duly stamped bill of exchange, cheque or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with the spoiled bill, cheque or note :

(d) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning :

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

(6) becomes useless in consequence of the transaction intended to be thereby effected being effected by some other instrument between the same parties and bearing a stamp of not less value :

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value :

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Division Peishkar under Section 34 that the full duty with which an instrument is chargeable has been paid, is an impressed stamp within the meaning of this Section.

52. The application for relief under Section 51 shall be made within the following periods, that is to say,—

Application for relief under Section 51 when to be made.

(1) in the cases mentioned in Clause (d) (5), within two months of the date of the instrument :

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled :

(3) in the case of a stamped paper on which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed :

Provided that,—

(a) when the spoiled instrument has been for sufficient reasons sent out of Travancore, the application may be made within six months after it has been received back in Travancore :

(b) when, from unavoidable circumstances, any instrument for which another instrument has been substituted cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of the execution of the substituted instrument.

53. The Dewan may, without limit of time, make allowance for stamped papers used for printed Forms of instruments by any incorporated company or other body corporate, if for any sufficient reason such Forms have ceased to be required by the said company or body corporate :

Allowance in case of printed Forms no longer required by corporations.

Provided that he is satisfied that the duty in respect of such stamped papers has been duly paid.

Sec. 53. The benefit of the India to Bankers also by Act provision contained in this Sec. IV of 1914, has been extended in British

54. (a) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the Rules made under this Act, or a stamp of greater value than was necessary, or has inadvertently used any stamp for an instrument not chargeable with any duty; or

(b) when any stamp used for an instrument has been inadvertently rendered useless under Section 16, owing to such instrument having been written in contravention of the provisions of Section 14;

the Division Peishkar may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being re-stamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

55. In any case in which allowance is made for spoiled or misused stamps, the Division Peishkar may give in lieu thereof—

(a) other stamps of the same description and value; or

(b) if required and he thinks fit, stamps of any other description to the same amount in value; or

(c) at his discretion, the same value in money, deducting one anna for each rupee or fraction of a rupee.

56. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Division Peishkar shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Division Peishkar's satisfaction—

(a) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them; and

(b) that he has paid the full price thereof ; and

(c) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Division Peishkar may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

57. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Division Peishkar shall, upon application made within one month, repay to the person issuing such debenture the value of the stamp on the original or on the new debenture, whichever shall be less :

Allowance on renewal of certain debentures.

Provided that the original debenture is produced before the Division Peishkar and cancelled by him in such manner as the Dewan, with Our sanction, may direct.

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this Section notwithstanding the following changes :—

(a) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;

(b) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;

(c) the substitution of the name of the holder at the time of renewal for the name of the original holder ; and

(d) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI.

REFERENCE AND REVISION.

58. (1) The powers exercisable by a Division Peishkar under Chapter IV and Chapter V and under Clause (a) of the first Proviso to Section 28 shall in all cases be subject to the control of the Dewan.

Control of, and statement of case to, Dewan.

(2) If any Division Peishkar, acting under Section 33, Section 42 or Section 43 feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the Dewan.

(3) The Dewan shall consider the case and send a copy of his decision to the Division Peishkar, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

59. (1) The Dewan may state any case referred to him under Section 58, Sub-section (2), or otherwise coming to his notice, and refer such case, with his own opinion thereon, to the High Court.

Statement of case by Dewan to High Court.

(2) Every such case shall be decided by a Full Bench of the High Court, and in case of difference, the opinion of the majority shall prevail.

60. If the High Court is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the Court may refer the case back to the Dewan to make such additions thereto or alterations therein as the Court may direct in that behalf.

Power of High Court to call for further particulars as to case stated.

61. The High Court, upon the hearing of any such case, shall decide the questions raised thereby, and deliver its judgment thereon containing the grounds on which such decision is founded; and it shall send to the Dewan a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Dewan shall, on receiving such copy, dispose of the case conformably to such judgment.

Procedure in disposing of cases stated.

62. (1) If any Court, other than the High Court, feels doubt as to the amount of duty to be paid in respect of any instrument under Proviso (a) to Section 37, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the High Court.

Statement of case by other Courts to High Court.

(2) The High Court shall deal with the case as if it had been referred under Section 59, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Dewan and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under Sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by a subordinate Revenue Court, shall be made through the Court immediately superior.

63. (1) When any Court in the exercise of its Civil or Revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXV of the Code of Criminal Procedure, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and penalty under Section 37, the Court to which appeals lie from, or references are made by, such first-mentioned Court may, of its own motion or on the application of the Division Peishkar, take such order into consideration; and if it is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under Section 37, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(2) When any declaration has been recorded under this Section, the Court recording the same shall send a copy thereof to the Division Peishkar, and where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send

Sec. 63. The words "shall by notice in writing demand payment within a reasonable time to be fixed by himself" in Sub-

sec. (2) are additions not found in the corresponding Sec. 61 of the British Indian Act.

him such instrument, and thereupon the Division Peishkar shall, by notice in writing, demand payment within a reasonable time to be fixed by himself, and may, notwithstanding anything contained in the order admitting such instrument in evidence or in any certificate granted under Section 44, or in Section 45, prosecute any person for any offence against the Stamp-law which the Division Peishkar considers him to have committed in respect of such instrument :

Provided that no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under Section 37, is paid to the Division Peishkar, unless he thinks that the offence was committed with an intention of evading payment of the proper duty ;

Provided also that, except for the purposes of such prosecution, no declaration made under this Section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under Section 44.

64. When a Registering Officer has registered an instrument under Section 37 and has forwarded to the Division Peishkar a copy thereof under Section 40, the Division Peishkar shall without delay examine such copy, and, if he is of opinion that such instrument should not have been registered without the payment of a higher duty and penalty than those paid, he may record a declaration to that effect and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

When any declaration has been recorded under this Section, the Division Peishkar may adopt the same procedure in respect of the instrument as is provided in the case of declarations under the last preceding Section.

Sec. 64. There is no corresponding Sec. in the British Indian Act.

CHAPTER VII.

CRIMINAL OFFENCES AND PROCEDURE.

65. (1) Any person—

(a) drawing, making, issuing, endorsing or transferring, or signing otherwise than as a witness, or presenting for acceptance or payment, or accepting, paying or receiving payment of, or in any manner negotiating any bill of exchange, cheque or promissory note without the same being duly stamped ; or

(b) executing or signing otherwise than as a witness any other instrument chargeable with duty without the same being duly stamped ; or

(c) voting or attempting to vote under any proxy not duly stamped ;

shall for every such offence be punishable with fine which may extend to five hundred rupees :

Provided that, when any penalty has been paid in respect of any instrument under Section 37, Section 42, or Section 63, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this Section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal Officer of the company, shall be punishable with fine which may extend to five hundred rupees.

66. Any person required by Section 13 to cancel an adhesive stamp and failing to cancel

such stamp in manner prescribed by that Section, shall be punishable with fine which may extend to fifty rupees.

Secs. 66 and 67. The penalties imposed in the British Indian Act under the corresponding Secs. 63 and 64 are Rs. 100 and Rs. 5,000 respectively.

67. Any person who, with intent to defraud Our Government,—

Penalty for omission to comply with provisions of Section 29.

(a) executes any instrument in which all the facts and circumstances required by Section 29 to be set forth in such instrument are not fully and truly set forth; or

(b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(c) does any other act calculated to deprive Our Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to one thousand rupees.

68. Any person who,—

Penalty for refusal to give receipt and for devices to evade duty on receipt.

(a) being required under Section 32 to give a receipt, refuses or neglects to give the same; or

(b) with intent to defraud Our Government of any duty upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

69. Any person who—

Penalty for not making out policy or making one not duly stamped.

(a) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(b) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

70. Any person drawing or executing a bill of exchange or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

71. Any person who—
 (a) with intent to defraud Our Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or,

(b) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment of, such bill or note, or in any manner negotiates the same; or,

(c) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force;

shall be punishable with fine which may extend to one thousand rupees.

72. (a) Any person appointed to sell stamps who disobeys any Rule made under Section 78, and
 (b) any person not so appointed who sells or offers for sale any stamp (other than one anna adhesive stamp),

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

73. (1) No prosecution in respect of any offence punishable under this Act, or any Act hereby repealed, shall be instituted without the sanction of the Division Peishkar or such other Officer as the Dewan, with Our sanction, may generally or specially authorise in that behalf.

(2) The Dewan, or any Officer generally or specially authorised by him in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by Section 50.

74. No Magistrate whose powers are less than those of a Magistrate of the Second Class shall try any offence under this Act.

Jurisdiction of Magistrates.

75. Every such offence committed in respect of any instrument may be tried in any place in which such instrument is found as well as in any place in which such offence might be tried under the law relating to Criminal Procedure for the time being in force.

Place of trial.

76. The provisions of the Criminal Procedure Code shall apply to all fines imposed under this Chapter.

Provisions of Criminal Procedure Code to be applied for recovery under this Chapter.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

77. Every public officer having in his custody any registers, books, records, papers, documents or proceedings, the inspection whereof may tend to secure any duty, or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorised in writing by the Division Peishkar to inspect for such purpose the

Book, &c., to be open to inspection.

registers, books, papers, documents and proceedings and to take such notes and extracts as he may deem necessary, without fee or charge.

78. The Dewan, with Our sanction, may make Rules for regulating—

Power to make Rules relating to sale of stamps. (a) the supply and sale of stamps and stamped papers, (b) the persons by whom alone such sale is to be conducted, and

(c) the duties and remuneration of such persons:

Provided that such Rules shall not restrict the sale of one anna adhesive stamps.

79. The Dewan, with Our sanction, may make Rules to carry out generally the purposes of this Act, and may by such Rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Power to make Rules generally to carry out Act.

80. (1) All Rules made under this Act shall be published in the Government Gazette.

Publication of Rules.

(2) All Rules published as required by this Section shall, upon such publication, have effect as if enacted by this Act.

81. Nothing contained in this Act shall be deemed to affect the duties chargeable under any Act for the time being in force relating to Court-fees.

Saving as to Court-fees.

82. This Act shall be carefully translated into Malayalam and Tamil and the translation shall be printed and sold to the public at a price not exceeding four annas per copy.

Act to be translated and sold cheaply.

SCHEDULE.

STAMP DUTY ON INSTRUMENTS.

For the purposes of the Schedule one rupee shall be equal to 28 Chs.

"	"	eight annas	"	14	"
"	"	four "	"	7	"
"	"	two "	"	3½	"
"	"	one "	"	1½	"

Description of Instrument.	Proper Stamp-duty.
<p>1. Acknowledgment of a debt exceeding twenty rupees in amount or value, written or signed by, or on behalf of, a debtor in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: Provided that such acknowledgment does not contain any promise to pay the debt or any stipulation to pay interest or to deliver any goods or other property.</p>	<p>One anna.</p>
<p>2. Administration-Bond, (a) where the amount does not exceed Rs. 1,000 (b) in any other case.</p>	<p>The same duty as a Bond (No. 14) for such amount. Five rupees.</p>
<p>3. Adoption-Deed, that is to say, any instrument other than a Will recording an adoption or conferring or purporting to confer an authority to adopt.</p>	<p>Ten rupees where no <i>adiyara</i> is payable.</p>
<p>4. Affidavit, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.</p>	<p>One rupee.</p>
<p><i>Exemptions.</i></p>	
<p>Affidavit or declaration in writing when made—</p>	
<p>(a) as a condition of enlistment in the Nayar Brigade or Body Guard;</p>	

Description of Instrument.	Proper Stamp-duty.
<i>Exemptions.—(concluded.)</i>	
(b) for the immediate purpose of being filed or used in any Court or before the Officer of any Court; or	
(c) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. [Agreement or Memorandum of an Agreement,	
(a) if relating to the sale of a bill of exchange,	Two annas.
(b) if relating to the sale of a Government security or share in an incorporated Company or other body corporate,	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the security or share.
(c) if not otherwise provided for.	Eight annas.

Art 5. This was substituted by Sec. 1, Act IV of 1087. The Art. as originally enacted ran as follows:—

“5. Agreement or memorandum of an agreement.—

(a) if relating to the sale of a Government Security, or share in an incorporated company or other body corporate, or a bill of exchange, ...

One anna,

(b) if not otherwise provided for. ...

Eight annas.

Exemptions.

Agreement or memorandum of agreement:—

(a) for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 43;

(b) made by the ryots for the cultivation of cardamoms for Our Government.”

Description of Instrument.	Proper Stamp-duty.
<p style="text-align: center;"><i>Exemptions.</i></p> <p>Agreement or memorandum of agreement.—</p> <p>(a) for or relating to the sale of goods or merchandise exclusively not being a Note or Memorandum chargeable under No. 43;</p> <p>(b) made by the ryots for the cultivation of cardamoms for Our Government.]</p> <p>Agreement to Lease. See LEASE (No. 35).</p> <p>6. Agreement relating to deposit of title-deeds, pawn or pledge, that is to say, any instrument evidencing an agreement relating to—</p> <p>(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or,</p> <p>(2) the pawn or pledge of movable property,</p> <p>where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—</p> <p>(a) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement.</p> <p>(b) if such loan or debt is repayable not more than three months from the date of such instrument.</p>	<p>The same duty as a Bill of Exchange [No. 12 (b)] for the amount secured.</p> <p>Half the duty payable on a Bill of Exchange [No. 12 (b)] for the amount secured.</p>

Description of Instrument.	Proper Stamp-duty.
<p style="text-align: center;"><i>Exemption.</i></p> <p>Instrument of pawn or pledge of goods if un-attested.</p>	
<p>7. Appointment in Execution of a Power, whether of trustees or of property, movable or immovable, where made by any writing not being a Will.</p>	Fifteen rupees.
<p>8. Appraisalment or Valuation made otherwise than under an order of the Court in the course of a suit—</p> <p>(a) where the amount does not exceed Rs. 1,000.</p> <p>(b) in any other case.</p>	<p>The same duty as a bond (No. 14) for such amount.</p> <p>Five rupees.</p>
<p style="text-align: center;"><i>Exemptions.</i></p> <p>(a) Appraisalment or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law.</p> <p>(b) Appraisalment of crops for the purpose of ascertaining the amount to be given to a landlord as rent.</p>	
<p>9. Apprenticeship-Deed, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment.</p>	Five rupees.
<p>10. Articles of Association of a Company.</p>	Twenty-five rupees.
<p style="text-align: center;"><i>Exemption.</i></p> <p>Articles of any Association not formed for profit and registered under Section 26 of Act of 1063 (Indian Companies Act, 1882).</p>	

Description of Instrument.	Proper Stamp-duty.
<p><i>See also</i> MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 39).</p> <p>Assignment—<i>See</i> CONVEYANCE (No. 23), TRANSFER (No. 62) and TRANSFER OF LEASE (No. 63), as the case may be.</p> <p>Attorney—<i>See</i> POWER-OF-ATTORNEY (No. 48).</p> <p>Authority to Adopt—<i>See</i> ADOPTION-DEED (No. 3).</p>	
<p>11. Award, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—</p> <p>(a) where the amount or value of the property to which the award relates as set forth in such award does not exceed Rs. 1,000;</p> <p>b) in any other case.</p>	<p>The same duty as a Bond (No. 14) for such amount.</p> <p>Five rupees.</p>
<p><i>Exemption.</i></p> <p>Award made by any Revenue Settlement Officer or by a Panchayat convened by such Officer under any Rules or Regulations passed by Government for the settlement of boundary disputes.</p>	

Description of Instrument.		Proper Stamp-duty.		
12. Bill of exchange [as defined by Section 3, (2) and (3),] not being a Bond, bank-note or currency note—				
(a) where payable on demand.		One anna.		
(b) where payable otherwise than on demand, but not more than one year after date or sight—				
Rs.				
if the amount of the bill or note does not exceed 200				
if it exceeds Rs. 200 and does not exceed 400				
Do.	400	Do.	600	
Do.	800	Do.	1,000	
Do.	1,000	Do.	1,200	
Do.	1,200	Do.	1,600	
Do.	1,600	Do.	2,500	
Do.	2,500	Do.	5,000	
Do.	5,000	Do.	7,500	
Do.	7,500	Do.	10,000	
Do.	10,000	Do.	15,000	
Do.	15,000	Do.	20,000	
Do.	20,000	Do.	25,000	
Do.	25,000	Do.	30,000	
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.				
		Rs. as p.	Rs. as p.	Rs. as p.
		0 2 0	0 1 0	0 1 0
		0 4 0	0 2 0	0 2 0
		0 6 0	0 3 0	0 2 0
		0 12 0	0 6 0	0 4 0
		1 2 0	0 9 0	0 6 0
		1 8 0	0 12 0	0 8 0
		2 4 0	1 2 0	0 12 0
		4 8 0	2 4 0	1 8 0
		6 12 0	3 6 0	2 4 0
		9 0 0	4 8 0	3 0 0
		13 8 0	6 12 0	4 8 0
		18 0 0	9 0 0	6 0 0
		22 8 0	11 4 0	7 8 0
		27 0 0	13 8 0	9 0 0
		9 0 0	4 8 0	3 0 0]

Art. 12. Clause (b). This was substituted by Sec. 2, Act IV of 1087. Clause (b) as originally enacted was as follows:—
“(b) where payable otherwise than on demand, but not more than one year after date or sight,—

if the amount of the bill or note does not exceed Rs. 200
if it exceeds Rs. 200 and does not exceed 400
Do. 400 Do. 600
Do. 600 Do. 1,000
Do. 1,000 Do. 1,200
Do. 1,200 Do. 1,600
Do. 1,600 Do. 2,500
Do. 2,500 Do. 5,000
Do. 5,000 Do. 7,500
Do. 7,500 Do. 10,000
Do. 10,000 Do. 15,000
Do. 15,000 Do. 20,000
Do. 20,000 Do. 25,000
Do. 25,000 Do. 30,000
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000.”

If drawn singly.	If drawn in set of two, for each part of the set.		If drawn in set of three, for each part of the set.	
	Rs.	A. P.	Rs.	A. P.
	0	2 0	0	1 0
	0	4 0	0	2 0
	0	6 0	0	3 0
	0	10 0	0	5 0
	0	12 0	0	6 0
	1	0 0	0	8 0
	1	8 0	0	12 0
	3	0 0	1	8 0
	4	8 0	2	4 0
	6	0 0	3	0 0
	9	0 0	4	8 0
	12	0 0	6	0 0
	15	0 0	7	8 0
	18	0 0	9	0 0
	6	0 0	3	0 0
			2	0 0

Description of Instrument.	Proper Stamp-duty.																																				
(c) where payable at more than one year after date or sight.	The same duty as a Bond (No. 14) for the same amount.																																				
13. Bill of Lading (including a through Bill of lading).	Four annas.																																				
<i>Exemptions.</i>	<i>N. B.</i> —If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.																																				
(a) Bill of lading when the goods therein described are received at a place within the limits of any port and are to be delivered at another place within the limits of the same port.																																					
(b) Bill of lading when executed out of Travancore and relating to property to be delivered in Travancore.																																					
14. Bond (as defined by Section 3 (5)), not being a DEBENTURE (No 27) and not being otherwise provided for by this Act or by the Court Fees Act for the time being in force—																																					
where the amount or value secured does not exceed Rs. [10].	Two annas.																																				
<table border="0"> <tr> <td>where it exceeds Rs. [10]</td> <td>Rs.</td> <td></td> </tr> <tr> <td>and does not exceed</td> <td>50</td> <td>Four annas.</td> </tr> <tr> <td>Do. 50</td> <td>Do. 100</td> <td>Eight annas.</td> </tr> <tr> <td>Do. 100</td> <td>Do. 200</td> <td>One rupee.</td> </tr> <tr> <td>Do. 200</td> <td>Do. 300</td> <td>One rupee eight annas.</td> </tr> <tr> <td>Do. 300</td> <td>Do. 400</td> <td>Two rupees.</td> </tr> <tr> <td>Do. 400</td> <td>Do. 500</td> <td>Two rupees eight annas.</td> </tr> <tr> <td>Do. 500</td> <td>Do. 600</td> <td>Three rupees.</td> </tr> <tr> <td>Do. 600</td> <td>Do. 700</td> <td>Three rupees eight annas.</td> </tr> <tr> <td>Do. 700</td> <td>Do. 800</td> <td>Four rupees.</td> </tr> <tr> <td>Do. 800</td> <td>Do. 900</td> <td>Four rupees eight annas.</td> </tr> <tr> <td>Do. 900</td> <td>Do. 1,000</td> <td>Five rupees.</td> </tr> </table>	where it exceeds Rs. [10]	Rs.		and does not exceed	50	Four annas.	Do. 50	Do. 100	Eight annas.	Do. 100	Do. 200	One rupee.	Do. 200	Do. 300	One rupee eight annas.	Do. 300	Do. 400	Two rupees.	Do. 400	Do. 500	Two rupees eight annas.	Do. 500	Do. 600	Three rupees.	Do. 600	Do. 700	Three rupees eight annas.	Do. 700	Do. 800	Four rupees.	Do. 800	Do. 900	Four rupees eight annas.	Do. 900	Do. 1,000	Five rupees.	
where it exceeds Rs. [10]	Rs.																																				
and does not exceed	50	Four annas.																																			
Do. 50	Do. 100	Eight annas.																																			
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Do. 200	Do. 300	One rupee eight annas.																																			
Do. 300	Do. 400	Two rupees.																																			
Do. 400	Do. 500	Two rupees eight annas.																																			
Do. 500	Do. 600	Three rupees.																																			
Do. 600	Do. 700	Three rupees eight annas.																																			
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Do. 800	Do. 900	Four rupees eight annas.																																			
Do. 900	Do. 1,000	Five rupees.																																			
and for every Rs. 500 or part thereof in excess of Rs. 1,000	Two rupees eight annas.																																				

Art. 14. Sec. 3 of Act IV of 1087, substituted "Rs 10" for "Rs. 25" in two places in the 2nd paragraph of the 1st column.

Description of Instrument.	Proper Stamp-duty.
<p><i>See</i> ADMINISTRATION BOND (No. 2), BOTTOMRY BOND (No. 15), CUSTOMS BOND (No. 26), INDEMNITY BOND (No. 34), RESPONDENTIA BOND (No. 56), SECURITY BOND (No. 57).</p> <p><i>Exemption.</i></p> <p>Bail bonds and recognizances executed in Criminal cases.</p>	
<p>15. Bottomry Bond, that is to say, any instrument whereby the Master of a sea-going ship borrows money of the security of the ship to enable him to preserve the ship or prosecute her voyage.</p>	<p>The same duty as a Bond (No. 14) for the same amount.</p>
<p>16. Cancellation— Instrument of, (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.</p> <p><i>See also</i> RELEASE (No. 55), REVOCATION OF SETTLEMENT (No. 58-B), SURRENDER OF LEASE (No. 61), REVOCATION OF TRUST (No. 64-B).</p>	<p>Five rupees.</p>
<p>17. Certificate of Sale (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil Court, by the Dewan or any Revenue officer.</p> <p>(a) where the purchase-money does not exceed Rs. 10.</p> <p>(b) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25.</p> <p>(c) in any other case.</p>	<p>Two annas.</p> <p>Four annas.</p> <p>The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.</p>

Description of Instrument.	Proper Stamp-duty.
<p>18. Certificate or other Document evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated Company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such Company or body.</p> <p style="text-align: center;"><i>See also LETTER OF ALLOTMENT OF SHARES (No. 36).</i></p>	One anna.
<p>19. Charter-Party, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer.</p>	One rupee.
<p>20. Cheque [as defined by Section 3 (7)].</p>	One anna.
<p>21. Chitty or Kurivariola where the total amount subscribed exceeds Rs. 100.</p>	One rupee.
<p>22. Composition Deed, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.</p>	Five rupees.

Description of Instrument.	Proper Stamp-duty.																																				
<p>23. Conveyance [as defined by Section 3 (8)], not being a TRANSFER charged or exempted under No. 62—</p>																																					
<p>where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50.</p>	<p>Eight annas.</p>																																				
<p>where it exceeds Rs. 50 but does not exceed Rs. 100</p> <table border="0" data-bbox="217 558 588 756"> <tr> <td>Do.</td> <td>100</td> <td>Do.</td> <td>200</td> </tr> <tr> <td>Do.</td> <td>200</td> <td>Do.</td> <td>300</td> </tr> <tr> <td>Do.</td> <td>300</td> <td>Do.</td> <td>400</td> </tr> <tr> <td>Do.</td> <td>400</td> <td>Do.</td> <td>500</td> </tr> <tr> <td>Do.</td> <td>500</td> <td>Do.</td> <td>600</td> </tr> <tr> <td>Do.</td> <td>600</td> <td>Do.</td> <td>700</td> </tr> <tr> <td>Do.</td> <td>700</td> <td>Do.</td> <td>800</td> </tr> <tr> <td>Do.</td> <td>800</td> <td>Do.</td> <td>900</td> </tr> <tr> <td>Do.</td> <td>900</td> <td>Do.</td> <td>1,000</td> </tr> </table>	Do.	100	Do.	200	Do.	200	Do.	300	Do.	300	Do.	400	Do.	400	Do.	500	Do.	500	Do.	600	Do.	600	Do.	700	Do.	700	Do.	800	Do.	800	Do.	900	Do.	900	Do.	1,000	<p>One rupee. Two rupees. Three rupees. Four rupees. Five rupees. Six rupees. Seven rupees. Eight rupees. Nine rupees. Ten rupees.</p>
Do.	100	Do.	200																																		
Do.	200	Do.	300																																		
Do.	300	Do.	400																																		
Do.	400	Do.	500																																		
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Do.	900	Do.	1,000																																		
<p>and for every Rs. 500 or part thereof in excess of Rs. 1,000 .</p>	<p>Five rupees.</p>																																				
<p style="text-align: center;"><i>Exemption.</i></p> <p>Assignment of copyright by entry made under Act. II of 1939, Section 2.</p>																																					
<p>Co-partnership Deed.—See PARTNERSHIP (No. 46).</p>																																					
<p>24. Copy or Extract certified to be a true copy or extract, by or by order of any public officer and not chargeable under the law for the time being in force relating to Court-fees—</p>																																					
<p>(i) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee,</p>	<p>Eight annas.</p>																																				
<p>(ii) in any other case.</p>	<p>One rupee.</p>																																				

Description of Instrument.	Proper Stamp-duty.
<p style="text-align: center;"><i>Exemption.</i></p> <p>Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.</p>	
<p>25. Counterpart or Duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid,—</p> <p>(a) if the duty with which the original instrument is chargeable does not exceed one rupee,</p> <p>(b) in any other case.</p>	<p>The same duty as is payable on the original.</p> <p>One rupee.</p>
<p style="text-align: center;"><i>Exemption.</i></p> <p>Counterpart of any lease granted to a cultivator when such lease is exempted from duty.</p>	
<p>26. Customs Bond—</p> <p>(a) where the amount does not exceed Rs. 1,000,</p> <p>(b) in any other case.</p>	<p>The same duty as a Bond (No. 14) for such amount.</p> <p>Five rupees.</p>
<p>27. [Debenture (whether a mortgage debenture or not) being a marketable security transferable—</p> <p>(a) by endorsement or by a separate instrument of transfer ;</p>	<p>The same duty as a Bond (No.14) for the same amount.</p>

Art. 27. This was substituted by Sec. 4, Act IV of 1087. The original Art. was as follows:—

“27. Debenture (whether a mortgage debenture or not,) being a marketable security transferable by delivery, or by endorsement or by a separate instrument of transfer.

The same duty as a bond (No. 14) for the same amount.

Description of Instrument.	Proper Stamp-duty.
<p>(b) by delivery.</p> <p><i>Explanation.</i>—The term 'Debenture' includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.</p> <p><i>Exemption.</i></p> <p>A debenture issued by an incorporated Company or other body corporate, in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the Company or body borrowing makes over, in whole or in part, their property to trustees for the benefit of the debenture-holders; Provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.]</p>	<p>The same duty as a conveyance (No. 23) for a consideration equal to the face amount of the debenture.</p>

Explanation. The term debenture includes any interest coupons attached thereto but the amount of such coupons shall not be included in estimating the duty.

Exemption.

A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage deed duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over in whole or in part their property to trustees for

Description of Instrument.	Proper Stamp-duty.
<p><i>See also</i> BOND (No. 14) AND SECTION 57.</p>	
<p>Declaration of any Trust—<i>See</i> TRUST (No. 64).</p>	
<p>28. Delivery-Order in Respect of Goods, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any ware-house in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.</p> <p>Deposit of Title-deeds—<i>See</i> AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).</p> <p>Dissolution of Partnership—<i>See</i> PARTNERSHIP (No. 46).</p>	<p>One anna.</p>
<p>29. Divorce—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.</p> <p>Dower—Instrument of,—<i>See</i> SETTLEMENT (No. 58).</p> <p>Duplicate—<i>See</i> COUNTERPART (No. 25).</p>	<p>One rupee.</p>

the benefit of the debenture-holders; provided that the debentures so issued are expressed to be issued in terms of the said mortgage deed,

See also Bond (No. 14); and Section 57."

Description of Instrument.	Proper Stamp-duty.
<p>30. [Enrolment]</p> <p>(a) [As advocate under the Travancore Bar Council Act]</p> <p>(b) [As vakil of any District Court under the Travancore Bar Council Act]</p>	<p>[Three hundred and fifty rupees]</p> <p>One hundred rupees.</p>
<p>[* * *]</p> <p>31. Exchange of Property—Instrument of</p>	<p>The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property of greatest value as set forth in such instrument.</p>
<p>Extract—See COPY (No. 24)</p>	
<p>32. Further Charge—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—</p> <p>(a) when the original mortgage is one of the description referred to in Clause (a) of Article No. 40 (that is, with possession).</p>	<p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the further charge secured by such instrument.</p>

Art. 30. The duty prescribed by Clause (a) of this Art. was enhanced by Sec. 5 Act IV of 1087. In the Art. so substituted Sec. 20 of Act VII of 1112 made the following amendments: (1) For the words "entry as a vakil on the roll of the High Court, District Court, Munsiff's Court or Magistrate's Court" the word "enrolment" was substituted; (2) The words "High Court" in Clause (a) were substituted by the words "as advocate under the Travancore Bar Council Act."; (3) The words "District Court" in Clause (b) were substituted by the words "As Vakil

of any District Court under the Travancore Bar Council Act" and (4) Clauses (c), (d) and (e) were omitted. These Clauses read as follow :—

"(c) Munsiff's Court Rs. fifty.

(d) District Magistrate's Court and Courts subordinate to the same Rs. fifty.

(e) Any subordinate Magistrate's Court. Rs. ten."

Clause (a) as originally enacted ran as follows :—

"(a) High Court. Two hundred rupees."

Description of Instrument.	Proper Stamp-duty.
(b) when such mortgage is one of the description referred to in Clause (b) of Article No. 40 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge, possession of the property is given, or agreed to be given under such instrument.	The same duty as a Conveyance (No. 23) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given.	The same duty as a Bond (No. 14) for the amount of the further charge secured by such instrument.
33. Gift—Instrument of not being a SETTLEMENT (No. 58) OR WILL OR TRANSFER (No. 62).	The same duty as a Conveyance (No. 23) for a consideration equal to the value of the property as set forth in such instrument.
Hiring Agreement or agreement for service— <i>See</i> —AGREEMENT (No. 5)	
34. Indemnity-Bond. Inspectorship-Deed— <i>See</i> COMPOSITION-DEED (No. 22). Insurance— <i>See</i> POLICY OF INSURANCE (No. 47.)	The same duty as a Security-Bond (No. 57) for the same amount.

Description of Instrument.	Proper Stamp-duty.
<p>35. Lease including an under-lease or sub-lease and any agreement to let or sub-let—</p> <p>(a) where by such lease the rent is fixed and no premium is paid or delivered—</p> <p>(i) where the lease purports to be for a term of less than one year.</p> <p>(ii) where the lease purports to be for a term of not less than one year but not more than three years.</p> <p>(iii) where the lease purports to be for a term in excess of three years.</p> <p>(iv) where the lease does not purport to be for any definite term.</p> <p>(v) where the lease purports to be in perpetuity.</p> <p>(b) where the lease is granted for a fine or premium or for money advanced and where no rent is reserved.</p>	<p>The same duty as a Bond (No. 14) for the whole amount payable or deliverable under such lease.</p> <p>The same duty as a Bond (No. 14) for the amount or value of the average annual rent reserved.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent reserved.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.</p> <p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.</p>

Description of Instrument.	Proper Stamp-duty.
<p>(c) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.</p> <p style="text-align: center;"><i>Exemptions.</i></p> <p>(a) Lease executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed Rs. 100.</p> <p>(b) Leases of fisheries granted by Our Government.</p>	<p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the <i>ad valorem</i> stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.</p>

Description of Instrument.	Proper Stamp-duty.
<i>Explanations.</i>	
<p>(i) The term "fine" or "premium" does not include the pre-payment of rent such as <i>muppatom</i>, <i>pattapidivat</i> in <i>marayappatom</i> leases and the like, but includes the fees paid at the grant or renewal of <i>kanom</i> and other deeds specified in Section 3, Clause 15 (a) and (b).</p> <p>(ii) Any one obtaining wet or garden land for purposes directly or indirectly connected with cultivating or planting is a "cultivator" within the meaning of the Exemption here and in Article No. 53, Exemption (c).</p>	
<p>36. Letter of Allotment of Shares in any Company or proposed Company, or in respect of any loan to be raised by any Company or proposed Company. <i>See also CERTIFICATE OR OTHER DOCUMENT (No. 18).</i></p>	One anna.
<p>37. Letter of Credit, that is to say, any instrument by which one person authorises another to give credit to the person in whose favour it is drawn. Letter of Guarantee—See AGREEMENT (No. 5).</p>	One anna.
<p>38. Letter of License, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time suspend their claims and allow the debtor to carry on business at his own discretion.</p>	[Ten rupees.]

Art. 38. In the 2nd column rupees" by Sec. 6, Act IV of the words "ten rupees" were 1087. substituted for the words "five

Description of Instrument.	Proper Stamp-duty.
<p>39. Memorandum of Association of a Company—</p> <p>(a) if accompanied by Articles of Association under Section 37 of Act I of 1063 (Indian Companies Act, 1882).</p> <p>(b) if not so accompanied.</p> <p style="text-align: center;"><i>Exemption.</i></p> <p>Memorandum of any Association not formed for profit and registered under Section 26 of Act I of 1063 (Indian Companies Act, 1882).</p>	<p>Fifteen rupees.</p> <p>Forty rupees.</p>
<p>40. Mortgage-deed, not being an Agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 15), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), Security-Bond (No. 57)—</p> <p>(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given.</p> <p>(b) when possession is not given or agreed to be given as aforesaid.</p> <p><i>Explanation.</i>—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this Article.</p> <p>(c) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped</p>	<p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount secured by such deed.</p> <p>The same duty as a Bond (No. 14) for the amount secured by such deed.</p>

Description of Instrument.	Proper Stamp-duty.
for every sum secured not exceeding Rs. 1,000.	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas.
<i>Exemptions.</i>	
<p>(1) Instruments executed by persons taking advances under the Agricultural Loans Act, IV of 1966, or by their sureties as security for the repayment of such advances.</p>	
<p>(2) Letter of hypothecation accompanying a bill of exchange.</p>	
<p>41. Mortgage of a Crop, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—</p>	
<p>(a) when the loan is repayable not more than three months from the date of the instrument—</p>	
for every sum secured not exceeding Rs. 200.	One anna.
and for every Rs. 200 or part thereof secured in excess of Rs. 200.	One anna.
<p>(b) when the loan is repayable more than three months, but not more than one year, from the date of the instrument—</p>	

Description of Instrument.	Proper Stamp-duty.
for every sum secured not exceeding Rs. 100.	Two annas
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	Two annas.
42. Notarial Act , that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a Protest (No. 50) made or signed by the Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary public.	One rupee.
<i>see also</i> PROTEST OF BILL OR NOTE (No. 50).	
43. [Note or Memorandum sent by a Broker or Agent to his Principal, intimating the purchase or sale on account of such principal-	
(a) of any goods exceeding in value twenty rupees.	Two annas
(b) of any stock or marketable security exceeding in value twenty rupees.	Subject to a maximum of ten rupees, one anna for every Rs. 10,000 or part thereof of the value of the stock or security.]

Art. 43. This was substituted by Sec. 7, Act IV of 1087. The Art. as originally enacted read thus :—

“43. Note or memorandum sent by a broker or agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value twenty rupees — One anna”

Description of Instrument.	Proper Stamp-duty.
<p>44. Note of Protest by the Master of a ship.</p> <p><i>see also</i> PROTEST BY THE MASTER OF A SHIP (No. 51).</p> <p>Order for the payment of money See BILL OF EXCHANGE (No. 12).</p>	<p>Eight annas.</p>
<p>45. Partition—Instrument of [as defined by Section 3, (14).]</p>	<p>The same duty as a Bond (No. 14) for the amount of the value of the separated share or shares of the property.</p>

N. B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated :

Provided always that—

- (a) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas.
- (b) where land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue ;

Description of Instrument.	Proper Stamp-duty.
<p>45. Partition—Instrument of—[as defined by Section 3 (14)] (concluded)</p>	<p>(c) where a final order for effecting a partition passed by any Revenue authority or an award by an arbitrator directing a partition is stamped with the stamp required for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.</p>
<p>46. Partnership—</p> <p>A.—INSTRUMENT OF,—</p> <p>(a) where the capital of the partnership does not exceed Rs. 500.</p> <p>(b) in any other case.</p> <p>B.—DISSOLUTION OF.</p> <p>Pawn or Pledge.—<i>See</i>—AGREEMENT RELATING TO DEPOSIT OF TITLE-DEEDS, PAWN OR PLEDGE (No. 6).</p>	<p>Two rupees eight annas.</p> <p>Ten rupees.</p> <p>Five rupees.</p>
<p>47. Policy of Insurance—</p> <p>A.—SEA-INSURANCE (<i>see</i> Section 9)</p> <p>(1) for or upon any voyage—</p> <p>(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy.</p> <p>(ii) in any other case, in respect of every full sum of 1,000 rupees and also any fractional part of 1,000 rupees insured by the policy.</p>	<p>One anna.</p> <p>Two annas.</p>

Description of Instrument.	Proper Stamp-duty.
<p>(2) for time—</p> <p>(iii) in respect of every full sum of Rs. 1,000 and also any fractional part of Rs. 1,000 insured by the policy—</p> <p>where the insurance shall be made for any time not exceeding six months.</p> <p>where the insurance shall be made for any time exceeding six months and not exceeding twelve months.</p>	<p>Two annas.</p> <p>Four annas</p>
<p>B.—FIRE INSURANCE—</p> <p>(1) in respect of an original policy—</p> <p>for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000 for a period—</p> <p>(i) not exceeding one month.</p> <p>(ii) exceeding one month, but not exceeding three months.</p> <p>(iii) exceeding three months, but not exceeding six months.</p> <p>(iv) exceeding six months.</p> <p>(2) In respect of renewing, for the purpose of keeping in force, a policy which has been granted for six months or any shorter term and in respect of which and of the previous renewal whereof (if any) there has not already been paid the duty which would have been chargeable if the policy had originally been granted for a longer term than six months.</p>	<p>Two annas.</p> <p>Three annas.</p> <p>Four annas.</p> <p>Six annas.</p> <p>The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends ; or</p> <p>the excess of the duty which would have been chargeable if the policy had originally been granted for a longer term than six months, over the duty already paid in respect of the policy and of the previous renewal thereof (if any), whichever is the smaller sum-</p>

Description of Instrument.	Proper Stamp-duty.
<p>C—ACCIDENTS AND SICKNESS INSURANCE—</p> <p>(a) against railway accident, valid for a single journey only.</p> <p style="text-align: center;"><i>Exemption.</i></p> <p>When issued to a passenger travelling by the intermediate or the third class in any railway.</p> <p>(b) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000 and also where such amount exceeds Rs. 1,000, for every Rs. 1000, or part thereof.</p> <p>D—LIFE-INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR EXCEPT SUCH A RE-INSURANCE AS IS DESCRIBED IN DIVISION E OF THIS ARTICLE—</p> <p>for every sum insured not exceeding Rs. 1,000, and for also every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—</p> <p>(i) if drawn singly.</p> <p>(ii) if drawn in duplicate, for each part.</p> <p style="text-align: center;"><i>Exemption.</i></p> <p>Policies of Life-Insurance granted by Our Government in accordance with the State Life Insurance Rules.</p>	<p>One anna.</p> <p>Two annas.</p> <p>Six annas.</p> <p>Three annas.</p>

Description of Instrument.	Proper Stamp-duty.
<p>E.—RE-INSURANCE BY AN INSURANCE COMPANY, WHICH HAS GRANTED A POLICY OF SEA-INSURANCE OR A POLICY OF FIRE-INSURANCE, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.</p>	<p>One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.</p>
<p><i>General Exemption.</i></p> <p>Letter of cover or engagement to issue a policy of insurance :</p> <p>Provided that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose except to compel the delivery of the policy therein mentioned.</p>	
<p>48. Power of Attorney [as defined by Section 3 (21)], not being a Proxy (No. 52),—</p> <p>(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.</p> <p>(b) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a).</p> <p>(c) when authorising not more than five persons to act jointly and severally in more than one transaction or generally.</p>	<p>Eight annas.</p> <p>One rupee.</p> <p>Five rupees.</p>

Description of Instrument.	Proper Stamp-duty.
<p>(d) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.</p> <p>(e) when given for consideration and authorising the attorney to sell any immovable property.</p> <p>(f) in any other case.</p> <p><i>Explanation.</i>—For the purposes of this Article, more persons than one when belonging to the same firm shall be deemed to be one person.</p>	<p>Ten rupees.</p> <p>The same duty as a Conveyance (No. 23) for the amount of the consideration.</p> <p>One rupee for each person authorised.</p> <p><i>N. B.</i>—The term “registration” includes every operation incidental to registration under the Registration Act for the time being in force.</p>
<p>49. Promissory note [as defined by Section 3 (22).]</p>	<p>The same duty as a Bill of Exchange (No. 12) according as it is payable on demand or payable otherwise than on demand, as the case may be.</p>
<p>50. Protest of Bill or Note, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.</p>	<p>One rupee.</p>
<p>51. Protest by the Master of a ship, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.</p> <p><i>See also</i> NOTE OF PROTEST BY THE MASTER OF A SHIP (No. 44.)</p>	<p>One rupee.</p>

Description of Instrument.	Proper Stamp-duty.
<p>52. Proxy, empowering any person to vote at any one election of the members of a Town Improvement Committee, or at any one meeting of (a) members of an incorporated Company or other body corporate whose stock or funds is or are divided into shares and transferable, or (b) proprietors, members or contributors to the funds of any institution.</p>	<p>One anna.</p>
<p>53. Receipt [as defined by Section 3 (23)] for any money or other property the amount or value of which exceeds twenty rupees.</p>	<p>One anna.</p>
<p><i>Exemptions.</i></p>	
<p>Receipt—</p>	
<p>(a) endorsed on or contained in any instrument duly stamped or exempted under the Proviso to Section 5 (instruments executed on behalf of Our Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment thereby secured;</p> <p>(b) for any payment of money without consideration;</p> <p>(c) for any payment of rent by a cultivator;</p> <p>(d) for pay or allowances by non-commissioned officers or soldiers of the Nayar Brigade or the Body Guard when serving in such capacity;</p> <p>(e) given by holders of family-certificates in cases where the person from whose pay or allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of either the Nayar Brigade or Body Guard and serving in such capacity;</p>	

Description of Instrument.	Proper Stamp-duty.
<p>(f) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity;</p> <p>(g) given for money or securities for money deposited in the hands of any Banker to be accounted for:</p> <p>Provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for:</p> <p>Provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated Company or other body corporate or such proposed or intended Company or body or in respect of a debenture being a marketable security.</p>	
<p>54. [Reconveyance of Mortgaged property—</p> <p>(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000.</p> <p>(b) in any other case.</p>	<p>The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the re-conveyance.</p> <p>[Ten rupees.]</p>

Art. 54. This was substituted by Sec. 8, Act IV of 1087. The Art. as originally enacted read thus:—

"54. Reconveyance of mortgaged property.—

(a) if the consideration for which the property was mortgaged does not exceed Rs. 1,000.

(b) in any other case.

One half of the duty payable on a conveyance (No. 23) for the amount of such consideration as set forth in the reconveyance.

Five rupees."

Description of Instrument.	Proper Stamp-duty.
<p>55. Release, that is to say, any instrument (not being such a release as is provided for by Section 25) whereby a person renounces a claim upon another person or against any specified property—</p> <p>(a) if the amount or value of the claim does not exceed Rs. 1,000.</p> <p>(b) in any other case.</p>	<p>The same duty as a Bond (No. 14) for such amount or value as set forth in the Release.</p> <p>Five rupees.</p>
<p>56. Respondentia Bond, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.</p> <p>Revocation of any Trust or Settlement—See Settlement (No. 58), Trust (No. 64.)</p>	<p>The same duty as a Bond (No. 14) for the amount of the loan secured.</p>
<p>57. Security-Bond or Mortgage-Deed executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract—</p> <p>(a) when the amount secured does not exceed Rs. 1,000.</p> <p>(b) in any other case.</p>	<p>The same duty as a Bond (No. 14) for the amount secured.</p> <p>Five rupees.</p>
<p><i>Exemptions.</i></p> <p>Bond or other instrument—</p> <p>(a) executed by persons taking advances under the Agricultural Loans Act, as security for the repayment of such advances :</p>	

Description of instrument.	Proper Stamp-duty.
<p>(b) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.</p>	
<p>58. Settlement— A—Instrument of, (including a deed of dower)</p> <p>B—Revocation of—</p> <p style="text-align: center;"><i>See also</i> TRUST (No. 64.)</p>	<p>The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property settled as set forth in such settlement:</p> <p>Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.</p> <p>The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.</p>
<p>59. Share Warrants to bearer issued under Act I of 1063 (Indian Companies Act, 1882)</p>	<p>[One and a half times] the duty payable on a conveyance (No. 23) for a consideration equal to the nominal amount of the shares specified in the warrant.</p>

Art. 59. The words bracketed were substituted for the words "three-quarters" in three places by Sec. 9. Act IV of 1087.

Description of Instrument.	Proper Stamp-duty.
<i>Exemption.</i>	
<p>Share warrant when issued by a Company in pursuance of Act I of 1063 (Indian Companies Act, 1882), Section 30, to have effect only upon payment as composition for that duty, to the Collector of Stamp-revenue of—</p> <p>(a) [one and a half] per centum of the whole subscribed capital of the Company, or</p> <p>(b) if any Company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—[one and a half] per centum of the additional capital so issued.</p>	
Scrip—See CERTIFICATE (NO. 18).	
60. Shipping Order for or relating to the conveyance of goods on board of any vessel.	One anna.
61. Surrender of Lease— (a) when the duty with which the lease is chargeable does not exceed five rupees. (b) in any other case. ...	The duty with which such lease is chargeable. Five rupees.
<i>Exemption.</i>	
Surrender of lease, when such lease is exempted from duty.	
62. Transfer (whether with or without consideration)— (a) of shares in an incorporated Company or other body corporate.	[One-half] of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.

Art. 62. In the 2nd column "one-quarter" in two places by Sec. 10 of Act IV of 1087. were substituted for the words

Description of Instrument.	Proper Stamp-duty.
(b) of debentures, being, marketable securities, whether the debenture is liable to duty or not.	[One-half] of the duty payable on a Conveyance, (No. 23) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance,—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees.	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case	Five rupees.
(d) by any private executor or administrator to any other persons for the purpose of administering an estate	Ten rupees.
(e) of any trust property without consideration from one trustee to another trustee or from a trustee to a beneficiary	Five rupees, or such smaller amount as may be chargeable under Clauses (a) to (c) of this Article.
<i>Exemptions.</i>	
Transfers by endorsement—	
(a) of a bill of exchange, cheque or promissory note ;	
(b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods ;	
(c) of a policy of insurance ;	
(d) of securities of the Government of India.	

Description of Instrument.	Proper Stamp-duty.
<p>63. Transfer of Lease by way of assignment and not by way of under-lease.</p>	<p>The same duty as a Conveyance (No. 23) for a consideration equal to the amount of the consideration for the transfer.</p>
<p style="text-align: center;"><i>Exemption.</i></p> <p>Transfer of any lease exempt from duty.</p>	
<p>64. Trust.</p> <p>A.—DECLARATION OF—of, or concerning, any property when made by any writing not being a Will.</p>	<p>The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.</p>
<p>B.—REVOCATION OF—of, or concerning, any property when made by any instrument other than a Will.</p>	<p>The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.</p>
<p>See also SETTLEMENT (No. 58).</p>	
<p>Valuation—See APPRAISEMENT (No. 8).</p>	
<p>Vakil—See ENTRY AS A VAKIL (No. 30).</p>	
<p>65. Warrant for Goods, that is to say any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof, to the property in any goods lying in or upon any dock, ware-house or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.</p>	<p>Four annas.</p>

ACT I OF 1902.

EXTRADITION ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
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- [2-A. (1) Surrender of person accused of or undergoing sentence for offence in Travancore.
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- [3. (1) Power to Magistrates of the First Class to issue warrants of arrest in certain cases.
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(4) Bail.]
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- [5. Do. Do. Do.] ... 24

The figures on the right side refer to the corresponding Sections of the Indian Extradition Act, XV of 1903.

ACT I OF 1082.

An Act to remove doubts as to the Extradition of Criminals from Travancore and to make express provision therefor, framed and submitted by the Dewan under Section 14 of the Travancore Legislative Council Act, 1073.

Passed by His Highness the Maha Raja of Travancore on the 6th Chingom 1082 corresponding with the 22nd August 1906.

Whereas it has been the usage to extradite from Travancore all persons who have committed or are suspected to have committed offences in British India and who escape into or are in Travancore, whether Travancore subjects or not, and for whose arrest applications have been received from the Resident in Travancore and Cochin; and whereas doubts have arisen as to the legality of the existing usage; and whereas it is expedient to remove such doubts and make express provision for the extradition of such persons from Travancore; We are hereby pleased to enact as follows:—

1. This Act shall be called “The Travancore Extradition Act of 1082”, and shall extend to

Short title and the whole of Travancore, and shall commencement. come into force at once.

Year.	No.	Short title.	Effect of subsequent legislation.
1082	I	Extradition Act.	Amended by Acts II of 1094, II of 1107 and XVI of 1114.

Act I of 1082. This was published in *T. G. G. dated 28-8-1906*. As originally enacted it consisted only of two Sections. Section 3 empowering Magistrates of the First Class to issue warrant for arrest and to release the arrested person on bail was added by Act II of 1094. (published in *T. G. G. dated 24-9-1918*).

2. It shall be lawful for Our Dewan, in cases in which requisition has been made by the Resident in Travancore and Cochin for the arrest and surrender of persons who have committed or are suspected to have committed offences in British India and who escape into or are for the time being resident or are found in Travancore, whether Travancore subjects or not, to order any Magistrate not below the rank of a Magistrate of the First Class, to cause the arrest of such persons and their surrender to the British authorities, and no Court shall have jurisdiction to question the validity of any such order, or anything done in pursuance or execution thereof.

[2-A. (1) A person accused of an offence committed in Travancore, not being the offence in respect of which his surrender is asked for, or undergoing sentence under any conviction in Travancore, shall not be surrendered in compliance with a requisition made by the Resident except on the condition that such person be re-surrendered to Travancore on the termination of his trial for the offence in respect of which his surrender has been asked for :

Provided that no such condition shall be deemed to prevent or postpone the execution of a sentence of death lawfully passed.

(2) On the surrender of a person undergoing sentence under a conviction in Travancore, his sentence shall be deemed to be suspended until the date of his re-surrender, when it shall revive and have effect for the portion thereof which had not expired at the time of his surrender.]

Sections 4 and 5 were added by Act II of 1107. This Act was published in *T. G. G. dated 16-8-1932*. Section 2-A was inserted by Act XVI of 1114.

All these enactments were passed direct by His Highness the Maha Raja.

Most of the provisions of this Act are modelled on the lines of the Indian Extradition Act, XV of 1903.

[3. (1) If it appears to any Magistrate not below the rank of a Magistrate of the First Class that a person within the local limits of his jurisdiction is accused or suspected of having committed an offence in British India, and that such person may, if a requisition were made by the Resident in Travancore and Cochin, be surrendered to the British authorities, the Magistrate may, if he thinks fit, issue a warrant for the arrest of such person on such information or complaint and on such evidence as would, in his opinion, justify the issue of a warrant if the offence had been committed within the local limits of his jurisdiction.

(2) The Magistrate shall forthwith report the issue of a warrant under this Section to Our Dewan.

Issue of warrant to be reported forthwith.

(3) A person arrested on a warrant issued under this Section shall not, without the special sanction of Our Dewan, be detained for more than two months, unless within such period the Magistrate receives an order from Our Dewan made with reference to such person in accordance with the procedure prescribed by Section 2.

Limit of time of detention of person arrested.

(4) In the case of a person arrested or detained under this Section, the provisions of the Code of Criminal Procedure for the time being in force relating to bail shall apply in the same manner as if such person were accused of committing in Travancore the offence with which he is charged.]

Bail.

[4. (1) Our Government may make Rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may provide for—

(a) the removal of prisoners accused or in custody under this Act, and their control and maintenance until

such time as they are handed over to the persons named in the warrant as entitled to receive them ;

(b) the seizure and disposition of any property which is the subject of, or require for proof of, any alleged offence to which this Act applies ;

(c) the pursuit and arrest in Travancore, by officers of Our Government or other persons authorised in this behalf, of persons accused of offences committed in British India ; and

(d) the procedure and practice to be observed in extradition proceedings.

(3) Rules made under this Section shall be published in Our Government Gazette, and shall thereupon have effect as if enacted by this Act.

5. Notwithstanding anything contained in the Code of Criminal Procedure, any person arrested without an order from a Magistrate and without a warrant in pursuance of the provisions of Section 35, Clause *seventhly*, of the said Code, may, under the orders of a Magistrate, not below the rank of a Magistrate of the First Class, within the local limits of whose jurisdiction such arrest was made be detained in the same manner and subject to the same restrictions as a person arrested on a warrant issued by such Magistrate under Section 3.]

ACT II OF 1932.

CHARITABLE ENDOWMENTS ACT.

CONTENTS.

PRAMBLE.

SECTIONS.

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The figures on the right refer to the corresponding Sections
of the Indian Charitable Endowments Act VI of 1890.

ACT II OF 1082.

An Act to provide for the Vesting and Administration of Property held in trust for Charitable purposes.

Passed by His Highness the Maha Raja of Travancore on the 1st October 1906 corresponding with the 15th Kanni 1082, under Section 13 of Act V of 1073.

Preamble. Whereas it is expedient to provide for the Vesting and Administration of Property held in trust for Charitable purposes ; It is hereby enacted as follows:—

I. (1) This Act may be called "The Charitable Endowments Act of 1082 M. E."
Short title, local extent and commencement. (2) It extends to the whole of Travancore : and
(3) It shall come into force on the first day of Makaram 1082 M. E.

Act II of 1082. *Objects and Reasons.* "The large number of Charitable Endowments in Travancore justifies a sort of general control over them by Government in the interests of the Endowments themselves and of their beneficiaries. In British India such control is exercised by Government under Act VI of 1890. In the Select Committee's Report on the Hindu Religious Endowments Bill (now Regulation III of 1079), the opinion was accordingly expressed that a separate Bill on the lines of the British Indian Act VI of 1890, should be introduced, giving legislative protection to all Charitable Endowments which are purely secular, irrespective of the creed of the founders or beneficiaries thereof. The present

Bill proposes to deal with these purely secular charities.

"The object of the Bill is to provide in Travancore an Officer who is a Corporation Sole corresponding to the Official Trustees of Charitable Funds in England and to the Treasurer of Charitable Endowments in British India. The Officer so appointed will be a bare trustee and will have absolutely nothing to do with the administration of the property. He will be in charge of the income of the Endowments which will be handed over to the persons administering them and will be required to keep regular accounts and publish them annually. The object of the vesting of all Charitable property in such an Officer by

the name of his office as a Corporation Sole is to secure the holding of such property by some one always present and to avoid the inconvenience of appointing a new trustee on the retirement or death of any incumbent of the Trust.

"The Bill closely follows the British Indian Act VI of 1890 and consists of 14 Sections. Two points of difference exist between the Bill and that Act. To begin with, while the British Indian Enactment, in the words of Sir Philip Hutchins, "will be applicable to trusts for Charitable purposes, but not to trusts, exclusively for the purpose of Religious Teaching or Worship", the present Bill "does not include a purpose which relates *either wholly or in part* to Religious Teaching or Worship", as provision for such cases, at least in regard to the vast majority of Religious Endowments in Travancore, has been made in the Hindu Religious Endowments Regulation, III of 1079. Secondly, power is taken under Section 7 of the Bill for interference by Government in cases of *complaint* by the beneficiaries or any one interested in the Endowment, but this need not alarm any section of His Highness the Maha Raja's subjects, for, as explained by the Honourable Sir Andrew Scoble in the Vice-regal Council: "It follows that the provisions of the Bill may apply to trusts for purposes partly Charitable and partly embracing Religious Teaching, but I see no objection to this so long as the Treasurer is a bare Trustee or custodian of the

Trust-property and⁷ the application of the Bill to a Charitable Endowment is dependent on the consent not only of the parties interested in the Trust, but of the local Government also. The necessity for this two-fold consent provides in my opinion every necessary safeguard against an improper use of the Bill that the most orthodox Hindu or Mahomedan or (I may say) Christian could require." The Bill does not confer on the Travancore Government the same liberty to deal with Christian and Mahomedan Charitable Endowments, if *partly* religious, as the British Indian Act confers on the British Government to deal with their Hindu and Mahomedan Charities, for this Bill wholly eschews from its scope all charities which have the least religious connection with them.

"The Bill, it may be added, is, in the main, intended to be only a permissive one and Government will not make a vesting order or frame a scheme for the administration of an charitable Trust except on application or complaint for that purpose and may, if it sees fit, decline to take any action".
—S. O. & R., T. G. G. dated 7-6-1904.

In introducing the Bill the member observed as follows:—
" * * I may be permitted to premise here that to the Hindu mind every form of charity is part and parcel of religion. To speak of endowments for secular charities as distinguished from religious endowments is a distinction unknown to ideas of Hindu

orthodoxy. The different treatment now accorded to secular charities, whether by Hindu, Mahomedan or Christian founders, is, therefore, done more out of deference to the course of legislation in British India rather than in accordance with popular belief.

"The Council will notice that so far as the policy of religious neutrality on the part of Government is concerned, it is very strictly observed in the Bill. Where there is the least connection between a Charitable Endowment, say, by a Mahomedan or Christian donor, and his religious persuasion, the Bill scrupulously eschews that endowment from its scope. In this respect, it is much narrower in range than the British Indian Act on which it is based. For, the British Indian enactment is applicable "to trusts for Charitable purposes but not to trusts exclusively for the purpose of religious teaching or worship"—making it clear that a *partly religious trust* will be brought under the law, while under our Bill, the scope is clearly defined "not to include a purpose which relates either wholly or in part to religious teaching or worship", in order to eliminate all possible chance of misconception on the score of religion by any orthodox Mahomedan or Christian subject of His Highness the Maha Raja. This scrupulous exclusion of such trusts is, I know, a defect in the Bill, as all Charitable Endowments of the State are not covered by the Bill. But it is, in my opinion, safer to omit some endowments and own the

defect rather than attempt an exhaustive inclusion of *all* charities in the Bill, unless the followers of the different religious faiths themselves come forward and ask for such a comprehensive piece of legislation. One could not be too careful in a matter of this kind. * * *

"The main object of the Bill is secured by Section 3, which provides for Travancore a Corporation Sole corresponding to the Official Trustees of Charitable Funds in England and to the Treasurer of Charitable Endowments in British India. The Officer so appointed will be a bare trustee and will have absolutely nothing to do with the administration of the property (Section 8). He will be in charge of the income of the endowments which will be handed over to the persons administering them (Section 9). The object of the vesting of all Charitable property in such an Officer by the name of his office as a Corporation Sole is to secure the holding of such property by some one always present and to avoid the inconvenience of appointing a new trustee on the retirement or death of any incumbent of the Trust. Section 4 empowers the Dewan to make vesting orders on application and also defines what securities for money shall be so vested by him. Section 5 empowers the Dewan to settle a scheme for the administration of any property vested or to be vested in the Treasurer of Charitable Endowments; also to modify the scheme, or substitute another scheme instead, and such a scheme shall not be

II. In this Act, "Charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility, but does not include a purpose which relates either wholly or in part to religious teaching or worship.

Definition. "Charitable purpose."

questioned in any Court regarding the administration of the property to which the scheme relates. Section 6 defines who shall apply for a vesting order by the Dewan. Section 7 enables the Dewan, on complaints made by any person interested in a Charitable Endowment, to order the vesting of the property of the Endowment in the Treasurer of Charitable Endowments and settle a scheme for its administration and enjoins further that no action shall be taken by him under this Section except after a full enquiry. Section 9 requires the Treasurer of Charitable Endowments to keep a list of all properties vested in him and an abstract of all accounts and cause them to be published in the Government Gazette not less than once a year. This is a very important provision for the satisfactory management of public charities. A similar provision has been inserted in the Hindu Religious Endowments Regulation III of 1079 and the want of it, it is said, is one reason which has nullified the beneficial intentions of the British Indian Government in regard to the Hindu Religious Institutions of British India governed by Act XX of 1863. Section 10 defines the functions

and powers of the Treasurer. Section 12 enables the Dewan to frame Forms and make Rules for the purpose of carrying into effect the provisions of this Regulation. Section 13 indemnifies all *bonafide* action taken by Government or Treasurer under this Regulation. Section 14 provides that the right of remedy reserved to the public by Section 511 of the Civil Procedure Code (Regulation II of 1065 M. E.) shall continue. * "

—L. C. P., dated 11-6-1904.

It may be noted that Clause 7 of the Bill which enabled the Dewan to order the vesting of the property of the Endowment in the Treasurer of charitable endowments was omitted during the discussion in the Council.

—L. C. P., dated 11-1-1096.

For Report of the Select Committee see T. G. G. dated 6-6-1905.

For legislative proceedings see T. G. G. dated 1-3-1904, 21-6-1904, 27-12-1904, 18-4-1905, 26-9-1905, 23-1-1906 and 18-9-1906

The Act was published in T. G. G. dated 2-10-1906.

Sec. II. In the Indian Act the words "exclusively to religious teaching or worship" occur after the words "which relates".

SEC. III.

CHARITABLE ENDOWMENTS.

III. (1) The Dewan may, with Our sanction, appoint an Officer of Our Government by the name of his office to be Treasurer of all Charitable Endowments in Travancore.

Appointment and incorporation of Treasurer of Charitable Endowment.

(2) Such Treasurer shall, for the purpose of taking, holding and transferring movable or immovable property under this Act, be a corporation sole by the name of the Treasurer of Charitable Endowments for Travancore, and, as such Treasurer, shall have perpetual succession and a corporate seal, and may sue and be sued in his corporate name.

IV. (1) Where any property is held or is to be applied in trust for a charitable purpose the Dewan, if he thinks fit, on application made as hereinafter mentioned, and subject to the other provisions of this Section, may order, by Notification in the Government Gazette, that the property be vested in the Treasurer of Charitable Endowments on such terms as to the application of the property or the income thereof as may be agreed on between him and the person or persons making the application, and the property shall thereupon so vest accordingly.

(2) When any property has vested under this Section in a Treasurer of Charitable Endowments, he is entitled to all documents of title relating thereto.

(3) The Dewan shall not make an order under Subsection (1) for the vesting in a Treasurer of Charitable Endowments of any securities for money, except the following, namely:—

(a) Promissory notes, debentures, stock and other securities of the Government of India ;

(b) Stock or debentures of, or shares in, Railway or other Companies, the interest whereon has been guaranteed by Our Government or the Government of India or the Secretary of State for India in Council ;

Sec. IV. Clause (3) in the Indian Act has been omitted by 'Order in Council 1937'.

(c) Immovable property within Travancore or any security expressly authorised by any order which the Dewan may make in this behalf.

(4) An order under this Section vesting property in the Treasurer of Charitable Endowments shall not require or be deemed to require him to administer the property, or impose or be deemed to impose upon him the duty of a trustee with respect to the administration thereof.

V. (1) On application made as hereinafter mentioned and with the concurrence of the person or persons making the application, the Dewan may, with Our sanction, settle a scheme for the administration of any property which has been or is to be vested in the Treasurer of Charitable Endowments, and may in such scheme appoint, by name or office, any person or persons, not being or including such Treasurer, to administer the property.

(2) On application made as hereinafter mentioned and with the concurrence of the person or persons making the application, the Dewan may, with Our sanction, modify any scheme settled under this Section or substitute another scheme in its stead.

(3) A scheme settled, modified or substituted under this Section shall, subject to the other provisions of this Section, come into operation on a day to be appointed by the Dewan in this behalf, and shall remain in force so long as the property to which it relates continues to be vested in the Treasurer of Charitable Endowments or until it has been modified or another such scheme has been substituted in its stead.

(4) Such a scheme, when it comes into operation, shall supersede any decree or direction relating to the subject-matter thereof, in so far as such decree or direction is in any way repugnant thereto, and its validity shall not be questioned in any Court, nor shall any Court give, in contravention of the provisions of the scheme or in any way contrary or in addition thereto, a decree or direction regarding the administration of the property to which the scheme relates.

SEC. VI. CHARITABLE ENDOWMENTS.

(5) In the settlement of such a scheme, effect shall be given to the wishes of the author of the trust so far as they can be ascertained, and, in the opinion of the Dewan effect can be reasonably given to them.

(6) Where a scheme has been settled under this Section for the administration of property not already vested in the Treasurer of Charitable Endowments, it shall not come into operation until the property has become so vested.

VI. (1) The application referred to in the two last foregoing Sections must be made,—
Mode of applying for vesting orders and schemes. (a) if the property is already held in trust for a charitable purpose, then by the persons acting in the administration of the trust, or, where there are more persons than one so acting, then by those persons or a majority of them ; and

(b) if the property is to be applied in trust for such a purpose, then by the person or persons proposing so to apply it.

(2) For the purposes of this Section, the executor or administrator or other legal representative of a deceased trustee of property held in trust for a charitable purpose shall be deemed to be a person acting in the administration of the trust.

VII. (1) Subject to the provisions of this Act, the Treasurer of Charitable Endowments shall not, as such Treasurer, act in the administration of any trust whereof any of the property is for the time being vested in him under this Act.
Bare trustee-ship of Treasurer.

(2) Such Treasurer shall keep a separate account of each property for the time being so vested in so far as the property consists of securities for money, and shall apply the property or the income thereof in accordance

Sec. VI. The words "or other legal representatives" found in Clause (2) are additions not found in the Indian Act.

Sec. VII. Clause (2). The corresponding Clause in the Indian Act contains the words "or in both those documents" at the end.

with the provision made in that behalf in the vesting order under Section IV, or the scheme, if any, under Section V.

(3) In the case of any property so vested other than securities for money, such Treasurer shall, subject to any special order which he may receive from the authority by whose order the property became vested in him, permit the persons acting in the administration of the trust to have the possession, management and control of the property, and the application of the income thereof, as if the property had been vested in them.

VIII. The Treasurer of Charitable Endowments shall cause to be published in the Government Gazette, at such time as the Dewan may direct not less than once a year, a list of all properties for the time being vested in him under this Act and an abstract of all accounts kept by him under Sub-section (2) of the last foregoing Section.

IX. (1) The Treasurer of Charitable Endowments shall always be a sole trustee, and shall not, as such Treasurer, take or hold any property otherwise than under the provisions of this Act, or, subject to those provisions, transfer any property vested in him except in obedience to a decree divesting him of the property, or in compliance with a direction in that behalf issuing from the authority by whose order the property became vested in him.

(2) Such a direction may require the Treasurer to sell or otherwise dispose of any property vested in him, and, with the sanction of the authority issuing the direction, to invest the proceeds of the sale or other disposal of the property in any such security for money as is mentioned in Section IV, Sub-section 3, Clause (a), (b) or (c).

(3) When the Treasurer of Charitable Endowments is divested, by a direction of the Dewan with Our

Sec. IX. Clause (2). The corresponding Clause in the Indian Act contains the words "or in the purchase of immovable property" added at the end.

SEC. X. CHARITABLE ENDOWMENTS.

sanction under this Section, of any property, it shall vest in the person or persons acting in the administration thereof, and be held by him or them on the same trusts as those on which it was held by such Treasurer.

X. If the office held by an Officer of the Government who has been appointed to be the Treasurer of Charitable Endowments is abolished or its name changed, the Dewan, with Our sanction, may appoint the same or another Officer of the Government by the name of his office to be such Treasurer, and thereupon the holder of the latter office shall be deemed for the purposes of this Act to be the successor in office of the holder of the former office.

XI. The Dewan, with Our sanction, may frame Forms for any proceedings under this Act for which he considers that Forms should be provided, and may make such Rules consistent with this Act as he may deem expedient for—

(a) prescribing the fees to be paid to Government in respect of any property vested under this Act in the Treasurer of Charitable Endowments ;

(b) regulating the cases and mode in which schemes or any modifications thereof are to be published before they are settled or made under Section V ;

(c) prescribing the Forms in which accounts are to be kept by the Treasurer of Charitable Endowments, and the mode in which such accounts are to be audited ; and

(d) generally carrying into effect the provisions of this Act.

XII. No suit shall be instituted against the Government in respect of anything done or purporting to be done under this Act, or in respect of any alleged neglect or omission to perform any duty devolving on the Government under this Act, or in respect of the exercise of, or the failure to exercise, any power conferred by this Act on the Government, nor

shall any suit be instituted against the Treasurer of Charitable Endowments except for divesting him of property on the ground of its not being subject to a trust for a charitable purpose or for making him chargeable with or accountable for the loss or mis-application of any property vested in him, or the income thereof, where the loss or mis-application has been occasioned by or through his wilful neglect or default.

XIII. Nothing in this Act shall be taken as in any manner affecting the provisions of Section 511 of the Civil Procedure Code (Act II of 1065 M. E.) to these Endowments.

Sec. XIII. Section 511 of Act II of 1065 corresponds to Section 72, Act VIII of 1100.

ACT III OF 1082.

STEAM-BOILERS AND PRIME-MOVERS.

CONTENTS.

PREAMBLE.

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SCHEDULE A.—Form of license.

Do. B.—Maximum rates of fees leviable for examinations of boilers.

An Act to provide for the inspection and management of Steam-Boilers and Prime-Movers in Travancore.

Passed by His Highness the Maha Raja of Travancore on the 13th April 1097. corresponding with the 31st Meenom 1082, under Section 13 of Act V of 1073.

Whereas it is expedient to provide for the inspection and management of steam-boilers and Prime-movers ; It is hereby enacted as follows :—

Act III of 1082. Objects and Reasons:—In introducing the Bill, the Official member spoke as follows explaining the object of the measure :—

“ ** The want of such an enactment has been already felt in connection with the steam boat service in North Travancore. For some years past, there has been a regular steam boat service between Cochin and Alleppey and from Alleppey to Kottayam and it has recently been extended to Quilon. With the opening of the Tinnevelly-Quilon railway a fresh impetus has been given to the development of steam

navigation along our backwaters and canals and several enterprising firms have turned their attention to this line of business. In July 1902, the Dewan Peishkar, of Kottayam brought to the notice of Government the unsatisfactory condition of the steam boats plying between Alleppey and Cochin and urged the necessity for having the boilers and boats examined. Government issued orders to have them examined by the Executive Engineer of the Northern Division, but though three years have elapsed since the order was issued the examination has not yet been fully

SEC. 1. STEAM-BOILERS AND PRIME-MOVERS.

1. (1) This act may be called "The Travancore Steam-Boilers and Prime-movers Act, 1082." Short title.

(2) It shall come into force from the first day of Commencement. Chingom 1083.

(3) It shall extend to such local areas as Our Government may, by Notification in the Local extent. Gazette, declare from time to time.

carried out. Several causes have contributed to this delay, but the most important of them is the want of a legislative enactment to enforce such examination or to suspend the steam boat service on failure of the Company to submit their boats for examination within the prescribed time. The present Dewan Peishkar of Kottayam has now reported to Government that nothing can be done unless a special enactment is passed. It is not merely on account of the steam boat service that the special enactment is called for. There are a large number of factories in which steam power is used. It is necessary in the interests of the public that all steam boilers and prime-movers now in use or which may hereafter be introduced should be subjected to periodical professional examination in view to test their soundness and safety. I shall not trouble the Council with any further remarks. If the permission I seek be granted, I shall place before the Council a Bill drafted on the lines of the Madras Act III of 1893 which contains a few simple provisions regulating the periodical inspection of boilers and prime-movers, the issue of licenses

and certificates of competency of persons entrusted with the management of boilers and the usual penalties for infringement of the law."—

L. C. P. dated 16-9-1906.

For Report of the Select Committee see *T. G. G. dated 18-9-1906.*

For legislative proceedings see *T. G. G. dated 26-9-1905; 23-1-1906; 19-6-1906; 18-9-1906; 27-11-1906 and 9-4-1907.*

The Act was published in *T. G. G. dated 16-4-1907.*

Act III of 1082. This is a close adaptation of the Madras Act III of 1893 as amended by Act I of 1904.

The Madras Act as well as the Acts of the other British Indian Provinces on the subject were wholly repealed by the Indian Boilers Act, V of 1923. In line with this Act as amended by Act IX of 1929, Act VI of 1112 has been enacted in our State which is to be brought into force by a Notification in the Gazette, [See Sec. 1 (3)] and on such commencement, Act III of 1082 shall stand repealed. Act VI of 1112 has not yet been brought into force.

(4) But nothing in this Act shall be deemed to apply to any locomotive engine, boiler or of prime-mover used upon or appertaining to any railway within the meaning of that word as defined in Section 3, Clause (4), of the Indian Railways Act, 1890, or to any boiler used exclusively for domestic purposes at atmospheric pressure, or to any boiler or prime-mover used in any vehicle or class of vehicles which the Dewan, with Our sanction, may by Notification specify.

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

“Boiler” includes any vessel used for generating steam under pressure and any apparatus closely attached thereto and affected by the steam-pressure :
“Boiler.”

“Prime-mover” includes any steam engine, steam-hammer, fly-wheel, first driving shaft or pulley attached to any such engine, and every appurtenance necessary for the safe and efficient working of a prime-mover :
Prime-mover.

“Owner” includes any agent or hirer using any boiler or prime-mover.
“Owner.”

3. (1) Our Government may, at any time after the passing of this Act appoint such persons to be Inspectors as it thinks fit, and suspend or remove any person so appointed.
Appointment of Inspectors.

(2) The persons so appointed shall, within such local area as Our Government may direct, exercise the powers and perform the duties conferred and imposed by or under this Act on an Inspector.

4. After such day as Our Government may, by Notification in the Gazette, fix in this behalf, no boiler shall be used unless a license authorising its use has been granted under this Act and is in force :
Use of boiler without license prohibited.

SEC. 5. STEAM-BOILERS AND PRIME-MOVERS.

Provided that the owner of a boiler who holds in respect thereof a license as aforesaid, and who, before the expiry of such license, gives to the Inspector for the local area in which the boiler is situated not less than thirty days before such expiry, notice of his intention to continue to use the same afterwards, may continue to use or permit the use of the boiler, as allowed by the said license, until it is examined in pursuance of such notice.

5. (1) The owner of any unlicensed boiler shall, before using the same, give notice of his intention to use such boiler to the Inspector for the local area within which it is situated.

Owner to give notice of intention to use a boiler.

(2) On receipt of the notice, the Inspector shall appoint a day and time, after sunrise and before sunset, for the examination of the boiler. The day so appointed shall be a day not later than thirty days from the day on which the notice is received.

Inspector to appoint a day for the examination of the boiler.

(3) On the day and at the time so appointed, the Inspector shall carefully examine the boiler and every part thereof; and the owner or person in charge thereof shall afford to the Inspector all reasonable facilities for the examination, and all such information regarding the boiler as he may reasonably require.

Examination by the Inspector.

(4) Every person giving a notice under this Section shall simultaneously pay the fees prescribed for the examination by a Rule made under Section 23.

Payment of fees for examination.

6. If, on making the examination under Section 5 the Inspector is of opinion that the boiler requires, in view to safe working, any alteration or addition, he shall refuse to grant a license until the alteration or addition is made, and shall serve on the owner of the boiler within twenty-four hours of his examination a written notice of his refusal, specifying the alteration or addition which, in his opinion, is required.

Inspector may require owner to alter boiler.

7. When the Inspector is satisfied that the boiler is in good condition and not so exposed as to be likely to be dangerous, he shall give to the owner thereof a written license, signed by him, in the Form prescribed in Schedule A hereto annexed, or in a Form to the like effect.

When Inspector to grant license. Period of license. twelve months.

8. Every license granted under this Act shall state the period for which it is to continue in force, and shall cease to be in force on the expiration of that period. Such license shall also state the pressure beyond which the boiler may not be worked.

License to state certain particulars.

9. On granting a license under Section 7, the Inspector shall register the boiler in such Form as Our Government may prescribe, and shall allot to it a number to be called the registry number of the boiler. The registry number shall be communicated to the owner and shall, within such reasonable period as the Inspector may direct, be permanently marked upon the boiler by the owner thereof so as to be plainly visible and in such manner as Our Government may prescribe.

Boiler to be registered and marked with registry number.

10. (1) The owner of any boiler, who shall have obtained a license therefor, shall, at all reasonable times during the period for which such license is in force, be bound to produce the said license when called upon to do so by the District Magistrate, or by any person generally or specially authorised in writing by such Magistrate to demand its production.

Owner to produce license when called upon.

(2) A person who becomes owner of a boiler during the time for which a license therefor is in force shall be entitled to receive the license from the preceding owner and shall be subject to the provisions of

Transfer of license on change of ownership.

Clause (1) of this Section.

SEC. 11. STEAM-BOILERS AND PRIME-MOVERS.

11. Any person authorised by Our Government in this behalf may revoke or suspend any license granted under this Act in respect of any boiler when he has reason to believe—

Revocation and suspension of license.
(a) that the license has been fraudulently obtained, or has been granted erroneously or without sufficient examination ; or

(b) that the boiler in respect of which it has been granted is not in good condition or has, since the granting of the license, sustained injury ; or

(c) that the registry number is not marked upon the boiler as required by this Act.

12. (1) The owner of any boiler may appeal from any order made under this Act refusing to grant, or revoking or suspending a license.

Appeal against refusal, &c., of license.
(2) The appeal shall, within one calendar month from the day on which the owner received the order appealed against be presented in person or otherwise to the Magistrate of the District.

Presentation of appeal.
(3) Such Magistrate shall have power to issue summonses for the attendance of witnesses and the production of documents, and the provisions of the Code of Criminal Procedure shall, as far as applicable, apply to such summonses and the persons so summoned.

Issue of summonses in connection with appeal.
(4) Such Magistrate shall summon to his assistance, in such manner as Our Government may direct, two competent assessors with the necessary practical knowledge and experience ; and such assessors shall attend and assist accordingly.

Method of hearing appeal.
(5) If such Magistrate is satisfied that the owner is entitled to the license he shall grant a license in such Form as Our Government may, by Rule, prescribe, or shall cancel the order revoking or

Procedure in case of successful appeal.

suspending the license, as the case may be, he shall further direct that the expenses of the appeal incurred by the appellant, to such amount as may seem reasonable to him, shall be reimbursed from the public funds.

(6) If such Magistrate is of opinion that the order appealed against is right, he shall dismiss the appeal; and the costs of the appeal incurred by Our Government and certified by the Magistrate shall be recoverable from the appellant as if they were arrears of land revenue.

Procedure in case of unsuccessful appeal.

13. An Inspector may, at any time, for the purpose of inspecting a boiler, enter into any place or building where he has reason to believe that the same is being used.

Inspector may enter place or building.

14. Our Government may, by Notification in the Gazette direct that, from a date specified and within any defined local area, no boiler shall be used unless it is in the direct and immediate management and charge of a person certified under this Act, as hereinafter provided, to be competent for the charge thereof.

Government may require certificates of competency.

15. Subject to the provisions of Section 17, certificates of competency for such charge shall be granted only after examinations conducted under Rules framed by Our Government under Section 23 (d) of this Act.

Government to make Rules for conduct of examinations for certificates and to appoint examiners.

The examiners shall be appointed by Our Government: Provided that in no case shall an Inspector appointed under this Act be nominated as an examiner.

16. Certificates of competency may be of different classes and shall qualify the holders thereof to manage or be in charge of boilers of such capacities or kinds as may be prescribed in the Rules framed under Section 23 (c).

Certificates may be of different classes.

SEC. 17. STEAM-BOILERS AND PRIME-MOVERS.

17. (1) If any person holds a certificate of competency granted under the provisions of any law in British India, or in the United Kingdom, or in any British Colony, he shall be entitled to receive a certificate of competency as aforesaid, without undergoing examination.

Possession of certain other certificates to entitle holders to certificates under this Act.

(2) The certificate granted under this Section shall be of such class as the examiners appointed under Section 15, on a consideration of the nature of the certificate held, shall determine.

18. (1) The examiners may, in the case of any person who satisfies them that he has served for a period of not less than three years in actual charge and management of a boiler and that he is possessed of adequate practical skill for such work, grant to him a certificate of service to the effect that he is qualified to the like extent as the holder of a certificate of competency of any class which the Board in such certificate of service specifies.

Certificates of service may be granted to persons possessing proved practical skill.

(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act.

19. (1) If, on an enquiry conducted under this Act, it shall be established to the satisfaction of Our Government that the holder of any certificate granted under this Act is incompetent, or is addicted to drunkenness, or has been guilty of any serious misconduct or negligence, Our Government may cancel such certificate, or suspend the same for such time as it shall deem fit.

Cancellation or suspension of certificate after enquiry.

(2) The holder of such certificate shall surrender it pending the result of the enquiry, and, should he fail to do so, Our Government may cancel the certificate by Notification in the Gazette.

Pending enquiry, holder to surrender certificate.

20. Whenever the holder of a certificate granted under this Act proves to the satisfaction of Our Government that such certificate has been lost or destroyed, Our Government may direct that a duplicate of the same shall be issued; such duplicate shall have the same validity as the original certificate.

21. Every owner, or person in charge, of any boiler who—
 Penalties. (a) uses that boiler in contravention of the provisions of Section 4 or in contravention of the terms of the license granted under Section 7, or
 (b) fails to produce a license when called upon to do so under Section 10 of this Act, or
 (c) within a local area, defined under Section 14, allows any boiler to be used when not in the direct and immediate management and charge of a person duly certified as competent under this Act, and every person who prevents an Inspector from entering, under Section 13, any place or building, shall be punished with fine which may extend to five hundred rupees.

22. No charge of an offence under this Act shall be brought against any person after the expiration of six months from the date of the commission of the offence.
 Charges not to be brought after six months.

23. Our Government may, at any time after the passing of this Act, after previous publication, make Rules consistent with this Act for all or any of the following purposes (that is to say):—
 Power to make Rules after publication.

(a) for prescribing the powers, duties, mutual relations and official subordination of Inspectors and of officers authorised to revoke and suspend licenses under Section 11;

(b) for fixing the fees payable on account of examinations made by Inspectors under this Act at rates not exceeding those prescribed in Schedule B;

(c) for regulating the grant and record of certificates of competency and of service;

(d) for the conduct of examinations for such certificates and for regulating the fees to be charged for admission to the same;

SEC. 24. STEAM-BOILERS AND PRIME-MOVERS.

(e) for providing for enquiry into an allegation of drunkenness, misconduct or negligence on the part of the holder of a certificate of competency or service ;

(f) generally for carrying out the purposes of this Act.

24. (1) Our Government may, by Notification in the Gazette,—

Act may be applied to prime-movers by Notification. (a) apply so much of this Act as relates to the licensing, inspection or management of boilers to prime-movers generally, or to prime-movers of any particular class, in any local area in which this Act is, at the time, in force, and

(b) cancel any such Notification.

(2) While any such Notification is in force in any local area, in the provisions of the Act thereby made applicable the word "boiler" shall be held to include "prime-mover," so far as such local area is concerned.

SCHEDULE A.

(See Section 7.)

FORM OF LICENSE.

Name of owner.	Registry number and description of boiler and age.	Power.	When and where made.	When and where last repaired.	Time for which this license is to be in force.	Maximum pressure at which the boiler may be worked.	Remarks.

I, the undersigned, certify that I have examined the boiler above described, and to the best of my judgment, it is in good condition, and is not so exposed as to be likely to be dangerous.

A. B.
Inspector.

SCHEDULE B.

[See Section 23 (b).]

MAXIMUM RATES OF FEES LEVIABLE FOR EXAMINATIONS OF BOILERS.

(1)	For the examination of each boiler not exceeding 10 horse power nominal	Rs.	15
(2)	Do. Do. exceeding 10 but not exceeding 20	"	20
(3)	Do. Do. exceeding 20 but not exceeding 30	"	30
(4)	Do. Do. exceeding 30 but not exceeding 50	"	40
(6)	Do. Do. exceeding 50 horse power	"	50

PROCLAMATION.

*By His Highness the Maha Raja of Travancore
issued under date the 10th October 1908 cor-
responding with the 25th Kanni 1084.*

Whereas, by a Proclamation issued on the 22nd day of Thulam 1051, corresponding to the 6th day of November 1875, the Christian Judge for the time being of the Sadr Court, being a European British subject, has been constituted and appointed the Special Appellate Judge in Travancore to hear and dispose of appeals from the decisions and to revise the proceedings of Special Magistrates, and whereas subsequently, by Act II of 1057, the Sadr Court having been designated the High Court, the Christian Judge of the High Court, being a European British subject, has continued to exercise the functions of the said Special Appellate Judge, and whereas, during the absence from the High Court on leave or otherwise of the aforesaid Judge of the said High Court, invested with the powers of Special Appellate Judge, inconvenience is caused in the disposal of appeals from the decisions of Special Magistrates, and whereas it is deemed desirable to have a Special Court of Appeal during such time to hear and dispose of appeals preferred against the decisions and to revise the proceedings of Special Magistrates; We, in modification of the Proclamation of the said 22nd day of Thulam 1051, are pleased to enact that, during the time that the Christian Judge of the High Court, invested with the powers of Special Appellate Judge, is absent from the said High Court, any one or more of the Special Magistrates and Justices of the Peace that may be appointed by Us shall exercise the powers of the Special Appellate Judge, and We are also pleased to enact that, during the time that the said Special Magistrate and Justice of the Peace or Magistrates and Justices of the Peace exercise the functions of Special Appellate Judge or Judges, he or they shall cease to exercise the ordinary functions of a Special Magistrate and Justice of the Peace.

The Proclamation was published in *T. G. G.* dated 13-10-1908.

ACT II OF 1084.

CIVIL COURTS ACT.

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ACT II OF 1084.

An Act to amend and consolidate the law relating to the Civil Courts in Travancore.

Passed by His Highness the Maha Raja of Travancore on the 4th March 1909 corresponding with the 21st Kumbhom 1084 under Section 13 of Act V of 1073.

Whereas it is expedient to amend and consolidate the law relating to the Civil Courts of Travancore, subordinate to the High Court;

Preamble.

We are pleased to enact as follows :—

Year.	No.	Short Title.	Effect of subsequent Legislation.
1084	II	Civil Courts Act.	Amended by Act VI of 1092.

In the year 1056 M. E. the then Dewan drew up a Memo on Judicial Reform in which he gave a brief sketch of the past history of the Judicial administration, examined the condition of the system and its practical working, and formulated a scheme to thoroughly revise the constitution and powers of the various Courts, and to remedy the defects disclosed. As a result of the proposals then made, two legislative enactments were passed, in the following year, having for their object the reconstruction of the entire Judicial machinery. One of them, the Civil Courts Regulation, I of 1057, consolidated and amended the law relating to the Zillah and Munsiffs' Courts. It conferred on Government the power of

regulating the number, constitution and territorial jurisdiction of the Civil Courts, raised the pecuniary jurisdiction of the Munsiffs from 200 to 500 rupees and vested them with Small Cause jurisdiction in suits for personal property of the value of Rs. 20 and under, the summary procedure followed in such cases in British India being also prescribed. The decisions of the Zillah Courts passed in appeal in suits for money or other personal property not exceeding Rs. 50 were also declared final—

A. R. 1056 and 1057.

Act III of 1066 amended Act I of 1057 and raised the Small Cause jurisdiction of Munsiffs from Rs. 20 to 30 and the final appellate jurisdiction of Zillah

PART I.

PRELIMINARY.

1. This Act may be called "The Travancore Civil Short title and Courts Act 1084", and it shall come commencement. into force on the 1st Chingom 1085.

Judges from Rs. 50 to 60. Act I of 1077 further amended Act I of 1057 and raised the ordinary jurisdiction of Munsiffs to Rs. 1,000 and empowered Government to invest particular Munsiffs, on the recommendation of the High Court, with Small Cause jurisdiction up to Rs. 50. The Act also provided that appeals from decrees passed by Munsiffs in which the subject matter was valued above Rs. 500 shall lie direct to the High Court and that the appellate decisions of Zillah Judges in matters valued up to Rs. 100 shall be final.

Act II of 1084. "The present constitution of our Civil Courts, subordinate to the High Court, was laid down in the year 1057 M. E. Since then, changes have been made from time to time in the judicial machinery to suit the requirements of a progressive administration. Further changes are however considered necessary to cope with the increasing volume of work in all classes of Civil Courts. The Bill proposes to introduce the following modifications:—(1) To raise the Small Cause jurisdiction of all the Munsiffs from Rs. 30 to Rs. 50, and to empower Government to raise that jurisdiction to Rs. 200 in special cases. (2) To raise the ordinary jurisdiction of Munsiffs from Rs. 1000 to Rs. 2000 in all cases. (3) To remove an anomaly in regard to appeals in suits above Rs. 500 in value disposed of by the Munsiffs. These

are now preferred to the High Court direct. The Bill makes them lie to the District Courts. * * *."—S. O. & R., *T. G. G. dated 11-2-1908.*

For Report of the Select Committee see *T. G. G. dated 12-5-1908.*

For legislative proceedings see *T. G. G. dated 24-3-1908; 16-6-1908; 28-7-1908 and 9-3-1909.*

The Act was published in *T. G. G. dated 9-3-1909.*

Act VI of 1092. Objects and Reasons.—"Suits of the value of above Rupees two thousand instituted by the Estate Owners in Devicolam have to be instituted in Parur. To avoid the inconvenience and cost of travelling to Parur which is about 90 miles distant from Devicolam, the suitors have to give up large amounts so as to bring the suits within the pecuniary jurisdiction of the Munsiff of Devicolam. In the interest of the suitors, it is thought desirable to raise the pecuniary jurisdiction of the Munsiff of Devicolam to Rs. 5,000. The present Bill is therefore drafted with a view to enable the Government to empower particular Munsiffs with pecuniary jurisdiction up to Rs. 5,000".—S. O. & R., *T. G. G. dated 24-10-1916*

For legislative proceedings see *T. G. G. dated 23-1-1917 and 7-8-1917.*

The Act was published in *T. G. G. dated 7-8-1917.*

2. (i) On and after the said day, the Acts mentioned in Schedule No. I, hereto annexed shall be repealed to the extent specified in the third column thereof.

(ii) But all Courts constituted, appointments made, limits fixed, jurisdiction and powers conferred, under any enactment hereby repealed, shall, so far as may be consistent with this Act, be deemed to have been respectively constituted, made, fixed and conferred under this Act; and

(iii) all references to any enactment hereby repealed, made in Acts passed prior to the said day, shall as far as may be practicable, be read as if made to this Act or the corresponding provisions thereof.

PART II.

ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS SUBORDINATE TO THE HIGH COURT.

3. Besides Our High Court, there shall be two classes of Civil Courts, namely—
Classes of Courts. (i) The District Court; and
(ii) The Court of the Munsiff.

4. The number of District Courts to be established or continued under this Act shall be fixed and may, from time to time, be altered by Our Government.
Number of Civil Courts.

The number of Judges in each District Court shall be fixed, and may, from time to time, be altered by Our Government. When there are more Judges than one, the business of the District Court shall be regulated by the High Court.

The number of Munsiffs to be appointed under this Act shall be fixed, and may, from time to time, be altered by Our Government.

5. The place at which any Court under this Act shall be held may be fixed, and may, from time to time, be altered by Our Government.
Place at which Court to be held.

SEC. 6. THE CIVIL COURTS ACT. PART III.

6. Every appointment of every District Judge and Munsiff shall be notified in the Gazette.
Appointment to be notified in Gazette.

7. Every Court under this Act shall use a seal of such form and dimensions as are, for the time being, prescribed by Our Government.
Seal of Court.

PART III.

JURISDICTION.

8. Our Government shall fix, and may from time to time, vary the local limits of the jurisdiction of any Civil Court under this Act.
Local jurisdiction of Civil Court to be fixed by Government.

If Our Government assign the same local jurisdiction to two or more Munsiffs, they shall declare which of them shall be deemed the Principal Munsiff and the other or others shall be Additional Munsiff or Munsiffs.

The present local limits of every Civil Court shall be deemed to have been fixed under this Act.

9. The jurisdiction of a District Court extends, subject to the Rules contained in the Code of Civil Procedure, to all original suits and proceedings of a Civil nature.
Jurisdiction of District Court.

10. The District Court shall be deemed to be the principal Civil Court of original jurisdiction within the local limits of its jurisdiction.
District Court to be the principal Civil Court.

11. The District Court shall, subject to the general control of Our High Court, have control over all Munsiffs' Courts within the limits of its jurisdiction.
District Court to have control over all Munsiffs' Courts.

12. The jurisdiction of a Munsiff extends, subject to the Rules contained in the Code of Civil Procedure, to all original suits and proceedings of which the amount or value of the subject-matter does not exceed two thousand rupees, provided that a Munsiff shall not take cognizance of any suit to which Our Government may be a party [and provided also that Our Government, on the recommendation of the High Court, may, by Notification in Our Government Gazette, invest any Munsiff, within such local limits as they shall from time to time appoint, with jurisdiction up to the amount of rupees five thousand, and may, by like Notification, whenever they think fit, withdraw such jurisdiction from the Munsiff so invested].

13. Every Munsiff shall try as Small Causes all suits of a Civil nature, except suits specified in Schedule No. II hereto annexed, the amount or value of which does not exceed one hundred rupees.

The decrees or orders of a Munsiff in all suits and proceedings tried as Small Causes under this Section shall be final (except orders specified in Clause 29 of Section 557 of the Code of Civil Procedure) subject to revision by the High Court as prescribed in Section 568 of the Code of Civil Procedure (Act II of 1065).

14. In suits falling under Section 13, the following procedure in procedure shall be observed.
Small Cause suits.

(a) The summons shall, in all cases, be issued for the final disposal of the suit.

(b) The defendant shall state his defence orally or in writing if he so chooses. The Court shall in the former case record the substance of the statement in its own hand-writing and no written statement, other than the plaint and defence, shall be received from any party to the suit, unless required by a written order of the Court, setting forth the reasons.

Sec. 12. The bracketed words were added by Act VI of 1092.

(c) The judgment need not contain more than the points for determination and the decision thereupon, and the decree shall bear the date on which judgement is pronounced and shall state the amount adjudged to be paid, by and to whom payable, and shall be signed by the Judge and sealed with the seal of the Court.

(d) No decree shall be executed against immovable property, unless the decree-holder shall satisfy the Court that the judgement-debtor is possessed of no personal property which can be proceeded against.

In all cases in which the Court shall allow execution against the immovable property of the judgement-debtor, it shall record in its own hand-writing its reasons for doing so, and in no case shall such execution be allowed, unless the decree-holder shall support his application by a verified statement, as is provided for in the case of plaints under the Code of Civil Procedure.

(e) Appeals and second appeals shall lie against orders passed by the Court in execution of Small Cause decrees against immovable property in the same manner and to the same extent as if such orders had been passed in the exercise of the ordinary original jurisdiction of such Court.

In other respects, the procedure in such suits shall be that prescribed by the Code of Civil Procedure.

15. If, in the decision of a suit triable as a Small Cause under this Act, it becomes

Power to decide incidentally disputes concerning title to immovable property &c. necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immovable property or the legal character of either of them or of those under

whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject-matter of the suit, would not be cognizable under this Act as a Small Cause, it shall be competent to the Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, or obligation in any other action though between the same parties or their representatives.

16. Appeals from original or appellate decrees or orders of a District Court shall, when such appeals are allowed by law, lie to the High Court.

Appeals from District Courts.

Appeals from the decrees and orders of a Munsiff in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Court having local jurisdiction, except when the amount or value of the subject-matter of the suit exceeds rupees one thousand, in which case the appeal shall lie to the High Court.

17. Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as may be prescribed by the law or usage for the time being in force.

Power to require witness or party to make oath or affirmation.

18. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,—

Law administered by Courts.

(a) the Mahomedan Law in cases where the parties are Mahomedans, and the Hindu law in cases where the parties are Hindus, or

(b) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished,

(c) in cases where no specific rule exists, the Court shall act according to justice, equity and good conscience.

19. No District Judge or Munsiff shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

Judge or Munsiff not to try suits in which he is interested.

No District Judge shall try any appeal against a decree or order passed by himself in another capacity.

Judge not to try appeal from decree passed in another capacity.

When any such suit, proceeding or appeal comes before any such Officer, he shall report the circumstances to the Court to which he is immediately subordinate.

Mode of disposing of such suits and appeals.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure (Act II of 1065).

SCHEDULE No. I.

ACTS REPEALED.

No. and year of Act.	Title.	Extent of repeal.
(1) Act I of 1010	Extending powers of Munsiffs and defining their jurisdiction.	The whole except Section 7 and Clause 5 of Section 17.
(2) Act IV of 1010	Extending the jurisdiction of Zillah Judges.	The whole except Section 21.
(3) Act I of 1057	Consolidating and amending the law relating to the Zillah and Munsiffs' Courts.	The whole.
(4) Act I of 1077	Amending Act I of 1057.	The whole.

SCHEDULE No. II.

Suits which shall not be tried as Small Causes :—

(1) A suit concerning an act or order purporting to be done or made by Our Dewan in his official capacity, or concerning an act purporting to be done by any person by order of Our Dewan in his official capacity ;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a Judicial Officer acting in the execution of his office ;

(3) a suit concerning an act or order purporting to be done or made by any other Officer of the Government in his official capacity ;

(4) a suit for the possession of immovable property or for the recovery of an interest in such property ;

(5) a suit for the partition of immovable property ;

(6) a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage ;

(7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immovable property ;

(8) a suit concerning the liability of land to be assessed to land revenue ;

(9) a suit to restrain waste ;

(10) a suit for the determination or enforcement of any other right to or interest in immovable property ;

(11) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive periodically recurring right to discharge the functions of an office ;

(12) a suit to enforce payment of any allowance paid to families or individuals by the State, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interests in immovable property or in an hereditary office or in a shrine or other religious institution, other than cesses or dues recoverable under the Jenmi and Kudiyan Act ;

(13) a suit to recover from a person, to whom compensation has been paid under the Land Acquisition Act, the whole or any part of the compensation ;

(14) a suit for the specific performance or rescission of a contract ;

(15) a suit for the rectification or cancellation of an instrument ;

(16) a suit to obtain an injunction ;

(17) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution ;

(18) a suit for a declaratory decree, not being a suit relating to movable property instituted under Section 280 or Section 321 of the Code of Civil Procedure ;

(19) a suit to set aside an attachment by a Court, otherwise than in execution of a decree for money and in relation to movable property, or Revenue authority, or sale, mortgage, lease or other transfer by a Court or a Revenue authority or by a guardian ;

(20) a suit for property which the plaintiff has conveyed while insane ;

(21) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity ;

(22) a suit to contest an award ;

(23) a suit upon a foreign judgment as defined in the Code of Civil Procedure ;

(24) a suit to compel a refund of assets improperly distributed under Section 292 of the Code of Civil Procedure ;

(25) a suit to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets ;

(26) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate ;

(27) a suit—

(a) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution ;

(b) for an account of partnership transactions ; or

(c) for a balance of partnership account, unless the balance has been struck by the parties or their agents ; .

(28) a suit for an account of property and for its due administration under decree ;

(29) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant ;

(30) a suit for a general average loss or for salvage ;

(31) a suit for compensation in respect of collision between ships ;

(32) a suit on a policy of insurance or for the recovery of any premium paid under any such policy ;

- (33) a suit for compensation—
- (a) for loss occasioned by the death of a person caused by actionable wrong ;
 - (b) for wrongful arrest, restraint or confinement ;
 - (c) for malicious prosecution ;
 - (d) for libel ;
 - (e) for slander ;
 - (f) for adultery or seduction ;
 - (g) for breach of contract of betrothal or promise of marriage ;
 - (h) for inducing a person to break a contract made with the plaintiff ;
 - (i) for obstruction of an easement or diversion of a water course ;
 - (j) for illegal, improper or excessive distress or attachment ;
 - (k) for improper arrest under Chapter XXXIII of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXIV of that Code ; or
 - (l) for injury to the person in any case not specified in the foregoing Sub-clauses of this Clause ;
- (34) a suit by a Mahomedan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower ;
- (35) a suit for the restitution of conjugal rights, for the recovery of a wife, for the custody of a minor or for a divorce ;
- (36) a suit relating to maintenance except when the claim is based on an express contract in writing duly registered ;
- (37) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family ;
- (38) a suit by one of several joint mortgagors of immovable property for contribution in respect of money paid by him for the redemption of the mortgaged property ;
- (39) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a Revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land revenue.

ACT III OF 1084.

TREASURE TROVE ACT.

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ACT III OF 1084.

An Act for declaring the rights of Government and of private individuals with respect to hidden Treasure and for prescribing the Rules to be observed on the discovery of such treasure.

Passed by His Highness the Maha Raja of Travancore on the 18th March 1909 corresponding with the 5th Meenom 1084, under Section 13 of Act V of 1073.

Whereas it is expedient to make provision for declaring the rights of Government and of private individuals with respect to hidden Treasure and for prescribing the Rules to be observed on the discovery of such Treasure ; It is hereby enacted as follows :—

Preamble.

Act III of 1084. Objects and Reasons. "There is at present no law in Travancore similar to the Indian Treasure Troves Act (VI of 1878) making it compulsory on the part of every finder of a treasure to give immediate notice thereof to Government authorities, omissions being considered penal. In the absence of special legislation on the subject, it is to be apprehended that seldom will discoveries of treasure come to light and even when they are known, there is no obligation on the part of the finders to part with any portion of the treasure for price paid by the Sircar. In these circumstances it becomes necessary to pass a law and the present Bill has been drafted on the lines of the British Act. The principle that has been followed in framing it is to secure in the first place an intimation of the finding of the treasure, to secure the rights of all persons who could establish an antecedent

property in it and only, where no such antecedent right could be established, the right to the property will have to be dealt with under this Regulation. When the property is declared to be without an antecedent owner, then the division of property in the article found is made between the finder and owner of the place where it is found. And finally the Bill provides means whereby the Government would be able to procure for the Museum articles of historical or archæological value which it might be desirable to secure.— S. O. & R., T. G. G. dated 12-5-1908.

For Report of. the Select Committee see T. G. G. dated 21-7-1908.

For legislative proceedings see T. G. G. dated 24-3-1908; 16-6-1908; 22-9-1908 and 9-3-1909.

The Act was published in T. G. G. dated 23-3-1909.

SEC. 1. THE TREASURE TROVE ACT.

1. This Act may be called "The Travancore Treasure
Short title. Trove Act, No. III. of 1084."

It extends to the whole of Travancore ; and it shall
Extent and com- come into force at once.
mencement.

2. In this Act,—
Interpretation-
Clause.

"Treasure" means anything of any value hidden in
"Treasure". the soil, or in anything affixed thereto:

"Peishkar" means the Chief Officer in charge of the
Revenue administration of a Division
"Peishkar." and includes any Officer whom Our
Government, by Notification in Our
Government Gazette, may, by name or in virtue of his
office, appoint to be a Peishkar in any local area :

When any person is entitled, under any reservation
in an instrument of transfer of any
"Owner". land or thing affixed thereto, to trea-
sure in such land or thing, he shall, for
the purposes of this Act, be deemed to be the owner of
such land or thing.

3. Whenever any treasure, the materials of which
exceed in value fifty rupees, is found,
Notice by finder the finder shall, within thirty days of
of treasure. such finding, give to the Peishkar
notice in writing—

(a) of the nature and amount or approximate value
of such treasure ;

(b) of the place in which it was found ; and

(c) of the date of the finding ;

and he shall either deposit the treasure in the near-
est Government Treasury, or give the Peishkar such se-
curity, as the Peishkar thinks fit, to produce the treasure
at such time and place as he may from time to time re-
quire.

Sec. 3. Under the corres- when the value of the find
ponding Sec. 4 of the Indian exceeds Rs. ten.
Act, the finder is to give notice

4. On receiving a notice under Section 3, the Peishkar shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely) :—
 Notification requiring claimants to appear.

(a) he shall publish a Notification, in such manner as Our Government may from time to time prescribe in this behalf, to the effect that on a certain date (*mentioning it*) certain treasure (*mentioning its nature, amount and approximate value*) was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Peishkar on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months, after the date of the publication of such Notification ;

(b) when the place in which the treasure appears to the Peishkar to have been found, was, at the date of the finding, in the possession of some person other than the finder, the Peishkar shall also serve on such person a special notice in writing to the same effect.

5. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the Notification issued under Section 4, shall forfeit such right.
 Forfeiture of right on failure to appear.

6. On the day notified under Section 4, the Peishkar shall cause the treasure to be produced before him, and shall enquire as to and determine—
 Matters to be enquired into and determined by the Peishkar.

(a) the person by whom, the place in which and the circumstances under which, such treasure was found ; and

(b) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

7. If, upon an enquiry made under Section 6, the Peishkar sees reason to believe that the treasure was hidden within one hundred years before the date of the finding, by a person appearing as required by the said Notification and claiming such
 Time to be allowed for suit by person claiming the treasure.

treasure, or by some other person, under whom such person claims, the Peishkar shall make an order adjourning the hearing of the case for such period as he deems sufficient to allow of a suit being instituted in the Civil Court by the claimant to establish his right.

8. If, upon such enquiry, the Peishkar sees no reason to believe that the treasure was so hidden; or
 When treasure may be declared ownerless.

if, where a period is fixed under Section 7, no suit is instituted within such period to the knowledge of the Peishkar; or

if such suit is instituted within such period and the plaintiff's claim is finally rejected;

the Peishkar may declare the treasure to be ownerless.

Any person aggrieved by a declaration made under this Section may appeal against the same within two months from the date thereof to Our Government.
 Appeal against such declaration.

Subject to such appeal, every such declaration shall be final and conclusive.

9. When a declaration has been made in respect of any treasure under Section 8, such treasure shall, in accordance with the provisions hereinafter contained, either be delivered to the finder thereof, or be divided between him and the owner of the place in which it has been found in the manner hereinafter provided.
 Proceedings subsequent to declaration.

10. When a declaration has been made in respect of any treasure as aforesaid and no person other than the finder of such treasure has appeared as required by the Notification published under Section 4 and claimed a share of the treasure as owner of the place in which it has been found, the Peishkar shall deliver such treasure to the finder thereof.
 When no other person claims as owner of place, treasure to be given to finder.

11. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed, and the claim of such person is not disputed by the finder, the Peishkar shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely) :—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, three-fourths of the treasure shall be allotted to such finder and the residue to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith :

Provided that the Peishkar may, in any case, if he thinks fit, instead of dividing any treasure as directed by this Section,—

- (a) allot to either party the whole or more than his share of such treasure, on such party paying to the Peishkar for the other party such sum of money as the Peishkar may fix as the equivalent in market value of the share of such other party or of the excess so allotted as the case may be ; or
- (b) sell such treasure or any portion thereof by public auction, and divide the sale proceeds between the parties according to the rule hereinbefore prescribed :

Provided also that, when the Peishkar has, by his declaration under Section 8, rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found, such division shall not be made until after the expiration of two months without an appeal

Sec. 11. Clause (a) of the 1st Proviso of the corresponding Sec. 12 of the Indian Act does not contain the words "in market value" after the word "equivalent".

SEC. 12.**THE TREASURE TROVE ACT.**

having been presented under Section 8 by the person whose claim has been so rejected, or when an appeal has been so presented, after such appeal has been dismissed.

When the Peishkar has made a division under this Section, he shall deliver to the parties the portions of such treasure, or the money in lieu thereof, to which they are respectively entitled under such division.

And shares to be delivered to parties.

12. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Peishkar shall retain such treasure and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

In case of dispute as to ownership of place, proceedings to be stayed.

13. Any person who has so appeared and claimed, may, within two months from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit the finder of the treasure and all persons disputing such claim before the Peishkar shall be made defendants.

Settlement of such dispute.

14. If any such suit is instituted as aforesaid, and the plaintiff's claim is finally established therein, the Peishkar shall, subject to the provisions of Section 11, divide the treasure between him and the finder.

And division thereupon.

If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally rejected, the Peishkar shall deliver the treasure to the finder.

Sec. 13. The corresponding only one month's time for the institution of suits.

15. The Peishkar may, at any time after making a declaration under Section 8 and before delivering or dividing the treasure as hereinbefore provided, declare by writing under his hand his intention to acquire on behalf of Our Government the treasure, or any specified portion thereof, by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in a Government Treasury to the credit of such persons; and thereupon such treasure or portion shall be deemed to be the property of Government, and the money so deposited shall be dealt with as far as may be, as if it were such treasure or portion.

16. No decision passed or act done by the Peishkar under this Act shall be called in question by any Civil Court and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

17. A Peishkar making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits.

18. Our Government may, from time to time, make Rules consistent with this Act, to regulate proceedings hereunder. Such Rules shall, on being published in Our Gazette, have the force of law.

19. If the finder of any treasure fails to give the notice, or does not either make the deposit or give the security required by Section 3, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure, or the money in lieu

Secs. 19 and 20. In the Indian Act, the punishment provided for owner abetting offence, is (1) for finder failing to give notice, is imprisonment for a term which may extend to one year, or fine, or both, and (2) for owner abetting offence, is imprisonment which may extend to six months, or fine, or both.

thereof to which he would otherwise be entitled, shall vest in Our Government,

and he shall, on conviction before a Magistrate, be punished with fine, and in default of payment of the fine, with simple imprisonment as provided in Section 56 of the Travancore Penal Code.

20. If the owner of the place in which any treasure is found abets any offence under Section 19, the share of such treasure, or the money in lieu thereof, to which he would otherwise be entitled, shall vest in Our Government,

Penalty on owner
abetting offence
under Section 19.

and he shall, on conviction before a Magistrate, be punished with fine, and in default of payment of the fine, with simple imprisonment as provided in Section 56 of the Travancore Penal Code.

ACT V OF 1084.

ARMS ACT.

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THE ARMS ACT.

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ACT V OF 1084.

An Act to consolidate and amend the law relating to
Arms, Ammunition and Military Stores

*Passed by His Highness the Maha Raja of Travancore
on the 27th July 1909 corresponding with the 12th
Karkatakam 1084, under Section 13 of
Act V of 1073.*

Preamble. Whereas it is expedient to consolidate and amend the law relating to Arms, Ammunition and Military Stores; it is hereby enacted as follows:—

Year.	No.	Short title.	Effect of subsequent Legislation.
1084	V	Arms Act.	Amended by Act IV of 1115.

In order to prevent fire-arms and ammunition being landed in Travancore and thence smuggled through backwater and land to British territories, Act III of 1061 was passed. This Act provided for the control of the export, import, manufacture and sale of arms, ammunitions and military stores. It was amended by Act I of 1069, the main object of the amendment being to take power for Government to revise from time to time the fees levied on applications for licenses to manufacture or sell arms and ammunitions. The present Act, Act V of 1084 is an amending and consolidating statute in respect of the law relating to arms etc.

Act V of 1084—*Objects and Reasons.* "1. The existing Arms Regulation controls only the manufacture, export and import of arms, ammunition and military stores and does

not place any restrictions on the possession and use of arms. The British Arms Act No. XI of 1878 contains provisions regulating the possession and the use of arms, and it is found advisable to introduce corresponding provisions in the Travancore law.

2. The question of introducing the necessary amendments in the Arms Regulation so as to place restrictions on the possession and use of arms, was referred to all the Division Peishkars and to the Superintendent of Police, the Conservator of Forests, the Superintendent of the Cardamom Hills and the former Commercial Agent, for an expression of their views * * *. All of them are of opinion that the definition of 'arms' given in the British Act, has too wide a significance and that the proposed law need apply only to fire-arms. The three

I.—PRELIMINARY.

1. This Act shall be called "The Travancore Arms Short title, Local Act"; and it extends to the whole of extent. Travancore.

Peishkars who have expressed their opinion, are, however, against the introduction of the proposed law altogether. They think that the peaceful character of the inhabitants and the necessity for the use of fire-arms in places situated within or on the borders of forest tracts forbid the restriction suggested and that the free use of fire-arms is not attended with any danger in the present circumstances of the country. But the other Officers to whom the matter was referred are of opinion that the proposed amendment of the law should be adopted.

3. With a view to ensure uniformity with the practice prevailing in British India, it has been thought advisable to restrict the possession and use of arms in this State also. Travancore is so closely connected with the British Indian territories that any disturbance in the neighbouring country is likely to affect Travancore also. The Shannar-Marava riots furnish an instance. The unrestricted use of fire-arms may, it is thought, prove a source of danger under certain circumstances. As there is, however, a consensus of opinion that the restriction need be made only in respect to the possession of fire-arms and need not be extended to other arms referred to in the British Act, the word "arms" is defined in the Bill so as to exclude swords, daggers,

spears, spearheads, bows, arrows.

4. The Bill is drafted on the lines of the British Indian Act No. XI of 1878, the only important difference being the modification in the definition of the term 'arms'

5. As the number of amendments required to be introduced in the existing Regulation so as to make it accord with the British Act, would be numerous, I have thought that a consolidated law recast on the lines of the British enactment, may prove more useful and convenient than an amending Regulation" S. O. & R., T. G. G. dated 10-12-1907.

For Report of the Select Committee see T. G. G. dated 26-1-1909.

For legislative proceedings see T. G. G. dated 24-3-1908; 9-3-1909 and 27-7-1909.

The Act was published in T. G. G. dated 27-7-1909.

Act IV of 1115. This Act was passed direct by His Highness the Maha Raja.

The Act was published in the Gazette extraordinary dated 7-8-1939.

Sec. 1. Clause (b). This clause corresponds to Sec. 1 clause (b) of the British Indian Act. In respect of this clause, the statement of Objects and Reasons appended to the Bill says:—"The word 'volunteer' is omitted in

But nothing herein contained shall apply to—

Savings. (a) arms, ammunition or military stores on board any seagoing vessel and forming part of her ordinary armament or equipment; or

(b) the manufacture, conversion, sale, import, export, transport, bearing or possession of arms, ammunition or military stores, by order of Our Government, or by a public servant in the course of his duty as such public servant.

2. This Act shall come into force on the 1st Vrischi-
Commencement. kom 1085.

3. On and from that day, Act III of 1061 and Act I of 1069 shall be repealed. But all authorities and permissions given, licenses and exemptions granted, orders and appointments made, Notifications published, and Rules, conditions and Forms prescribed, under any enactment hereby repealed, shall be deemed to be respectively, given, granted, made, published and prescribed under this Act.

And all such authorities, permissions, licenses and exemptions shall, except as otherwise provided by this Act, continue in force for the periods for which they may have been given or granted respectively, or, where no such period is expressly fixed, for one year from the date on which this Act comes into force, and shall then cease to have effect.

the Bill, because the use of fire-arms by British Indian Volunteers and by British Military detachments stationed in the country might be provided for by a special order of Government such as is referred to in the Section". S. O. & R., T. G. G. dated 10-12-1907.

The clause in the British Indian Act was subsequently amended by Act XLIX of 1920

substituting the word 'member' for volunteer and it reads as follows:—"the manufacture,... ..by order of any Government in British India or by a public servant or a member of either of the Forces constituted by the Indian Territorial Force Act 1920 or the Auxiliary Force Act, 1920 in the course.... .servant or member".

4. In this Act, unless there be something repugnant

Interpretation- in the subject or context,—
Clause.

“Cannon.” includes also all howitzers, mortars, wall pieces, mitrailleuse and other ordnance
“Cannon.” and machine-guns, all parts of the same, and all carriages, platforms and appliances for mounting, transporting and serving the same ;

“Arms.” includes fire-arms and bayonets, also cannon and parts of arms, and machinery for manufacturing arms, but does
“Arms.” not include swords, daggers, spears, spearheads, bows and arrows ;

“Ammunition.” includes also all articles specially designed for torpedo service and submarine mining, rockets, gun-cotton, dynamite lithofracteur and other explosive or fulminating material, gun-flints, gun-wads, percussion-caps, fuses and friction-tubes, all parts of ammunition, and all machinery for manufacturing ammunition, but does not include lead, sulphur, or salt petre ;

“Military stores.” in any Section of this Act as applied to any part of Travancore,
“Military stores.” means any military stores to which Our Government may from time to time, by Notification in the Official Gazette, specially extend such Section in such part, and includes also all lead, sulphur, saltpetre and other material to which Our Government may, from time to time, so extend such Section ;

“License” means a license granted under this Act and “licensed” means holding such
“License and licensed.” license.

Sec. 4. “The term ‘arms’ is defined in the Bill so as to include only fire-arms, bayonets, cannon and parts of arms and machinery for manufacturing arms. Swords, daggers, spears, spear heads, bows, and arrows which are included in the definition given in the British Act, have been omitted in the Bill, because these weapons are now harmlessly used by the people and their possession and use are not attended with any special danger to public safety. Bows and arrows especially are used only for shooting fish and birds chiefly by the hill tribes.”
S. O. & R., T. G. G. dated 10-12-1907.

II—MANUFACTURE, CONVERSION AND SALE.

5. No person shall manufacture, convert, sell, keep, or offer or expose for sale, any arms, ammunition or military stores except under a license and in the manner and to the extent permitted thereby.
- Unlicensed manufacture, conversion and sale prohibited.

Nothing herein contained shall prevent any person from selling any arms or ammunition which he lawfully possesses for his own private use to any person who is not by any enactment for the time being in force, prohibited from possessing the same; but every person so selling arms or ammunition shall, without unnecessary delay, give to the nearest Magistrate or to the Officer in charge of the nearest Police-station, notice of the sale and of the purchaser's name and address.

III.—IMPORT, EXPORT AND TRANSPORT.

6. No person shall bring or take, by sea or by land, into or out of Travancore, any arms, ammunition or military stores, except under a license and in the manner and to the extent permitted by such license.
- Unlicensed importation and exportation prohibited.

Explanation.—Arms, ammunition and military stores taken from one part of Travancore to another, by sea or across intervening territory not being part of Travancore, are taken out of and brought into Travancore within the meaning of this Section.

7. Our Government may, from time to time, by Notification in the Official Gazette,—
- Power to prohibit transport. (a) regulate or prohibit the transport of any description of arms, ammunition or military stores, over the whole of Travancore or any part thereof, either altogether or except under a license and to the extent and in the manner permitted by such license, and

(b) cancel any such Notification.

Sec. 5. In the second para of the Section in the Indian Act, the words—"to any person other than a person entitled to possess the same by reason of an exemption under Sec. 27 of this Act" occur after the words "arms or ammunition".

Explanation.—Arms, ammunition or military stores transhipped at a port in Travancore are transported within the meaning of this Section.

Transhipment of arms.

8. Our Government may, at any places along the boundary line between Travancore and foreign territory, and at such distance within such line as they deem expedient, establish searching-posts at which all vessels, carts and baggage-animals and all boxes, bales and packages in transit, may be stopped and searched for arms, ammunition and military stores, by any Officer empowered by Our Government in this behalf by name or in virtue of his office.

Power to establish search stations.

[8-A. When any person is found carrying or conveying any arms, ammunition or military stores, whether covered by a license or not in such manner and under such circumstances as to afford just grounds of suspicion that the same are being carried by him with intent to use them or that the same may be used, for any unlawful purpose, any person may without warrant apprehend him and take such arms, ammunition or military stores from him.

Arrest of persons conveying arms etc., under suspicious circumstances.

Any person so apprehended, and any arms, ammunition or military stores so taken by a person not being a Magistrate or Police-Officer, shall be delivered over as soon as possible to a Police-Officer.

Procedure where arrest made by person not a Magistrate or Police-Officer.

All persons apprehended by, or delivered to a Police-Officer and all arms and ammunition seized by or delivered to any such officer under this Section, shall be taken without unnecessary delay before a Magistrate.]

IV.—GOING ARMED AND POSSESSING ARMS, ETC.

9. No person shall go armed with any arms, except under a license and to the extent and in the manner permitted thereby.

Prohibition of going armed without license.

Sec. 8-A. This was added by corresponds to Sec. 12 of the Sec. 2, Act IV of 1115. This Indian Act.

Any person so going armed, without a license or in contravention of its provisions, may be disarmed by any Magistrate, Police-Officer or other person empowered by Our Government in this behalf by name or by virtue of his office.

10. No person shall have in his possession or under his control any arms, or any ammunition or military stores, except under a license and in the manner and to the extent permitted thereby.

Unlicensed possession of arms, etc.

11. Any person possessing arms, ammunition or military stores, the possession whereof by him has, in consequence of the cancellation or expiry of a license, become unlawful, shall deposit the same without unnecessary delay with the Officer in charge of the nearest Police-station.

Arms of which possession has become unlawful to be deposited at Police-station.

If the owner of anything deposited under this Section does not, within three years from the date on which such thing is so deposited, produce a license authorising him to possess the same, and apply for delivery of the same, such thing shall be forfeited to Our Government.

V.—LICENSES.

12. Our Government may, from time to time, by Notification in the Official Gazette, make Rules to determine the Officers by whom, the Form in which and the terms and conditions on and subject to which, any license shall be granted; and may by such Rules, among other matters,—

Power to make Rules as to licenses.

(a) fix the routes by which arms, ammunition and military stores may be imported or exported ;

Sec. 10. The corresponding Section of the Indian Act has the words "cannon or fire-arms" in place of the word "arms."

Sec. 11. The corresponding Sec. 16 of the British Indian Act has been substituted by Act XX of 1919. Under the amendment the deposit may be

made with a licensed dealer. The amended Sec. contains four Clauses.

Sec. 12. Clause (a). This is an addition not found in the corresponding Sec. 17 of the British Indian Act. "This Clause, viz., 'fix the routes by which arms, ammunition and military

(b) fix the period for which any license shall continue in force ;

(c) fix a fee, payable by stamp or otherwise, in respect of any such license ;

(d) direct that the holder of any license, other than a license for possession shall keep a record or account, in such Form as Our Government may prescribe, of anything done under such license, and exhibit such record or account when called upon by an Officer of Government so to do ;

(e) empower any Officer of Government to enter and inspect any premises in which arms, ammunition or military stores are manufactured, or kept by any person holding a license of the description referred to in Section 5 or Section 6 ;

(f) direct that any such person shall exhibit the entire stock of arms, ammunition and military stores in his possession or under his control, on demand, to any Officer of Government so empowered ; and

(g) require the person holding any license or acting under any license to produce the same, and to produce or account for the arms, ammunition or military stores covered by the same, when called upon by an Officer of Government so to do.

13. Any license may be cancelled or suspended—

Cancelling and suspension of license. (a) by the Officer by whom the same was granted, or by any authority to which he may be subordinate, or by any Magistrate of a District, within the local limits of whose jurisdiction the holder of such license may

stores may be imported or exported" is not found in the British Act. It has been added because the present Regulation provides that the import and export of fire-arms, etc., by sea, should be made only through the port of Alleppey and it may be necessary to fix the routes in future also" S. O. & R. T. G. G. dated 10-12-1907.

Clause (e). In the Indian Act, in the corresponding Clause (b), Sec. 17, the words "other than a license for possession" occur at the end of the Clause.

Clause (f). The words "on demand" found in this Clause do not occur in the corresponding Clause (e) of the British Indian Act.

be, when, for reasons to be recorded in writing, such Officer, authority, or Magistrate deems it necessary for the security of the public peace to cancel or suspend such license ; or

(b) by any Judge or Magistrate before whom the holder of such license is convicted of an offence against this Act, or against the Rules made under this Act.

14. Our Government may, at their discretion, by a Notification in the Official Gazette, cancel or suspend all or any licenses, throughout the whole or any portion of Travancore.

Power to Government to cancel or suspend license.

VI.—PENALTIES.

15. Whoever commits any of the following offences (namely) :—

For breach of Sections 5, 6, 7 and 9 to 12.

(a) manufactures, converts, sells, keeps, or offers or exposes for sale, any arms, ammunition or military stores, in contravention of the provisions of Section 5 ;

(b) fails to give notice as required by the same Section ;

(c) imports or exports any arms, ammunition or military stores, in contravention of the provisions of Section 6 ;

(d) transports any arms, ammunition or military stores, in contravention of a regulation or prohibition issued under Section 7 ;

(e) goes armed, in contravention of the provisions of Section 9 ;

(f) has in his possession or under his control, any arms, ammunition or military stores, in contravention of the provisions of Section 10 ;

(g) intentionally makes any false entry in a record or account which, by a Rule made under Section 12, Clause (d), he is required to keep ;

(h) intentionally fails to exhibit anything which, by a Rule made under Section 12, Clause (f), he is required to exhibit ;, or

(i) fails to deposit arms, ammunition or military stores, as required by Section 11 ;

shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.

16. Whoever, [does any act mentioned in Clauses (a), (c), (d) or (f) of Section 15 in such manner as to indicate an intention that such act may not be known to any public servant as defined in the Travancore Penal Code, or to any public carrier, and whoever] on any search being made under Section 21, conceals or attempts to conceal any arms, ammunition or military stores, shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

17. Whoever, in violation of a condition subject to which a license has been granted, does or omits to do any act, shall, when the doing or omitting to do such act is not punishable under Section 15 or Section 16, be punished with fine which may extend to five hundred rupees.

18. Whoever knowingly purchases any arms, ammunition or military stores, from any person not licensed or authorised under the Proviso to Section 5 to sell the same ; or

delivers any arms, ammunition or military stores, into the possession of any person without previously ascertaining that such person is legally authorised to possess the same ;

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Sec. 16. The bracketed words in conformity with the corresponding Sec. 20 of the India Act of 1115, thus bringing the Sec. Act.

19. Any person violating any Rule made under this Act and for the violation of which no penalty is provided by this Act, shall be punished with fine which may extend to two hundred rupees.

Penalty for breach of Rule.

20. When any person is convicted of an offence punishable under this Act, committed by him in respect of any arms, ammunition or military stores, it shall be in the discretion of the convicting Court or Magistrate, further to direct that the whole or any portion of such arms, ammunition or military stores, and any vessel, cart or baggage-animal used to convey the same, and any box, package or bale in which the same may have been concealed, together with the other contents of such box, package or bale, shall be confiscated.

Power to confiscate.

VII.—MISCELLANEOUS.

21. Whenever any Magistrate has reason to believe that any person, residing within the local limits of his jurisdiction, has in his possession any arms, ammunition or military stores for any unlawful purpose,

Search and seizure by Magistrate.

or that such person cannot be left in the possession of any such arms, ammunition or military stores without danger to the public peace,

such Magistrate, having first recorded the grounds of his belief, may cause a search to be made of the house or premises occupied by such person or in which such Magistrate has reason to believe such arms, ammunition or military stores are or is to be found, and may seize and detain the same, although covered by a license, in safe custody, for such time as he thinks necessary.

The search in such case shall be conducted by, or in the presence of, a Magistrate or by or in the presence of, some Officer specially empowered in this behalf by name or in virtue of his office by Our Government.

22. Our Government may at any time order, or cause to be seized, any arms, ammunition or military stores in the possession of any person, notwithstanding that such person is licensed to possess the same, and may detain the same for such time as the Government think it necessary for the public safety.

23. Our Government may, from time to time, by Notification published in the Official Gazette,—
 Power to ex-empt.

(a) exempt any person, by name or in virtue of his office, or any class of persons, or exclude any description of arms or ammunition, or withdraw any part of Travancore from the operation of any prohibition or direction contained in this Act ; and

(b) cancel any such Notification, and again subject the persons, or things, or the part of Travancore, comprised therein, to the operation of such prohibition or direction.

24. [Every person aware of the commission of any offence punishable under this Act shall, in the absence of reasonable excuse, the burden of proving which shall be upon such person, give information of the same to the nearest Police-Officer or Magistrate, and every public carrier] shall, in the absence of reasonable excuse, the burden of proving which shall lie upon him, give information to the nearest Police-Officer regarding any arms, ammunition or military stores, or box, package or bale in transit, which he may have reason to suspect contains arms, ammunition or military stores, in respect of which an offence against this Act has been or is being committed.

Sec. 24. The words within brackets were substituted for the words "every public carrier" by Sec. 4, Act IV of 1115 thus bringing it in conformity with Sec. 28 of the British Indian Act.

25. [Except in any area in respect of which Notification has been published by Our Government under Section 14, no proceeding shall be instituted against any person in respect of an offence under Section 15 clause (f) without the previous sanction of Our Government or of the Magistrate of the District.]

26. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law, for any act or omission which constitutes an offence against this Act or the Rules made under it, or from being liable under such other law to any higher punishment or penalty than that provided by this Act : Provided that no person shall be punished twice for the same offence.

27. Our Government may, from time to time, by Notification in the Official Gazette, direct a census to be taken of all arms in any local area, and empower any person, by name or in virtue of his office, to take such census.

On the issue of any such Notification, all persons possessing any arms in such area shall furnish to the person so empowered such information as he may require in reference thereto, and shall produce such arms to him if he so requires.

Any person refusing or neglecting to produce any such arms, when so required, shall be, punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

Sec. 25. This Sec. has been substituted by Sec. 5, Act IV of 1115. The Sec. as originally enacted read as follows:-

"25. *Prosecution not to be instituted without sanction.* No

prosecution under this Act shall be instituted without the previous sanction of Government or of the Magistrate of the District."

ACT I OF 1085.

An Act to amend the Vakils Act, III of 1075.

Passed by His Highness the Maha Raja of Travancore on the 30th September 1909 corresponding with the 15th Kanni 1085 under Section 13 of Act V of 1073.

Whereas it is expedient to amend the Vakils Act, III of 1075 ; It is hereby enacted as follows :—

I. Insert a new Section—14-A.

“ The provisions of Sections 6, 13 and 14 shall not apply to a Vakil or any other person, whether holding a permanent appointment or not under Government, who may be appointed under the orders of Government to be, or to act as, or to be in charge of the office of, Head Sirkar Vakil, Assistant Head Sirkar Vakil, or Sirkar Vakil.”

II. In Section 13, omit the words “Sirkar Vakil”.

ACT IV OF 1085.

An Act to amend the Public Gambling Act, III of 1071.

Passed by His Highness the Maha Raja of Travancore on the 24th December 1909 corresponding with the 10th Dhanu 1085, under Section 13 of Act V of 1073.

Whereas it is expedient to amend Act III of 1071 ; It is hereby enacted as follows :—

1. This Act shall be taken as part of Act III of 1071.

2. In Section 3, omit the word “or”, between the words “wager” and “stake”, and insert the words “or otherwise”, after the word “stake” and before the words “shall be &c”, in line 5 ; and insert the word “present”, between the words “found there” and “for the purpose”.

Add the following to the same Section :—“and any person found in any common gaming house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming”.

3. In Section 4, omit the words “of a District or a Magistrate of the First Class.”

4. Add two Sections – 4-A and 4-B.

4-A. When any cards, dice gaming-tables, cloths, boards or other instruments of gaming, are found in any house, walled enclosure, room or place, entered or searched under the provisions of the last preceding Section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, walled enclosure, room or place is used as a common gaming-house and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-Officer, or any of his, Assistants.

Proof of keeping, or of gaming in, common gaming-house.

SEC. 5. PUBLIC GAMBLING (AMENDING) ACT.

4-B. If any person, found in any common gaming-house entered by any Magistrate or Officer of the Police under the provisions of this Act, before being arrested by such Officer, or upon being brought before any Magistrate, on being required by such Officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding Rs. 500, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance, if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

5. Add a Section—5-A.

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

Proof of playing for money not required for conviction.

6. Add a Section—11-A.

11-A. The Magistrate trying the case may direct any portion of any fine which shall be levied under Sections 2 and 3 of Act III of 1071, or any part of the moneys or proceeds of articles seized or ordered to be forfeited under the said Act to be paid to an informer.

Payment of portion of fine to informer.

ACT VI OF 1085.

THE WEIGHTS AND MEASURES ACT.

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ACT VI OF 1085.

An Act to regulate the Weights and Measures
of Travancore.

Passed by His Highness the Maha Raja of Travancore on the 10th April 1910 corresponding with the 28th Meenam 1085, under Section 13 of Act V of 1073.

Whereas it is expedient to provide for the adoption of a uniform system of Weights and Measures throughout Travancore; It is hereby enacted as follows:—

Year.	No.	Short title.	Effect of subsequent Legislation.
1085	VI	Weights and Measures Act.	Amended by Act IV of 1092 and XXIII of 1120.

The earliest provisions of law relating to weights and measures are contained in Secs. 22. and 23 of Act VI of 1010 (Police Act). Those Secs. read as follow:—"22. *** and in order to prevent frauds being committed in using false weights and measures at markets and fairs, the Dewan shall cause Parahs, Edangalies, Koles, &c., to be properly prepared and regulated, and shall forward them with the Sirkar Stamps affixed, to the respective Police-Officers who shall prevent all irregularities.

23. Police-Officers are empowered to investigate all cases respecting frauds committed in using false weights and measures, and on their being satisfactorily proved, they are

authorised to confine such offenders and forward the proceedings accompanied by a report of the particulars of the case to the Dewan Cutcherry and abide by its orders."

Act VI of 1085. :—*Objects and Reasons.*— "In September 1901, a Bill to regulate the weights and measures of this State was introduced into the Council. In the Statement of Objects and Reasons attached to that Bill, the Member explained the reasons for the measure as follows:—"The want of authorised weights and measures has led to disputes and to complaints of frauds in dealings between purchasers and sellers of goods, and although under Chapter XIII of the Penal Code, certain offences in

ACT VI OF 1085.

regard to weights and measures are made punishable, the want above mentioned has made that portion of the law a dead letter. The object of this Bill is to supply this want and thereby to create a certainty of feeling that each person gets his money's worth of goods, and is not cheated.'

"This Bill passed the Select Committee stage and the report of the Committee and the Bill as amended by them were taken up for consideration at the meeting of the Council held on the 7th September 1903. Since then, nothing, however, was done in the matter, and by the operation of Rule 67 of the 'Rules for the conduct of business of the Legislative Council,' the Bill was removed from the list of business. This is the stage at which we now stand in regard to a measure the necessity for which has been recognised on all hands. The reasons explained have not abated but on the other hand, the representations made at the successive Sessions of the Sri Mulam Popular Assembly by the delegates elected by the people go to show that the need for legislative interference is becoming more and more intense.

"The present Bill is drafted on the lines of the corresponding British Indian enactments and differs very little from the Bill introduced on a previous occasion.

"The fixation of the primary standards on which a system of weights and measures is to be constructed is the most important thing in the drafting of a Bill on the subject. As regards

weights, the Tola, which is equivalent to the weight of a British rupee, has been taken as the standard, for the reason that the people are very familiar with it and that at present it enters into calculation in reducing to one another the various heterogeneous systems in use in the country. In regard to measures of length, it is thought preferable to adopt the British yard instead of the sub-division, Inch, as very few transactions are practically effected in inches and as liability to error in making copies of standards of small dimensions is greater than in the sub-division of a larger unit for practical purposes. The Edangali has been taken as the standard for measures of capacity, because, despite the variations in capacity of the measuring vessels now used in different parts of the country, the standard has already been fixed by the Revenue Settlement Proclamation, and no alteration seems desirable or necessary. Interference with this standard is calculated to upset the contracts already entered into by Government with the ryots in the settled Taluks and involves much confusion and unnecessary labour. The weights and measures authorised for use will be multiples of the units and as they will, have to necessarily vary, they will be fixed by Notification issued by the Government."— S. O. & R., T. G. G. dated 19-1-1909.

For Report of the Select Committee see T. G. G. dated 4-5-1909.

For legislative proceedings see T. G. G. dated 22-12-1908; 9-3-1909; 28-9-1909 and 22-3-1910.

I. PRELIMINARY.

1. This Act may be called "The Travancore Weights and Measures Act, 1915."
Short title, extent and commencement.

It shall extend to the whole of Travancore.

It shall come into force on the 1st Chingom 1915.

II. STANDARDS.

2. The primary standard of weight shall be called a "Tola" and shall be a weight of metal certified to be equivalent to 180 grains Troy or one British Indian rupee.
Standard of weight and measures.

The primary standard for measures of length shall be called a "Yard" and shall be a rod of metal certified to be equal in length to the standard yard of British India.

The Act was published in T. G. G. dated 12-4-1910.

This Act was modelled on the lines of certain provisions of Acts XXXI of 1871 and II of 1889.

Act IV of 1912.—*Objects and Reasons.*—"The object of the Weights and Measures Regulation is to enforce the adoption of a uniform system of weights and measures. Sec. 5 empowers the Government to notify that in any local area an unauthorised and uncertified weight or measure cannot be used. Sec. 10 which provides a penalty for contravening the provisions of Sec. 5, requires that the person should knowingly use an unauthorised and uncertified weight or measure as authorised and certified. Unless fraud is established, there could be no conviction for contravening the provisions of Sec. 5. Hence, it is proposed to amend Sec. 10."—S. O. & R., T. G. G. dated 23-11-1915.

For Report of the Select Committee see T. G. G. dated 21-3-1916.

For legislative proceedings see T. G. G. dated 1-2-1916 ; 7-11-1916 and 3-4-1917.

The Act was published in T. G. G. dated 3-4-1917.

Act XXIII of 1912. This amending Act made possession of unauthorised weights and measures also punishable. This Act was passed direct by His Highness the Maha Raja.

The Act was published in T. G. G. dated 12-6-1945.

Sec. 2. "Section 2 of the Bill is the most important Section. It lays down the primary standards on which a system of weights and measures is to be constructed. My reasons for preferring the standards which I have embodied in this Section to those which appear to have been suggested by this Council in the course of the discussion on the Bill introduced previously to which

The primary standard for measures of capacity shall be called an "Edangali" and shall be a measure of metal certified to be capable of holding 80 cubic inches of water.

3. The units of weight and of measures of length and capacity shall be for weights, the said
 Units of weight Tola ; for measures of length, the said
 and measures. Yard ; and for measures of capacity,
 the said Edangali.

Weights and measures forming integral multiples or integral sub-multiples of the units of weights and measures shall be authorised sets of weights and measures under the provisions of this Act.

4. Our Government may, from time to time, by Notifi-
 cation in the Official Gazette, declare
 Special weights the magnitude and denomination of the
 and measures. weights and measures other than the
 said units to be authorised under this
 Act, though they might not form integral multiples or in-
 tegral sub-multiples of the units aforesaid.

reference has already been made, are set forth in the Statement of Objects and Reasons. They commend themselves to me alike on account of their simplicity and familiarity to the general public as well as on account of the very little interference they involve with the existing conditions in the State. Other systems there may be which are perhaps scientifically more accurate and which better accord with the systems in force in the adjoining territories; but the object of the present Bill being merely to introduce a set of weights and measures for general adoption and to penalise the use of those which are not so

authorised, none can, in my opinion, claim acceptance more than those which enter into the daily transactions of the people at present and with which they are therefore most acquainted." *L. C. P. dated 25-2-1909.*

Sec. 4. "Section 4 is intended to obviate the inconvenience which might obviously follow the adoption of a uniform system throughout the whole State, and power is thereby reserved to Government to declare the magnitude and denomination of the weights and measures other than those authorised for use by the preceding Sections." *L. C. P. dated 25-2-1909.*

III. USE OF NEW WEIGHTS AND MEASURES.

5. Our Government may, by Notification in the Official Gazette, direct that, after a date to be fixed therein, no weight, measure, weighing machine or balance, not authorised and certified under the provisions of this Act or the Notifications or Rules issued thereunder, shall be used in any dealing or contract that is had or made in any specified local area; and Our Government may, in like manner, alter or revoke such direction.

IV. WARDENS.

6. Our Government shall appoint Wardens for the custody of the primary standards and sets of authorised weights and measures hereinbefore mentioned.

7. Our Government may, from time to time, make Rules consistent with this Act for regulating the following matters:—

- (a) the powers and duties of Wardens;
- (b) the guidance of Wardens in all matters connected with the performance of their duties;
- (c) the provisions, replacement, custody and use of the standards;
- (d) the methods of verifying standards and weights, weighing machines and balances and measures of length and of capacity authorised under this Act, and of certifying such verification;
- (e) the errors which may be tolerated in weights, weighing machines and balances and measures of length and capacity authorised under this Act;
- (f) the shapes, proportions and dimensions to be given to weights, weighing machines and balances and measures of length and capacity authorised under this Act, and the materials of which they may be made;
- (g) marking weights and measures authorised under this Act with their several denominations;

Secs. 6 to 9. "Sections 6 to 9 form the adjective part of the Regulation. They deal with the manner in which the substantive portions of the Regulation shall be given effect to. Power is taken to Government to make Rules consistent with the Regulation for the carrying out of the provisions of the Regulation."—*L. C. P., dated 25-2-1909.*

(h) the fees to be paid for verifying, correcting and certifying the verification of weights, weighing machines and balances and measures of length and capacity authorised under this Act.

Such Rules shall be published in the Official Gazette and shall thereafter have the force of law.

8. The Warden may deface and render incapable of use, or refuse to verify, correct or mark anything brought to him for verification or correction.

Warden may refuse to verify or correct things unfit.

9. Any of the powers and duties conferred and imposed by this Act on a Warden may be exercised and performed by any other Officer whom Our Government may, from time to time, appoint in this behalf.

Exercise of any of Warden's powers.

V. PENALTIES.

10. Whoever, [is in possession of, or uses] in contravention of any Notification issued under Section 5, [**] any weight, measure, weighing-machine or balance, not duly authorised and certified under the provisions of this Act or the Notifications or Rules issued thereunder shall be punished with imprisonment for a term which may extend to three months, or fine which may extend to Rs. 100, or both.

Using unauthorised weights and measures.

11. Whoever knowingly counterfeits any mark used by a Warden under Section 7 shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Counterfeiting Warden's marks.

Sec. 10. As originally enacted the Sec. read thus:—"whoever in contravention of any Notification issued under Section 5, knowingly uses as authorised and certified any weight.....Rs. 100, or both." The words "as authorised and certified" were omitted and in its place the words "in any market, bazaar, shop or other

place where any goods, food, drink or other articles are exposed for sale" were substituted by Act IV of 1092. The expression "knowingly uses in any market.....exposed for sale" which occurred within the brackets were omitted and the bracketed words were inserted by Sec. 2, Act XXIII of 1120.

ACT IX OF 1085.

An Act to amend the Travancore Forest Act II
of 1068, as amended by Act IV of 1071.

*Passed by His Highness the Maha Raja of
Travancore, on the 10th April 1910 corresponding
with the 28th Meenom 1085, under Section
13 of Act V of 1073.*

1. *Section 2 (b).* Omit "Superintendent or Assistant Superintendent of the Cardamom Hills."

Insert the words "Divisional Forest Officer" after "Assistant Conservator."

Insert "Deputy Ranger" between "Ranger" and "Forester."

Substitute "a Timber Depot Officer" for "Superintendent of a Timber Depot."

Omit "Aminadar" and "Vijarippoo" and substitute "Forest Guard, Watcher, Watch Pillai."

Add a sub-para as follows :—

"Divisional Forest Officer" means the Chief Forest Officer of a Division or a portion or portions of one or more Divisions, if in independent charge of such portion or portions, when they are constituted into a Forest Division."

2. *Section 2 (c).* Insert between "teeth" and "and," the word "claws," in the last line.

3. *Section 2 (f).* Insert the words "or any rule or rules passed thereunder," after the word "Act."

4. *Section 2 (g).* Insert the words "cows, bulls, calves, heifers," after the word "buffaloes."

5. *Section 2 (i).* Insert the words "all temporarily occupied land and all land occupied without permission," between the words "land" and "whether," in line 2. Instead of the word "holders," insert the word "holdings," in lines 4 and 6.

6. *Section 2 (k)*. Substitute the word "Travancore" for "Indian."

7. *Section 6, Clause (a)*. Omit the word "and" at the end of the Clause, and the whole of Clause (b).

Add the following as Clauses :—

- "(b) setting forth the substance of Section 7,
- (c) explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest, and
- (d) fixing a period not less than three and not exceeding six months from the date of publishing such Proclamation in Our Government Gazette, and requiring every person claiming any right referred to in Section 4, either to present to such Officer, within such period, a written notice specifying or to appear before him within such period and state, the nature of such right, and in either case, to produce all documents and other evidence in support thereof.

The Forest Settlement Officer shall also serve a notice to the same effect on every known or reputed owner or occupier of any land included in or adjoining the land proposed to be constituted a Reserved Forest, or on his recognised agent or manager. Such notice may be sent by registered Post or Anchal."

8. *Section 7*. After para 3, insert the following Clause :—

"No patta shall, without the previous sanction of Our Dewan, be granted on behalf of Our Government for such land or any portion of it, and every patta granted without such sanction shall be null and void."

9. *Section 8*. Substitute (d) for (b) in line 1. Omit para 2.

10. *Section 10*. Insert the word "and" before "if" and substitute "such" for "the" in line 10 of the Section.

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At the end of the Section, add the following :—

“Where the right is a right to forest produce, he shall also record whether the forest produce obtained by the exercise of such right may be sold or bartered.

11. Add the following Section :—

Section 18-A. “Rights in respect of which no claim has been preferred under Section 6, shall thereupon be extinguished, unless before the publication of such Notification, the person claiming them has satisfied the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under Section 6, in which case, the Forest Settlement Officer shall proceed to dispose of the claim in the manner hereinbefore provided.”

12. Add another Section—18-B, as follows :—

“Notwithstanding anything herein contained, no right continued under Section 17 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of Our Dewan : Provided that, when any such right is continued for the beneficial enjoyment of any land or buildings, it may be sold or otherwise alienated with such land or buildings, without such sanction.

Any alienation of right in contravention of this Section shall be null and void.

No forest produce obtained in exercise of any right continued under Section 17 shall be sold or bartered, except to the extent defined by the order recorded under Section 17.

Any person selling or bartering any forest produce in contravention of this Section shall be punished with fine which may extend to Rs. 200.”

13. Add a third Section—18-C, as follows :—

“The Conservator may, from time to time, with the previous sanction of Our Government, stop any public or private way or watercourse in a Reserved Forest, provided that a reasonably convenient substitute for the way or watercourse so stopped already

exists or has been provided or constructed in lieu thereof."

14. *Section 19.* In line 3, insert the words "Our Dewan" after "by," and omit the word "or".

At the end the Section, substitute ":" (colon) for "." (fullstop) and add the following proviso as a sub-para:—

"Provided that no patta shall, without Our Dewan's previous sanction, be granted on behalf of Government for any land included in a Reserved Forest, and every patta granted without such sanction shall be null and void."

15. *Section 21.* Add as Clause (b) (1), after the words "who in a Reserved Forest", the following:—

"Kindles, keeps or carries any fire, except at such seasons and in such manner as the Conservator may, from time to time, notify;"

In Clause (c), omit the word "wilfully".

In Clause (d), add the word "taps" after "marks" and before "lops".

In the last para of this Section, insert "(a)" after the word "prohibit". Substitute ";" (semicolon) for "." (fullstop) in the last line.

Insert the word "or" at the end of the para, and add the following clause:—

"(b) the exercise of any right continued under Section 17 or created by grant or contract in the manner described in Section 19".

Insert the following proviso below the above Clause:—

"Provided that this Section shall not be held to interfere with such working of the forests as may be ordered by the Conservator."

16. Add the following new Section:—

Section 21-A. "Every person who exercises any right in a Reserved Forest or who is permitted to take any forest produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in

Persons bound to assist Forest Officer and Police Officer.

SEC. 17. FOREST (AMENDMENT) ACT.

such forest, and every Village Officer or person in any village contiguous to such forest, who is employed by Government, shall be bound to furnish, without unnecessary delay, to the nearest Forest Officer or Police Station House Officer, any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of or intention to commit any forest offence, and shall assist any Forest Officer or Police-Officer demanding his aid—

(a) in extinguishing any fire occurring in such forest,

(b) in preventing any fire which may occur in the vicinity of such forest, from spreading to such forest,

(c) in preventing the commission in such forest of any forest offence, and

(d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.”

17. *Section 22.* Omit “and” at the end of Clause (e), and substitute “;” (semicolon) for “.” (fullstop) at the end of Clause (f). Add the following Clauses :—

“(g) regulate the sale or free grant of timber or other natural produce and

(h) prescribe the fees, royalties or other payments for timber or other natural produce, and the manner in which such fees, royalties or other payments shall be levied.”

At the end of para. 2 (penalty clause), add the following :—

“If any agricultural or other crop is grown in contravention of the rules framed under Clause (a) of this Section and any person is convicted for that offence such crop shall be liable to confiscation by order of the convicting Magistrate.”

18. *Section 26.* Between the words “determined” and “by any Officer” in line 14, insert “so far as may be in accordance with the provisions of the Land Acquisition Act for the time being in force.”

19. *Section 31.* Omit "koleteak," in line 1.

Omit "and cardamoms," in line 2,

In para 2, line 4 omit "koleteak."

20. *Section 33, Clause 1.* Add at the end, "or any other tree standing on land temporarily or permanently assigned, the right of Government over which has been expressly reserved in the deed of grant or assignment of such land."

21. In *Section 33, Clauses 2, 3, 6, and 8,* omit the words "which are royalties."

22. In *Section 33,* omit "and" at the end of *Clause (11)* and insert the following *Clauses* :—

"(12) to regulate the use of property-mark for timber and the registration of such marks, declare the circumstances in which the registration of any property-marks may be refused or cancelled, prescribe the time for which such registration will hold good, limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration,

(13) to prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce and the throwing of grass, brushwood, branches and leaves into any such river or any act which may cause such river to be closed or obstructed, provide for the prevention and removal of any obstruction of the channel or the banks of any such river and for recovering the cost of such prevention or removal from the person or by the sale of any timber causing such obstruction, and provide for the protection of bridges locks or other public works, by regulating the floating of timber and the storing of timber on river banks and by authorising the seizure of timber floated or stored in contravention of such rules or by which any damage to such work may have been caused, and the detention and disposal of such timber until compensation has been made for the damage done, and".

Number the present *Clause (12)* as (14).

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23. *Section 34 (a).* Insert between, "fells" and "any," the following words:—

"girdles, lops, marks, mutilates or otherwise damages".

24. *Section 36, Para 2.* Omit the following words:—

"or to the Officer in charge of the nearest Police-station, who shall immediately forward a report to the Magistrate".

25. *Section 44.* Between the words "forests" and "from" in line 3 of Section 44, insert the following:—

"or of an Assistant Conservator holding charge of a Forest Division."

26. *Section 45.* Substitute "Travancore" for "Indian."

27. *Section 51.* Omit the words "not exceeding fifty rupees".

28. *Section 55.* In Section 55, substitute the word "Travancore" for the word "Indian".

29. *Section 58.* Between the words "timber" and "found" in line 1, insert the words "other than royalties," and between the words "timber" and "shall" in line 7, omit the words "other than royalties".

30. *Section 59.* Add after Clause (d), the following:—

"Any evidence recorded under Clause (c) of this Section shall be admissible in any subsequent trial before a Magistrate of the alleged offender, provided that it has been taken in the presence of the accused person and recorded in the manner provided for in the Travancore Criminal Procedure Code".

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*By His Highness the Maha Raja of Travancore.
issued under date the 3rd Mithunam 1085
corresponding with the 17th June 1910.*

Whereas, under Section 27 of the Proclamation issued by Us, under date the 24th February 1886, corresponding to the 14th Kumbhom 1061, the holders of all *Kuthakapattom* gardens in the Palliport Farm in the Parur Taluk are ordinarily liable to pay, on their gardens *Kuthakapattom* rates of assessment which are higher than the *Pandarapattom* rates; and Whereas such holders are, under the aforesaid Section of the Proclamation, allowed the option of purchasing exemption from the higher rates of assessment and having the gardens placed on the same footing as *Pandarapattom* lands by paying down once for all a *Vilayarthom* amounting to twenty times the difference between the *Kuthakapattom* and the *Pandarapattom* assessments; and Whereas it has been represented to Us that most of the holders have not been able to exercise the option owing to their inability to pay the *Vilayarthom*, as fixed by the Settlement Department, in accordance with the aforesaid Section of the Proclamation, and that the permanent enforcement of the *Kuthakapattom* rates would be a source of hardship and loss to the holders; We are hereby pleased to command,

The Administration Report of the year 1085 states as follows in regard to this Proclamation:—
"The question of the settlement of the old *Kuthakapattom* lands in the Palliport farm (in the Parur Taluk) was reconsidered during the year. According to Sec. 27 of the Settlement Proclamation, the ryots had the option of either converting the lands into *Pandarapattom* by payment of a *Vilayarthom* amounting to twenty times the difference between the *Kuthakapattom* and *Pandarapattom* assessments or of continuing payment of assessment at

the *Kuthakapattom* rates. As the Darbar found that most of the ryots were unable to pay the *Vilayarthom* at the above scale and that the permanent enforcement of the *Kuthakapattom* assessments would be ruinous to the ryots; it was resolved by way of relief to the ryots, to permit them, in modification of the Settlement Proclamation, to convert their *Kuthakapattom* gardens into *Pandarapattom* lands, with effect from 1086 M. E., on payment of a *Vilayarthom* amounting to only ten times the *Pandarapattom* assessment and further to allow them

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with a view to their relief and in their interests, that, in modification of the aforesaid Section of the Proclamation, the holders shall be permitted to have their *Kuthakapattom* gardens placed on the same footing as *Panilarapattom* lands, with effect from 1086 M. E., on their undertaking to pay a *Vilayarthom* amounting to *ten times* the *Pandarapattom* assessments on their gardens, as fixed by the Settlement Department, and that the said *Vilayarthom* shall be recovered from the holders, along with the kist, in *twenty* yearly instalments commencing from 1086 M. E., provided that, in case of default of payment of the yearly instalment due on any garden, it shall be competent to Our Government to reimpose the *Kuthakapattom* assessment on such garden, and provided also that the concession hereby granted shall not apply to those gardens which have been converted into *Pandarapattom* before the issue of this Proclamation or to the *Thaiavaippu* or converted gardens governed by G. O. No. 1458/L. R., dated 11th February 1908.

to pay this *Vilayarthom* in twenty yearly instalments commencing from 1086".— Page 14.

The Proclamation was published in T. G. G. dated 21-6-1910.

The G. O. referred to in the Proclamation and a subsequent G. O. modifying it are given below :—

G. O. REFERRED TO IN THE PROCLAMATION.

"1. * * * *

2. *Munambom*—otherwise called the Palliport farm in the Parur Taluk, was purchased from the Dutch in 964 M. E. From that year, the tract was being leased out from time to

time till 1045 M. E. when it was formally resumed by Government from the lessee. After that, the question of dealing with the lands comprised in the tract engaged the attention of Government, but no final decision was come to till 1061 M. E. The proprietary right to the lands belonged absolutely to Government and the tenants were mere tenants-at-will. Nevertheless, Government laid down by Section 27 of the Proclamation dated 14-7-1061 :

(i) that the garden lands in the possession of the tenants should be confirmed in their names with full property rights, but subject to the payment of the *Kuthakapattom* assessment :

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(ii) that the tenants might be permitted to purchase exemption from the *Kuthakapattom* assessment and have the lands placed on the same footing as *Pandarapattom* lands by paying down 20 times the difference between the *Kuthakapattom* and the Settlement assessment; and

(iii) that all rice lands within the tract should be sold by auction and registered in the names of purchasers at the Settlement assessment.

A large portion of the lands was settled on the above lines by the Revenue department in anticipation of the regular settlement, and the rest are being dealt with by the Settlement department.

3. In the course of the settlement of the rice lands by the Revenue department, it was found that some of them had been planted and converted into gardens. Though Government would have been perfectly within their rights if they had disposed of these lands also by auction, it was decided that these *thaiyeppu* or converted garden lands might be registered as *Pandarapattom* in the names of the occupants on recovery of the market-value assessed at not less than 31½ times the normal Pattom. Later on, at the instance of the Dewan Peishkar, Kottayam, the market-value or *vilayarthom* was allowed to be paid in convenient instalments, and the time for payment has recently been extended to 13-2-'08. Notwithstanding these concessions *vilayarthom* to the extent of Rs. (5,310) five thousand three

hundred and ten on these gardens remains unpaid.

4. In his Sadhanom No. 273, dated 25-3-'83, read above, the Dewan Peishkar, Kottayam, proposes with reference to these *thaiyeppu* lands :—

(i) that the tenants should be distinctly told that, if they do not pay down the *vilayarthom* within the time specified, the favourable terms on which they are allowed to hold these lands will be withdrawn and the lands would be brought under *Kuthakapattom* assessment, and

(ii) that the Settlement department should be instructed to treat as *Pandarapattom* only those gardens that have paid down the *Vilayarthom* and to deal with the remaining gardens as *Kuthakapattom* lands and issue Pattas accordingly.

5. * * Memorialists submit that the *Kuthakapattom* rates imposed by the Proclamation on the gardens are excessive and should be reduced to Settlement rates. They pray that all lands within the tract might be brought under *Pandarapattom* tenure without the levy of any *vilayarthom*.

*Order Thereon, No. 1458,
dated Trivandrum, 11th
February 1908.*

Government have given the matter the most careful consideration. With regard to the old garden and rice lands in the tract, Government find that the provisions of the Proclamation regulating their settlement have now been in operation for nearly 22 years

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and that a large area has been already settled in pursuance thereof. Government are not prepared to introduce any change in the treatment of these lands or to reduce the assessment rates as prayed for by the memorialists.

2. The *thai-veppu* gardens have really been more liberally treated than the other lands in the tract. The rates of *vilayarthom* fixed are comparatively low, and ample facilities have been given for payment of the *vilayarthom*. Nevertheless, the concessions have not been availed of by all the ryots. The D. C. R. statement for the Kottayam Division for Dhanu 1083 shows that a sum of Rs. (5,310) five thousand three hundred and ten is still due on account of *vilayarthom*. The latest date for payment is the 13th instant. Government are not prepared to wait any longer for the recovery of the *vilayarthom*. Their order to the Dewan Peishkar, Kottayam, sanctioning the registry of these gardens in the names of occupants clearly makes the payment of *vilayarthom* a condition precedent to such registry. When the occupants have not fulfilled the condition precedent even within the extended period, it is competent to Government to withdraw the concession and to treat the lands like other *Kuthakapattom* lands in the tract. Government therefore direct:—

(1) that the *vilayarthom* remaining unpaid after 13-2-'08 be removed from the D. C. R. statement;

(2) that all cases of lands where the *vilayarthom*, as assessed by the Revenue department,

has been already paid down in full, be treated as *Pandarakapattom* lands and Pattas be issued accordingly;

(3) that the lands on which *vilayarthom* remains unpaid be treated as *Kuthakapattom* lands and Patta issued at the *Kuthakapattom* rates applicable to the old gardens in the tract; and

(4) that it be, however, left open to the holders of such *Kuthakapattom* garden lands to purchase exemption from the *Kuthakapattom* assessment and have the lands placed on the same footing as other lands, by paying down at the time of the Settlement or afterwards, according to the convenience of the holders, the *vilayarthom* already fixed by the Revenue Department or which may hereafter be fixed by the Settlement department on the lines laid down by Government, and that, with a view to facilitate the carrying out of the above purpose, the Pattas issued by the Settlement department for the lands do also mention the assessment due on the lands at *Pandarakapattom* rates and the *vilayarthom* already fixed by the Revenue department or which may hereafter be fixed by the Settlement department.

Instructions will be issued accordingly."

T. G. G. dated 18-2-1908,
G. O. Re PAYMENT
OF VILAYARTHOM.

"By their order No. L. R. 1458, dated the 11th February 1908, read above, the Government directed that all the *thai-veppu* gardens in the Palliport Farm, on which the *vilayarthom*, as assessed by the

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Revenue Department, had been already paid down in full, should be treated as *Pandarapattom* lands and *Pattas* issued accordingly and that the gardens on which the *vilayarthom* remained unpaid should be treated as *Kuthakapattom* lands and *Pattas* issued at the *Kuthakapattom* rates applicable to the old gardens in the tract.

Messrs.....represented at the 8th Session of the Assembly:—

(1) that the *vilayarthom* due for a year on the old gardens, under the Proclamation read above, should be spread equally over the four kist months of the year and recovered along with the instalments of kist, and

(2) that the *thaiveppu* gardens on which *vilayarthom* is due should be converted into *Pandarapattom* and the *vilayarthom* due thereon should be recovered from the holders concerned in 10 yearly instalments.

The Government sanctioned the first prayer of the Members, with effect from the 1st Chingom 1088, and issued instructions to the Dewan Peishkar, Kottayam accordingly.

In regard to the 2nd point the Members stated that most of the holders of the *thaiveppu* gardens (who had yet to pay the *vilayarthom*) were so poor that they were unable to pay the amount in a single instalment and get their holdings converted into *Pandarapattom*.

Order Thereon No. 12892/L. R. & F., dated Trivandrum 1st December 1912.

The balance of *vilayarthom* pending recovery on the *thaiveppu* gardens in Munambom is Rs. (3,474-26-2) three thousand four hundred and seventy-four, chukkrans twenty-six and cash two, and it is due from 41 tenants. As these are the only holdings in Munambom now treated as *Kuthakapattom* lands, His Highness' Government consider it desirable to convert these also into *Pandarapattom* with a view to afford relief to the holders and to do away with the *Kuthakapattom* tenure wholly in Munambom. The Government therefore sanction the holders of the aforesaid *thaiveppu* gardens being allowed to pay the *vilayarthom* due on their gardens in 10 equal yearly instalments with effect from 1088, the *Pandarapattom* assessment being levied on the holdings and recovered from the holders from the beginning of 1088.

It shall be competent to the Government to reimpose the *Kuthakapattom* tax on the *thaiveppu* gardens, in case the holders make default of payment of the yearly instalment of the *vilayarthom* due on any garden. The holders should be required to execute *kychits* before the Tahsildar agreeing to this condition."

T. G. G. dated 17-12-1912.

The following extract from Dewan Mr. Rajagopalachari's letter No. 3494/L. R. dated 23-2-1909 to the Resident, contains a brief history of the *Kuthakapattom* lands in the Palliport Farm referred to in the Proclamation:—

"The Palliport farm was acquired by Travancore by purchase from the Dutch East

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India Company in 964 M. E. corresponding to 1789 A. D. In regard to this, I would refer you to pages 132-134 of Mr. Logan's Malabar Manual, Second Edition, Vol. III, which contains a translation of the agreement between the Dutch Company and the Travancore Darbar. No authentic records are forthcoming to show how the tract was managed by the Darbar from 1789 to 1809 A. D. In the latter year, the Palliport farm was rented by the Darbar to one Mr. James Tate for a period of 21 years, on the expiry of which, the tract was given on lease to Mr. Samuel Vernede for a term of 10 years from 1831. Before the expiry of this term, the lease was renewed in 1835—for a period of 20 years with effect from 10th September 1834. On the expiry of this term, the lease was again renewed, in 1854, for a period of 15 years, *i. e.*, up to 1869, in favour of Mr. John Scipio Vernede, son of Mr. Samuel Vernede. All these leases appear to have been entered into with the approval of the British Resident. The lessee had to pay a fixed annual rental to the Darbar, in consideration for which, all sources of revenue accruing from the rented premises were assigned to the lessee. The tenants were treated as mere tenants-at-will, without any right of occupancy. In default of payment of rent by the tenants, the lessee could, under the terms of the lease, 'dispossess them of the landed property given to them and deliver it to others selling such portion of their individual property as may be sufficient to recover the revenue due by

them.' This provision, in regard to the summary eviction of the tenants, was first inserted in the agreement entered into with Mr. Samuel Vernede in 1830—this document bears the certificate of the then Ag. Resident Lieut. Colonel Cadogan—and it was repeated in every subsequent agreement with the renters.

"As regards the rates of assessment leviable by the renters no mention is made of the same in any of the agreements. The information has to be gathered from other records. It appears that the gardens comprised in the farm were measured and assessed by Mr. Samuel Vernede in 1021 M. R./1846 A. D., and by Mr. J. Scipio Vernede partly in 1030 M. R./1855 A. D. and partly in 1041 M. R./1865 A. D., for determining the rents due to them by the tenants. *The accounts drawn up by Mr. Scipio Vernede show that the trees were assessed at Kuthakapattom rates. The Kuthakapattom rates which were actually imposed, are compared below with the Pandarapattom rates then prevailing in the case of Sirkar Pandarapattom lands elsewhere.*

Kuthakapattom.

	Ch. C.
First Class Cocoanut tree	18 0
Second "	13 8
Third "	9 0
Fourth "	4 8

Pandarapattom.

	Ch. C.
First Class Cocoanut tree	4 0
Second "	3 0
Third "	2 8
Fourth "	2 6

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"The *Kuthakapattom* rates appear to have been prevailing in the farm for a long time prior to Mr. Scipio Vernede's survey and settlement.

"In 1860, the Palliport tenants sent up numerous petitions to the then Resident Mr. F. N. Maltby, against Mr. J. Scipio Vernede, complaining among other things that the latter was levying a rent of Chs. 18 on every first class cocoanut tree. These petitions were referred to the Darbar, and were formally enquired into on the spot by a Committee composed of Mr. Kohloff, Conservator of Forests, and Mr. Shangunny Menon, Deputy Peishkar. In regard to the levy of the 18 Chs. rate, complained of by the ryots, the Committee appear to have observed in their report that *that rate had been fixed long ago, with the other rates of assessment on cocoanut trees, and that, as the ryots had till then been paying at those rates without demur, no interference with those rates was called for.* The conclusions of the Committee were communicated by Sir T. Madhava Row in his letter No. 1100, dated 15-5-1861, to Mr. Maltby, and were approved of by the latter in his Memorandum to Sir T. Madhava Row dated 23rd *Idem.*

"Mr. J. Scipio Vernede's lease expired in 1869. The Darbar then resumed the farm and has since been dealing direct with the ryots. On resumption of the farm, the ryots began to pay direct to the Darbar, the rents which they had till then been paying to the renter, at

the same rates as those paid to the latter.

"In 1871, Sir T. Madhava Row visited Palliport and drew up a Memorandum, dated 7-10 1871, in regard to its settlement. I subjoin extracts from that Memorandum:—

'The theory upon which the proceedings of both Government and farmer have been all along based, appears to be that all land (except one or two exceptions which need not be taken into account) in the tract is the exclusive property of the State and that the tenants cultivating the same are removable purely at will, and quite unconditionally. The tenants might be removed at any time and without any compensation of any kind. In consequence of this theory, the farmers of the tract were authorised by the Government to evict any tenant summarily in default of payment of rent and the tenants were not allowed to assign any interests in the lands.

'In strict accordance with this theory, the State has the right to sell by public auction all the garden and paddy lands in Palliport, reserving to itself no more than the ordinary land tax.

'But I would by no means advise the exercise of this right.

'I perceive that practically a feeling of private property unmistakably exists in the tract, probably the growth of a succession of years. The cocoanut plantations, which abound in the tract and which constitute

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its chief value, are cut up into moderate sized gardens; each garden is partitioned from its neighbour: each generally has a house in it, occupied by the tenant; the tenant has spent much time and labour on the improvement of his little domain, and he has, in most instances, been occupying the property for some generations. I observe, too, that a custom had sprung up which set limits to the demand of the farmer for rent. He could not arbitrarily exact anything he pleased. The rent payable to him was regulated according to certain fixed rates, and left a considerable margin of profit to the tenant in excess of mere wages of labour, the natural consequence being that the tenancy has acquired a considerable commercial value. And tenant right has been bought and sold, though the Government does not recognise such transactions, in reference to the theory above stated. I have, in short, every reason to feel that the tenants have built their plans of life with reference to a belief that they would never be arbitrarily called upon to give up their holdings. Indeed, were it not for the continued operation of such a belief, I do not think that the Palliport farm would show evidence of so much industry and prosperity. * *

'The plan I would strongly recommend is that the whole farm be surveyed and assessed by Government agency; and that it be declared that the properties covered by the Pattas will be private, heritable and transferable, in the sense in which Sirkar Pattom lands are such.

*'I would assess the garden lands at the same rates as have prevailed heretofore or very nearly the same rates. These rates are higher than what apply to Sirkar Pattom gardens but are perfectly fair. There is no sound reason for attempting an equalisation at present by reducing rates that have hitherto prevailed in the farm, and have been acquiesced in by the tenants, especially bearing in mind that the rates which apply to Sirkar Pattom gardens are too low and may have to be raised hereafter. At one time, I thought that, perhaps, the rates might be equalised and the tenants in the farms might be called upon to pay to the Sirkar the capital value of the annual gain that would thus accrue to them. But it appears to me that the bulk of the tenants would find it much more convenient to continue to pay the higher rate than to pay a capital sum as the price of a lower rate. And the Government must remember that capital left in the hands of the ryot, as a general rule, produces more benefit to the country than when transferred to the public coffers.***'*

'When the properties will have been surveyed and assessed and Pattas granted, and it comes to be understood that the ryots stand to them in the relation of private proprietors, the properties concerned will, I am certain, rise very much in price and in intrinsic value. I am sure that the ryots will feel an increased sense of security in building houses and laying out labour and capital on their properties. In time, the State will, of course, duly participate

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in the increased prosperity of the people.

"There are some paddy lands, however, in or appertaining to the tract, to which my remarks as to the existence of a feeling of private property do not apply. These are lands which have apparently been at the disposal of the Government farmer, who arranged for their cultivation from time to time according to his unlimited discretion. At one time, he sub-rented them for a term of years; at another, he cultivated them himself; and so on. They are lands in which no ryots are in a position to claim anything analogous to a right of occupancy arising from the outlay of labour or capital, or even from long and uninterrupted cultivation. These paddy lands, on being ascertained as such, I would propose to sell by public auction after survey and assessment.'

"I have conferred with the principal ryots of Palliport and have reason to think that the steps I have proposed above will prove acceptable to them."

"The above views of Sir T. Madhava Row were generally approved of by the then Resident, Mr. G. A. Ballard (*Vide* his Memo to Sir T. Madhava Row, No 600, dated 20-10-1871). I solicit a perusal of Mr. Ballard's note, from which you will see that Mr. Ballard not only approved of the retention of the rates (*Kuthaka-pattom*) of tree tax, but that he contemplated periodical revisions of the tax by an inspection of the number of trees in the gardens.

"The Darbar followed generally the lines chalked out by Sir T. Madhava Row till the time of Mr. Ramiengar. The latter had to consider the question of the policy to be pursued in dealing with the Palliport farm in framing his scheme for the revenue settlement of the State. Mr. Ramiengar adopted in the main the lines laid down by Sir T. Madhava Row, as will be seen from the following extracts from the former's Memorandum on the Revenue Survey and Settlement of Travancore, dated 14-4-1885:

"But although the return obtained by the State for its investment (three lakhs of Surat Rupees—the purchase money paid to the Dutch East India Company) is small (and this only shows that they paid a great deal more for the property they acquired than it was worth), it will be seen that the rates of the tree tax levied are excessive, being 4 and 5 times the ordinary assessment of the Sirkar gardens. This is apparently because the Jenmom or proprietary right in the farm originally vested in the Dutch Government, the tenants were mere cultivators entitled only to the ordinary wages of labour, and the Travancore State, having acquired the farm by purchase, has succeeded to the rights possessed by the Dutch. However this may be, it is certain that the Sirkar has been looked upon as the absolute proprietor of the farm, while the tenants have been regarded as mere tenants-at-will. The renter, under the periodical leases introduced after the acquisition of the farm, accordingly obtained from the tenants

PALLIPORT FARM.

the highest possible rents the property was capable of yielding, and the Government have continued to do the same since its reversion to Government management.

'It is contended on behalf of Government that it has the right of selling the gardens and lands comprised in the farm by auction to the highest bidder if it so chooses. And, as already stated, a portion of the rice lands was so disposed of so late as 1058. Without disputing the abstract right of Government to do this, it may still be questioned whether such a step is just or expedient. Whatever the original status of the tenants on the farm may have been, they have squatted on it for generations, they have expended labour and capital on the gardens, they have built houses, acquired and sold property, and have undoubtedly acted in the belief that they would not be arbitrarily ousted.

'In these circumstances, it would not be just, or for the interest either of the tenants or of the State as representing the general public, to exercise the right of selling the farm with the view of recouping themselves for the money invested by them in its purchase. On the contrary, our policy should be to confirm the tenants in their possession, to impart to them a sense of security and encourage private industry and enterprise, *without at the same time entailing unnecessary sacrifice of Government interest. This is done by declaring the present rates of tree tax to be the future assessment, by confirming the tenants in their*

*present possession, and by conferring upon them full property rights, i e., leaving them perfectly free to mortgage, devise, sell or otherwise dispose of their gardens, subject to the payment of the Government demand. This would place them precisely on the same footing as other holders of Sirkar Pattom lands, and it was also the course suggested by Sir T. Madhava Row in 1871.*****

'There is no analogy between the property in question, the proprietary right in which has been acquired by the State by purchase, and Sirkar Pattom lands which are the private property of the holders subject only to the payment of the Government demand. I therefore entirely agree with my predecessor in thinking that there is no reason for reducing the rates of assessment now paid and that they should be confirmed.

'One point, however, in this connection is deserving of consideration, namely, whether having adopted the present rates of assessment as the future public demand, it is desirable to perpetuate them, as they are altogether exceptional and are justified only by the present exceptional tenure of the land. It would be inconsistent to leave such an anomaly, while one great professed object of the Revenue Survey and Settlement is to sweep away such anomalies as far as may be practicable. What I would recommend, therefore, is, that the farm being demarcated and surveyed as other Government lands and assessed in the same manner and on the same principles as those lands, I would

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give the ryots the option of redeeming the difference between the resulting assessment of each garden and the assessment which it now pays by paying down once for all 20 times that difference. This, it will be noted, is identical with what I have proposed in the case of *Kettuthengu* and other properties charged with payments of the Government demand in kind. This will remove the anomaly to which I have referred, and be just alike to the ryots and the Sirkar. Nor would the option of paying 20 times the difference between the present and future assessment be any hardship to the payer, *The universal rule by which property is valued in Travancore is to take from 20 to 40 times the assessment.* The 20 years' purchase of the difference which I propose would, therefore, be greatly in favour of the tenants of the farm and ought to be readily accepted, *but if they elect to decline the option, the higher rates of assessment must of course be maintained and collected.*

The gardens being disposed of in this manner, there remain the rice lands. These are on a different footing. ** As these lands are thus entirely at the disposal of Government, with no private rights to respect, obviously the best mode of dealing with them is to sell them, after they are demarcated, surveyed and assessed by Settlement Department, by auction to the highest bidder, subject to the payment of the fixed assessment. They will then merge in and become incorporated with Sirkar Pattom lands.'

"The above proposals of Mr. Ramiengar were subsequently embodied in Section 27 of the Settlement Proclamation, dated 24-2-1886. This is the Proclamation regulating the general principles of Settlement throughout the State. You will see from a reference to the Proclamation that the Palliport farm is explicitly classed as *Kuttakapattom* area, the fact that the *Kuthakapattom* rates of assessment are higher than *Pandarapattom* rates is noted and provision is made for equalising the rates by giving the ryots the option of converting their *Kuthakapattom* gardens into *Pandarapattom* gardens by paying down 20 times the difference between the assessments in the two cases.

"In 1892, and again in 1894, the ryots of Palliport complained against the provisions of the above Proclamation relating to their tract, but the Darbar declined to change its policy. I would invite a reference in this connection to Mr. Grigg's D. O. to Mr. Shungrasoobyer, dated 12th November 1894, where Mr. Grigg has pointed out, in regard to the complaints made to him by certain Palliport ryots, that the Darbar were only following the plan laid out by Mr. Ramiengar and that the ryots were apparently under a misapprehension. Mr. Grigg explicitly refers to the option the ryots have of redeeming the difference between the *Kuthakapattom* and *Pandarapattom* assessments by paying down 20 times that difference.

"The regular revenue settlement of the Parur Taluk was

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commenced in 1905. Before this, however, the bulk of the rice lands in the tract were dealt with by the Revenue Department on the lines laid down by the Proclamation. In the course of the settlement of the rice lands by the Revenue Department, it was found that some of those lands had been planted and converted into gardens. The Darbar would have been perfectly within its rights if it had disposed of these lands by public auction as laid down in the Proclamation, but in the interests of the ryots, it was resolved to register these converted gardens (i. e., rice lands converted into gardens) on Pandarapattom tenure in the name of the occupants on recovery of a vilayarthom amounting to their market value. Later on, this vilayarthom was allowed to be paid in easy and convenient instalments and the time for payment was subsequently extended. The concession was availed of by about 80 per cent. of the occupants of the converted

gardens, and as a result, these ryots now pay only the (lighter) Pandarapattom assessment in lieu of the original Kuthakapattom assessment.

"The settlement of the Parur Taluk, including the Palliport Farm, has now been completed, and the settlement rates (which follow the Kuthakapattom rates in the case of gardens on which vilayarthom has not been paid, and the Pandarapattom rates in the case of the gardens on which vilayarthom has been paid) have been introduced from the current Malabar year. Nevertheless, the holders of all Kuthakapattom gardens, whether old or converted, in Palliport, have still the option of redeeming the difference between the Kuthakapattom and Pandarapattom assessments and changing the tenure of the gardens from Kuthakapattom into Pandarapattom by paying down the prescribed vilayarthom now or at any future time according to their convenience."— L. R. M. Vol. I, Pp. 661-667.

PROCLAMATION.

*By His Highness the Maha Raja of Travancore issued
under date the 17th Kanni 1086 corresponding
with the 3rd October 1910.*

Whereas, the tax on all lands granted for coffee or tea cultivation under the terms of the Memorandum dated the 8th day of March 1862, or under the Rules passed on the 24th day of April 1865, or under the Rules passed on the 7th day of July 1898, is now payable at (12) twelve annas per acre per annum, and Whereas the tax on all grass lands, granted for homestead and farmstead to the proprietors of Coffee or Tea Estates, under the Rules passed on the 31st day of July 1877, is now payable at (4) four annas per acre per annum, and Whereas the question of revising the assessment of all the lands granted under the aforesaid Memorandum and Rules has been considered in connection with the General Revenue Settlement of the State, now drawing to a close, We in exercise of the power reserved in the Proviso to Para I of the aforesaid Memorandum and in Clause 1 of the title-deeds issued

The proclamation was published in *T. G. G. dated 11-10-1910.*

“The enhancement of Tax on lands held under the Coffee Land Rules from twelve annas to one Rupee introduced by this Proclamation was done in pursuance of the condition in the title-deeds issued for those lands, that the assessment originally fixed would be subject to enhancement in concurrence with and in proportion to the general revision of the assessment of the lands of the Travancore State.”

—*L. R. M. Vol. I, P. 669.*

The Memorandum dated 8th March 1862 and Rules dated 24th April 1865 and 7th July 1898 were superseded by Rules

dated 28-11-1913, (*T. G. G. dated 9-12-1913*). Rules dated 31-7-1877 were cancelled by Notification No. 13249/L. R. F. dated 28-11-1913. These Rules were of an executive nature. In 1097 the Land Assignment Act was passed and under Sec. 7 of that Act a set of Rules under date 25-2-1923 (*T. G. G. dated 13-3-1923*) have been passed on the lines of the Rules, dated 28-11-1913.

The Proclamation provides that the tax fixed by it is to remain unaltered till the next General Revenue Settlement of the State. The Land Tax Proclamation of 1121 is deemed to be a General Revenue Settlement of the State and a basic tax of 4 cash per cent per annum is charged on land.

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thereunder or under the aforesaid Rules, are pleased to command that from the 17th day of August 1910, corresponding to the 1st day of Chingom 1086, the annual land tax payable on all lands granted under the aforesaid Memorandum dated the 8th day of March 1862 or the Rules dated the 24th day of April 1865 or the 7th day of July 1898, be raised from (12) twelve annas to British Rupee (1) per acre, and the annual land tax on all grass lands granted for homestead and farmstead under the aforesaid Rules dated the 31st day of July 1877, be raised from (4) four annas to (5) five annas per acre and that these taxes of British Rupee (1) one per acre and annas (5) five per acre per annum respectively shall remain unaltered till the next General Revenue Settlement of the State is taken up.

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By His Highness the Maha Raja of Travancore issued under date the 3rd November 1910 corresponding with the 18th Thulam 1086.

Whereas Para 8 of Our Proclamation issued under date the 27th November 1898 corresponding to the 13th Vrischikom 1074, for regulating the erection and use of new places of Public Worship, lays down that if, within 60 days from the date of the presentation of the application to the Dewan Peishkar, the applicant receives no order either refusing or granting the permission solicited, he shall notwithstanding anything said in Para 4 of Our said Proclamation, be at liberty to proceed to erect the place of worship or to use it as such, and Whereas it is found not practicable in all cases to dispose of the applications and communicate the decisions thereon to the applicants within the said period of 60 days, We are hereby pleased to command that "90 days" be substituted for "60 days" in the said Para 8 of Our said Proclamation.

This Proclamation was published, in T. G. G. dated 22-11-1910.

ACT III OF 1906.

THE BRITISH COINAGE ACT.

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ACT III OF 1086.

[An Act relating to the currency of British Coinage
in Travancore.]

*Passed by His Highness the Maha Rajah of
Travancore on the 16th December 1910
corresponding with the 1st Dhanu
1086, under Section 14 of
Act V of 1073*

Preamble. [Whereas it is expedient to consolidate the law relating to the currency of British Coinage in Travancore;] It, is hereby enacted as follows:—

Year.	No.	Short Title.	Effect of subsequent Legislation.
1086	III	British Coinage Act.	Amended by Act I of 1091 and Act V of 1113. Affected by Act VI of 1095.

Act III of 1086. "In August 1907 the Resident at the instance of the Madras Government requested the Darbar to adopt the Revised Rules promulgated in the Notification of the Government of India, Financial No. 1448-A, dated 8th March 1907, for the cutting or breaking of British Indian Silver coins with such modifications as may be necessary to suit local circumstances. The Darbar agreed to this proposal. In view to give effect to this arrangement, it was necessary for the Darbar to take power under a legislative enactment, to legalise the cutting and breaking of British Indian Silver coins and then introduce

a set of Rules on the lines of the British Indian Rules."

L. R. M. Vol., I. Pp. 671-672.

This Act was passed without the intervention of the Council. It was published in *T. G. G. dated 20-12-1910*. The Amending Act I of 1091 was published in *T. G. G. dated 21-9-1915*. Sec. 3-A inserted by the Amending Act declared sovereigns and half sovereigns a legal tender. Act VI of 1095 published in *T. G. G. dated 20-7-1920*, enacted that gold coins referred to in Sec. 3-A. shall cease to be a legal tender in payment or on account. The amending Act V of 1113 was published in *T. G. G. dated 15-3-1938*.

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1. [(1) This Act shall be called "The British Coinage Act".]
Short title.

(2) [It] shall extend to the whole of Travancore.
Local extent.

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

(a) "Deface" with its grammatical variations and cognate expressions, includes clipping, filing, stamping, or such other alteration of the surface or shape of a coin as is readily distinguishable from the effects of reasonable wear,
"Deface."

(b) "Prescribed" includes prescribed by a Rule made under this Act; and
"Prescribed."

(c) "Standard weight" means the weight prescribed for any silver coin under the British Indian Coinage Act, 1906, or in any Act in amendment thereof.
"Standard weight."

LEGAL TENDER.

3. (1) The British Indian Rupee [as well as the British Indian Half Rupee] shall be a legal tender in the State, in payment or on account:
Silver coin when a legal tender.

Provided that the coin—

(a) has not lost in weight so as to be more than two per cent. below its standard weight; and

Title. This was substituted by Sec. 1, Act I of 1091 for the title which originally ran as follows:—"A Regulation to provide for the cutting or breaking of diminished, defaced or counterfeit British Indian Silver Coins".

Preamble. This was substituted by Sec. 1, Act I of 1091 for the Preamble which originally stood as follows:—

"Where as it is expedient to provide for the cutting or breaking of diminished, defaced or counterfeit British India silver coins"

king of diminished, defaced or counterfeit British India silver coins"

Sec. 1. (1) This was inserted by Sec. 2, Act I of 1091.

Sec. 1. (2) The word "It" was substituted by Sec. 2, Act I of 1091 for the words "This Regulation".

Sec. 3. (1) The bracketed words were inserted by Sec. 2, Act V of 1113.

SEC. 3-A. THE BRITISH COINAGE ACT.

(b) has not been defaced.

(2) The British Indian [* * *] Quarter Rupee and the eighth of a Rupee, shall be legal tender in the State, in payment or on account, for any sum not exceeding one British Indian Rupee:

Provided that the coin—

(a) has not lost in weight so as to be 'more than such percentage below the standard weight as may be prescribed by the Government of India, as the limit of reasonable wear, and

(b) has not been defaced.

[3-A. Sovereigns and Half sovereigns, whether coined at His Majesty's Royal Mint in England or at any Mint established in pursuance of a Proclamation of His Majesty as a branch of His Majesty's Royal Mint, shall be a legal tender in payment or on account at the rate of fifteen British Rupees for one sovereign:

Provided that such coins have not been called in by any Proclamation made in pursuance of the English Coinage Act, 1870, or have not lost weight so as to be of less weight than that for the time being prescribed for like coins by or under the said Statute as the least current weight.]

Diminished, Defaced and Counterfeit Silver Coins.

4. Where any British Indian Silver Coin, which is a legal tender as specified in Section 3, is tendered to any person, authorised by Our Government to act under this Section, and such person has reason to believe that the coin—

Power to certain persons to cut diminished or defaced coin.

Sec. 3. (2) The words "half-rupee" which occurred within brackets were omitted by Sec. 2, Act V of 1113.

Sec. 3-A. This Sec. was added by Sec. 3, Act I of 1091.

Act VI of 1095 enacted that gold coins referred to in this Sec. shall cease to be legal tender in payment or on account thereby repealing the Sec. in effect.

(a) has been diminished in weight so as to be more than such percentage below standard weight as has been prescribed by the Government of India, as the limit of reasonable wear, or

(b) has been defaced,

such person shall, by himself or another, cut or break the coin.

5. A person cutting or breaking a coin under the provisions of Clause (a) of Section 4, shall observe the following procedure, namely :—
 Procedure in regard to coin cut under Section 4(a).

(a) if the coin has been diminished in weight so as to be more than such percentage below standard weight as has been prescribed by the Government of India, as the limit of reasonable wear, but not more than such further percentage as has been prescribed in this behalf by the Government of India, he shall either return the pieces to the person tendering the coin, or, if such person so requires, shall receive and pay for the coin at such rate as may be prescribed in this behalf; and

(b) if the coin has been diminished in weight so as to be more than such further percentage below standard weight so prescribed as aforesaid, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking.

6. A person cutting or breaking a coin, under the provisions of Clause (b) of Section 4, shall observe the following procedure, namely :—
 Procedure in regard to coin cut under Section 4(b).

(a) if such person has reason to believe that the coin has been fraudulently defaced, he shall return the pieces to the person tendering the coin, who shall bear the loss caused by such cutting or breaking; and

- (b) if such person has not reason to believe that the coin has been fraudulently defaced, he shall receive and pay for the coin at its nominal value.

Explanation.—For the purposes of this Section, a coin which, there is reason to believe, has been defaced by sweating, shall be deemed to have been fraudulently defaced.

7. If a coin is liable to be cut or broken under the provisions of both Clause (a) and Clause (b) of Section 4, the person cutting or breaking the coin shall deal with it,—
- Procedure in regard to coin which is liable to be cut under both Clauses (a) and (b) of Section 4.
- (a) if he has reason to believe that the coin has been fraudulently defaced, under Clause (a) of Section 6, and

(b) in other cases, under Section 5.

8. Where any British Indian silver coin, which is a legal tender as specified in Section 3, is tendered to any person authorised by Our Government to act under this Section, and such person has reason to believe that the coin is counterfeit, he shall, by himself or another, cut or break the coin, and may, at his discretion, either return the pieces to the tenderer, who shall bear the loss caused by such cutting or breaking, or receive and pay for the coin according to the value of the silver bullion contained in it.
- Power to certain persons to cut counterfeit silver coin and procedure in regard to coin so cut.

° SUPPLEMENTAL PROVISIONS.

9. (1) Our Government may make Rules to carry out the purposes and objects of this Act.
- Power to make Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such Rules may provide for the guidance of persons authorised to cut or break coin under Sections 4 and 8.

[(3) Such Rules may also provide for the acceptance at prescribed rates by Officers authorised in this behalf of the gold coins described in Section 3-A, where such coins have lost weight, so as to be of less weight than that for the time being prescribed for like coins by or under the English Coinage Act, 1870, as the least current weight.]

[(4)] Every such Rule shall be published in Our Government Gazette, and, on such publication, shall have effect as if enacted in this Act.

10. No suit or other proceeding shall lie against any person in respect of anything, in good faith done or intended to be done, under or in pursuance of the provisions of this Act.

Bar of suits.

Sec. 9 (3) This was inserted by Sec. 4, Act I of 1091.

ACT IV OF 1086.

CATTLE TRESPASS ACT.

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An Act to consolidate and amend the law relating to Trespass by Cattle.

Passed by His Highness the Maha Raja of Travancore on the 4th February 1911 corresponding with the 22nd Makaram 1086, under Section 13 of Act V of 1073.

Whereas it is expedient to consolidate and amend the law relating to Trespass by Cattle ; It is hereby enacted as follows:—

Preamble.

Year.	No.	Short title.	Effect of subsequent Legislation.
1086	IV	Cattle trespass Act.	Amended by Acts VII of 1090, II of 1093 and XVII of 1119.

The earliest provision in regard to cattle trespass is contained in Act VI of 1010, Section 26 of which read as follows:—

“26 (1) All stray cattle, horses, sheep and other stray property which may be found by the inhabitants shall be immediately delivered over to the Proverticar, who shall take care of them and defray the neces-

sary expenses of their feeding etc., and report the circumstance to the Police-Officer who shall issue two Proclamations, one to be affixed on a conspicuous part of his Cutcherry and the other in the Cutcherry of the Proverticar, requiring the attendance of the owners of such strays within a month from the date of the proclamation during which period if no person shall appear

ACT IV OF 1086.

to claim the strays, the same shall be sold by public auction, and the proceeds, after deducting the expenses incurred, shall be deposited in the Sirkar Treasury and an account of the same forwarded to the Dewan Cutcherry.

(2) If the owner shall prefer his claim before the Dewan Cutcherry within three months and prove that the stray belonged to him, and that the delay occasioned in not making his claim known within the time specified in the proclamation was unavoidable, the Dewan Cutcherry shall cause the money held in deposit to be paid to him, but after the expiration of three months, the amount so deposited shall be carried to the credit of the Sirkar and no claim shall be submitted afterwards."

The next legislation on the subject is Act I of 1056. In regard to this enactment, the Administration Report of the year says as follows :—

"In 1056 M. E., a Regulation (1) was passed, which provided for the establishment of pounds in the Town of Trivandrum and defined the penalties enforceable and the procedure to be adopted to obtain recovery. Power was reserved to the Government to extend the operation of the Regulation to any other Town or place by Notification in the Gazette."—A. R., 1056.

Act IV of 1086.—Objects and Reasons. "A penal law against cattle trespass is not new to Travancore. Notwithstanding the existence, in the State, of conditions favourable to cattle life and cattle feeding, such as sufficiency of arable land, fairly

plentiful rainfall, etc.; cattle trespass has been a source of annoyance and loss to agriculturists and has been increasingly so of late years. Side by side with measures that would strike at the root-causes of such trespass, it is necessary to take penal measures as well. The law on the subject now in force in Travancore is contained in Regulation I of 1056. It is now nearly thirty years since the Regulation was passed. Comparing it with the corresponding laws in British India and elsewhere a number of amendments seems to be called for. Further, an examination of the statements of income and expenditure of the Cattle-pounds in the State for the past few years, the average loss to Government per annum is seen to be considerable. By enabling pound-keepers, who are now full-timed men, to hold other office as well, and by taking power to enhance the existing rates of fine in specified local areas where cattle may be reported to be habitually trespassing on land and damaging crops or other produce thereon, it is calculated that the financial side of the administration of Cattle-pounds may be more satisfactory. The draft Regulation now proposed follows more or less closely the lines of the British Indian Law (Act I of 1871 as amended by Act I of 1891)."—S. O. & R., T. G. G. dated 9-11-1909.

For Report of the Select Committee see T. G. G. dated 19-4-1910.

For legislative proceedings see T. G. G. dated 28-9-1909, 7-12-1909, 7-6-1910 and 13-12-1910.

1. (1) This Act may be called "The Cattle Trespass Act, 1086".

Title and extent. (2) It extends to the whole of Travancore, except such local areas as Our Government, by Notification in the Government Gazette, may, from time to time, exclude from its operation.

(3) Our Government may, at any time, by Notification in the Government Gazette, cancel or vary a Notification under Sub-section (2).

2. Act I of 1056 is hereby repealed. But references to that Act, made in any Act passed subsequently thereto, shall be read as if made to this Act. Further, all pounds established, pound-keepers

The Act was published in *T. G. G. dated 14-2-1917.*

Act VII of 1090.—This Act amended Section. 17. See notes under that Section.

For legislative proceedings see *T. G. G. dated 9-3-1915 and 6-7-1915.*

The Act was published in *T. G. G. dated 10-8-1915.*

Act II of 1093.—*Objects and Reasons.* "The Government have in their Notification No. J. 2573, dated 23rd March 1913, ordered that the Cattle-pounds established within Towns constituted under Regulation III of 1076 should be placed under the Town Improvement Committees and that the receipts from such pounds should be credited to the Committees. It is thought desirable to give legal validity to the said Notification by amending the Regulation. Clauses 1 and 6 of the Bill have been drafted to give effect to the said purpose. Further, fines realised under the Regulation and the surplus realised by the sale of cattle constitute the Cattle-Pound Fund of a District.

It is not thought desirable to maintain any separate fund, as under Section 18, the surplus fund is at the disposal of the Government. How the fund under Section 18 should be credited in the accounts may be left to be guided by the Account Code. Clauses 2 to 5 in the Bill have therefore been drafted to secure the said object. There are some Cattle-pounds under the control of the P. W. D., Forest and Excise Departments. Clause 6 empowers the Government to authorise any officer to exercise any of the functions of the Magistrate of the District." *S. O. & R., T. G. G. dated 15-5-1917.*

For Report of the Select Committee see *T. G. G. dated 28-8-1917.*

For legislative proceedings see *T. G. G. dated 7-8-1917, 16-10-1917 and 7-5-1918.*

The Act was published in *T. G. G. dated 7-5-1918.*

Act XVII of 1119.—This was passed without the intervention of the legislature and was published in *T. G. G. dated 11-4-1944.*

appointed, and Rules passed under Act I of 1056 shall be deemed to be respectively established, appointed and passed under this Act.

3. In this Act,—

Interpretation
Clause.

"Cattle" includes also elephants, camels, buffaloes,

horses, mares, geldings, ponies, colts,
"Cattle." fillies, mules, asses, pigs, rams, ewes,
sheep, lambs, goats and kids.

["Local authority" means a Town Improvement Com-
mittee or any other body of persons for

"Local authority" the time being invested by law with
the control and administration of any
matters within a specified local area.

"Local fund" means any fund under the control or

"Local fund." management of a local authority."]

CHAPTER II.

POUNDS AND POUND-KEEPERS.

4. Pounds shall be established at such places as the
Magistrate of the District may, with the
Establishment of pounds. previous sanction of Our Government,
from time to time, direct.

The village or villages by which every pound is to
be used shall be determined by the Magistrate of the
District.

5. The pounds shall be under the control of the
Magistrate of the District; and he shall
Control of pounds Rates of charge for feeding
ing impounded cattle. fix, and may, from time to time, alter
the rates of charge for feeding and
watering impounded cattle.

Sec. 3. The definitions of 'local authority' and 'local fund' were added by Section 1, Act II of 1093 thus bringing it in line with the Indian Act as amended by Act I of 1891.

6. The Magistrate of the District shall also appoint for each pound a pound-keeper :

Appointment of pound-keepers. Provided that Our Government may declare that the Proverthicars of villages shall be ex-officio the keepers of village pounds.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Suspension or removal of pound-keepers.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers may hold other offices.

Every pound-keeper shall be deemed a public servant within the meaning of the Travancore Penal Code.

Pound-keepers to be public servants.

Duties of Pound-keepers.

7. Every pound-keeper shall keep such registers, and furnish such returns as Our Government may, from time to time, direct.

To keep registers and furnish returns.

8. When cattle are brought to a pound, the pound-keeper shall enter in his Register—

To register seizures. (a) the number and description of the animals,

(b) the day and hour on and at which they were so brought,

(c) the name and residence of the seizer, and,

(d) the name and the residence of the owner, if known, and shall give the seizer or his agent a copy of the entry.

9. The pound-keeper shall take charge of, feed and water the cattle, until they are disposed of as hereinafter directed.

To take charge of and feed cattle.

Sec. 6. The provision regarding suspension and removal of pound-keepers is not found in the Indian Act.

CHAPTER III.
IMPOUNDING CATTLE.

10. The cultivator or occupier of any land,
or any person who has advanced cash
Cattle damaging for the cultivation of the crop or pro-
land. duce on any land,

or the vendee or mortgagee of such crop or produce
or any part thereof,

may seize, or cause to be seized, any cattle tres-
passing on such land, and doing damage thereto or to
any crop or produce thereon, and send them or cause
them to be sent within twenty-four hours, to the pound
established for the village in which the land is situate.

All Officers of Police shall, when required, aid in
preventing—
Police to aid sei- (a) resistance to such seizures, and
zures. (b) rescues from persons making
such seizures.

11. Persons in charge of public roads, pleasure-
grounds, plantations, canals, drainage-
Cattle damaging public roads, ca- works, embankments, and the like and
nals and embank- Officers of Police [and of Town Im-
ments. provement Committees] may seize or
cause to be seized, any cattle doing damage to such roads,
grounds, plantations, canals, drainage-works, embank-
ments, and the like, or the sides or slopes of such roads,
canals, drainage-works or embankments, or found stray-
ing thereon, and shall send them or cause them to be sent
within twenty-four hours, to the nearest pound.

[2. For every head of cattle impounded as aforesaid
the pound-keepers shall levy a fine in
Fines for cattle accordance with the scale for the time
impounded. being prescribed by Our Government
in this behalf by Notification in Our Government Gazette.
Different scales may be prescribed for different local
areas.

Sec. 11. The bracketed words nally enacted read as fol-
were inserted by Sec. 2, Act II lows:—
of 1093.

“ 12. *Fines for cattle im-
pounded.* For every head of
cattle impounded as aforesaid,

Sec. 12. The Sec. as origi-

All fines so levied shall be sent to the Magistrate of the District through such officer as Our Government may from time to time direct.

A list of the fines and of the rates of charge for feeding and watering cattle shall be stuck up in a conspicuous place on or near to every pound.]

CHAPTER IV.

DELIVERY OR SALE OF CATTLE.

13. If the owner of the impounded cattle or his agent appear and claim the cattle, the pound-

Procedure when
owner claims the
cattle and pays
fines and charges.

keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent, on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

the pound-keeper shall levy a fine according to the following scale:—

Elephant	... Two rupees.
Buffalo, camel, horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow or heifer	... Seven chs.
Calf, ass or pig	... Four chs
Ram, ewe, sheep, lamb, goat or kid	... Two chs.

Provided that, when it appears to Our Government that, in any local area, cattle are habitually allowed to trespass on land and damage crops or other produce thereon, Our Government may, by Notification in the Government Gazette, direct that, for every head of cattle of any kind specified therein, which may be seized within such local area and impounded as aforesaid, the pound-keeper shall levy such fine, not exceeding double the fine mentioned in the fore-going scale, as may be prescribed in the Notification.

All fines so levied in a District shall be credited to a fund called the 'Cattle Pound Fund' of the District.

List of fines and charges for feeding.—A list of the fines and the rates of charge for feeding and watering cattle shall be stuck up in a conspicuous place on or near to every pound.

Our Government may, at any time, by Notification in the Government Gazette, cancel or vary a Notification under the Proviso to the first paragraph of this Section."

Sec. 3 Act II of 1093 substituted for the second paragraph the following:—

"All fines so levied shall be sent to the Magistrate of the District through such officer as Our Government may from time to time direct."

The Sec. thus amended was substituted by Sec. 2, Act XVII of 1119, thus bringing it in line with Sec. 12 of the Indian Act.

14. If the cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall report the fact to the Magistrate having jurisdiction, or to such other Officer as the Magistrate of the District appoints in this behalf.

Such Magistrate or other Officer shall, thereupon stick up in a conspicuous part of his office a notice stating—

- (a) the number and description of the cattle;
- (b) the place where they were seized,
- (c) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and in the market-place nearest to the place of seizure.

If the cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the said Officer or an Officer of his establishment deputed for that purpose, at such place and time and subject to such conditions as the Magistrate of the District, by general or special order from time to time, directs :

Provided that, if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid, they may be disposed of in such manner as he thinks fit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under Section 20, then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

16. If the owner or his agent appear and refuse or omit to pay or (in the case mentioned in Section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction, by such Officer, at such place and time, and subject to such conditions, as are referred to in Section 14.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Deductions of fines & expenses.

The remaining cattle, and the balance of the purchase-money, if any, shall be delivered to the owner or his agent, together with an account, showing—

Delivery of unsold cattle and balance of proceeds.

- (a) the number of the cattle seized,
- (b) the time during which they have been impounded,
- (c) the amount of fines and charges incurred,
- (d) the number of cattle sold,
- (e) the proceeds of sale, and
- (f) the manner in which those proceeds have been disposed of.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase-money, if any, paid to him according to such account.

Receipt.

17. The Officer by whom the sale was made [shall send to the Magistrate of the District the fines so deducted],

Disposal of fines, expenses and surplus proceeds of sale.

Sec. 17. The bracketed words in the first paragraph were substituted by Sec. 4, Act II of 1093 for the words "shall pay the fine so deducted to the credit of the 'Cattle Pound Fund' of the District".

The 3rd paragraph was substituted by Act VII of 1090. As originally enacted the para read thus:—

"The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months,

and if no claim thereto be preferred and established within that period, shall, at its expiry, credit the same to the 'Cattle Pound Fund' of the District."

The substituted paragraph read as follows:—"The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit, and, if no claim thereto be preferred within three months and established, shall credit the same to the 'Cattle Pound Fund' of the District." The reason for the substitution was explained thus

The charges for feeding and watering, deducted under Section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under Section 13.

[The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit, and if no claim thereto be preferred within three months and established shall [dispose of them as hereinafter provided.]

18. [Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle] shall be paid—
Application of fines and unclaimed proceeds of sale.

(a) the salaries allowed to pound-keepers under the orders of Our Government, and

(b) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the carrying out of this Act;

and the surplus, if any, shall be at the disposal of Our Government.

in the Statement of Objects and Reasons attached to the bill: "The Section as it stands requires that claim should be preferred and established within three months, and, at the expiry of the said period, the sale proceeds held in deposit have to be credited to the "Cattle Pound Fund" of the District. It sometimes happens that the claim is preferred within three months, but the order allowing or disallowing the claim is passed after three months. Difficulty having been experienced in the disposal of the sale proceeds in such cases, the proposed amendment is intended to make the meaning clear." S. O. & R., T. G. G. dated 16-2-1915.

In the para so amended for the words "credit the same... .. of the District" the words "dispose of them as hereinafter, provided" were substituted by Sec. 5, Act II of 1093.

In the corresponding para of the Indian Act for the words "dispose of them as hereinafter provided" the words "be deemed to hold them as part of the revenue of the Province" has been substituted.

Sec. 18. The bracketed words were substituted for the words "out of the Cattle Pound Fund of the District" by Sec. 6, Act II of 1093. The corresponding Section of the Indian Act has been omitted.

19. No Magistrate, Police-Officer, or other Officer or Pound-keeper appointed under the provisions herein contained shall, directly or indirectly, purchase any cattle at a sale under this Act.

Officers and pound-keepers not to purchase cattle at sales under this Act.

No Pound-keeper shall release or deliver any impounded cattle, otherwise than in accordance with the former part of this Chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

Pound-keepers when not to release impounded cattle.

CHAPTER. V.

COMPLAINTS OF ILLEGAL SEIZURE AND DETENTION.

20. Any person whose cattle have been seized under this Act, or, having been so seized, have been detained in contravention of this Act, may; at any time within ten days from the date of seizure, make a complaint to the Magistrate of the District or any Magistrate authorised to receive and try charges without reference by the Magistrate of the District.

Power to make complaints.

21. The complaint shall be made by the complainant in person or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

Procedure on complaints.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well-founded, he shall summon the person complained against and make an enquiry into the case.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or

Compensation for illegal seizure or detention.

detained the cattle, together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle.

If the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

23. The compensation, fines and expenses mentioned in Section 22 may be recovered as if they were fines imposed by the Magistrate.

CHAPTER VI.

PENALTIES.

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding one month, or with fine not exceeding fifty rupees, or with both.

25. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of Section 19, or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall, over and above any other penalty to which he may be liable, be punished, on conviction before a Magistrate, with fine not exceeding fifty rupees.

26. All fines recovered under Section 25 may be appropriated, in whole or in part, as compensation for loss or damage proved to the satisfaction of the convicting Magistrate.

Sec. 25. The Indian Act provides for the recovery of the salary of the Pound-keeper.

CHAPTER VII.

SUITS FOR COMPENSATION.

27. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle, from suing for compensation in any competent Court.

Saving of right to sue for compensation.

28. Any compensation paid to such person under this Act, by order of the convicting Magistrate, shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit.

Set-off.

[CHAPTER VIII.

SUPPLEMENTAL.

29. (1) Our Government may, by Notification in Our Government Gazette, authorise any Officer by name or by virtue of his office, or any local authority, to exercise, within the local area subject to the jurisdiction of such Officer or local authority, all or any of the functions of the Magistrate of the District under this Act.

Exercise by local authority or any Officer of powers of Magistrate of the District under the Act.

(2) Our Government may by a like Notification, direct that the whole or any part of the surplus accruing under Section 18 of this Act from the Cattle pounds established within the local area subject to the jurisdiction of any local authority, shall be placed to the credit of the local fund of such authority.

Power of Government to direct the surplus under Section 18 to be credited to local fund.

(3) Our Government may, from time to time, by Notification in Our Government Gazette, cancel or vary any Notification under this Section.]

Chapter VIII. This was added by Sec. 7. Act II of 1093.